

Common rules for the operation of air services in the Community. Recast

2006/0130(COD) - 18/04/2008 - Council position

The Council was able to agree with the main elements of the Commission proposal. It has, however, decided to modify the text on certain important points. Most of these modifications seek to ensure complete clarity regarding the licensing authorities; the respective responsibility of the Community and the Member States with regard to third countries; and balancing regulatory oversight with administrative requirements. The impact study carried out by the Commission was considered in detail.

The Council accepted twenty of the amendments proposed by Parliament. Amendments relating to traffic distribution rules and compliance with social legislation were the subject of lengthy and difficult negotiations in the Council and were finally agreed upon as part of a compromise package with the Parliament. The Council hopes that this will form the basis of an overall agreement at second reading. The Council decided to reject amendments on: broadening the scope of the Regulation and the imposition of an unfair burden on operators, which would detract from the fairness of the licensing regime.

In summary, the main modifications made by the common position are as follows:

Definitions: the Council modified Articles 2 and 3 on definitions in order to clarify, unambiguously, that the Member State authority will be responsible for the safety oversight of any given operator as well as being responsible for issuing operating licences.

Wet-leasing aircraft: the Council has sought to find the correct balance between regulatory oversight, on the one hand, and the simplification of administrative requirements on the other. As such the Council has modified the text to allow operators to wet lease aircraft. Strict conditions, however, have been set out regarding the wet leasing of non-Community aircraft (aircraft whose safety control is not subject to Community standards).

The international dimension: the Council has removed certain paragraphs, which in its view, were not in accordance with the various competencies of the Member States and the Community. As such the modified text clarifies that the Member States will retain the right to impose restrictions on code share arrangements between Community and non-Community carriers if the country of the foreign carrier restricts the commercial opportunities available to Community carriers.

Public service obligations: on the matter of public service obligations the Council has simplified some of the rules and procedures and made other changes in order to ensure that they are consistent with the aims and objectives of public service obligations.

Restrictions on traffic rights: the Council has introduced a new Article imposing traffic rights restrictions in case of serious environmental concerns. This will align the Regulation with related existing Regulations. A safeguard clause has been incorporated to ensure that such measures are non-discriminatory and fully justified.

Distribution of traffic within airport systems: taking passengers' interests into account, the Council has modified the text in order to reinforce the principle that airports, in cases where there are rules on the distribution of traffic, are served by an adequate transport infrastructure.

Pricing transparency: the Council has broadened the scope of pricing transparency to include all flights departing from Community airports (regardless of destination). The common position requires that all fees must be published – including fees, taxes and charges.