

Procedure file

Basic information		
NLE - Non-legislative enactments Decision	2005/0148(NLE)	Procedure lapsed or withdrawn
EC/Romania agreement: air services, replacing the bilateral agreements by a Community agreement		
Subject 3.20.15.02 Air transport agreements and cooperation		
Geographical area Romania		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	TRAN Transport and Tourism	ALDE COSTA Paolo	29/08/2005
Council of the European Union	Council configuration	Meeting	Date
	Transport, Telecommunications and Energy	2721	27/03/2006
European Commission	Commission DG	Commissioner	
	Mobility and Transport	KALLAS Siim	

Key events			
10/08/2005	Legislative proposal published	COM(2005)0369	Summary
22/11/2005	Vote in committee		Summary
06/04/2006	Committee referral announced in Parliament		
11/04/2006	Committee report tabled for plenary, 1st reading/single reading	A6-0128/2006	
16/05/2006	Results of vote in Parliament		
16/05/2006	Decision by Parliament	T6-0191/2006	Summary
02/12/2009	Additional information		Summary
18/09/2010	Proposal withdrawn by Commission		Summary

Technical information	
Procedure reference	2005/0148(NLE)

Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consent by Parliament
Legislative instrument	Decision
Legal basis	Treaty on the Functioning of the EU TFEU 100-p2; Treaty on the Functioning of the EU TFEU 218-p6a
Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	TRAN/6/29842

Documentation gateway

Legislative proposal	COM(2005)0369	10/08/2005	EC	Summary
Committee report tabled for plenary, 1st reading/single reading	A6-0128/2006	11/04/2006	EP	
Text adopted by Parliament, 1st reading/single reading	T6-0191/2006	16/05/2006	EP	Summary

EC/Romania agreement: air services, replacing the bilateral agreements by a Community agreement

PURPOSE : to conclude the Agreement between the European Community and Romania on certain aspects of air services.

PROPOSED ACT : Council Decision.

CONTENT : International aviation relations between Member States and third countries have been traditionally governed by bilateral air services agreements between Member States and third countries, the Annexes to such agreements and other related bilateral or multilateral arrangements.

Following the judgements of the Court of Justice of the European Communities in recent cases (C-466/98, C-467/98, C-468/98, C-471/98, C-472/98, C-475/98 and C-476/98), the Community has exclusive competence with respect to various aspects of external aviation. The Court of Justice also clarified the right of Community air carriers to benefit from the right of establishment within the Community, including the right to non-discriminatory market access.

Traditional designation clauses in Member States' bilateral air services agreements infringe Community law. They allow a third country to reject, withdraw or suspend the permissions or authorisations of an air carrier that has been designated by a Member State but that is not substantially owned and effectively controlled by that Member State or its nationals. This has been found to constitute discrimination against Community carriers established in the territory of a Member State but owned and controlled by nationals of other Member States. This is contrary to Article 43 of the Treaty which guarantees nationals of Member States who have exercised their freedom of establishment the same treatment in the host Member State as that accorded to nationals of that Member State.

Following the Court of Justice judgements, the Council authorised the Commission in June 2003 to open negotiations with third countries on the replacement of certain provisions in existing bilateral agreements with a Community agreement. The Commission has negotiated an agreement with Romania that replaces certain provisions in the existing bilateral air services agreements between Member States and Romania:

Article 2 of the Agreement replaces the traditional designation clauses with a Community designation clause, permitting all Community carriers to benefit from the right of establishment.

Articles 4 and 5 of the Agreement address two types of clauses concerning matters of Community competence. Article 4 deals with the taxation of aviation fuel, a matter which has been harmonised by Council Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity, and in particular Article 14(2) of the Directive. Article 5 (Pricing) resolves conflicts between the existing bilateral air services agreements and Council Regulation No 2409/92 on fares and rates for air services which prohibits third country carriers from being price leaders on air services for carriage wholly within the Community.

The Council is asked to approve the decisions on the signature and on the conclusion of the Agreement between the EC and Romania on certain aspects of air services and to designate the persons authorized to sign the Agreement on behalf of the Community.

EC/Romania agreement: air services, replacing the bilateral agreements by a Community agreement

The committee adopted the report by its chair, Paolo COSTA (ALDE, IT), approving the conclusion of the Agreement between the European Community and Romania on certain aspects of air services.

EC/Romania agreement: air services, replacing the bilateral agreements by a Community agreement

The European Parliament adopted a resolution drafted by Paolo COSTA (ALDE, IT), and approved the conclusion of the Agreement.

EC/Romania agreement: air services, replacing the bilateral agreements by a Community agreement

The Lisbon Treaty, which entered into force on 1 December 2009, amended the EU's two core treaties, the Treaty on European Union (TEU) and the Treaty establishing the European Community (EC Treaty). The latter was renamed the Treaty on the Functioning of the European Union (TFEU).

These changes had various consequences for many ongoing procedures. First of all, the articles of the TEU and of the old EC Treaty that constitute the legal basis of all the proposals founded on those Treaties were renumbered in accordance with the table of equivalences mentioned in Article 5 of the Lisbon Treaty.

In addition, some proposals underwent a change to their legal basis going beyond a mere change to their numbering, and this resulted in changes to the type of procedure.

The Lisbon Treaty also introduced new concepts of decision-making procedure. The old "codecision procedure" was extended to new areas and renamed the "ordinary legislative procedure". A new "consent procedure" replaced the old "assent procedure". New interinstitutional procedures were also set up for the adoption of certain non-legislative acts, for example the conclusion of some international agreements.

The ongoing proposals concerned by these changes were formally modified by the Commission in a Communication published on 2 December 2009 ([COM\(2009\)0665](#)).

In the case of the proposal for a Council Decision on conclusion of the Agreement between the European Community and Romania on certain aspects of air services, the entry into force of the Lisbon Treaty had the following impacts:

- the old legal basis Treaty/EC/Art.80(2), Art.300(2) first para and (3) first para. became Art 100(2), Art 218 (6)(a) of the TFEU. Please note that the numbering of the old legal basis corresponds to the consolidated version of the Treaty that was applicable immediately before the entry into force of the Lisbon Treaty, and may differ from the references in the original Commission proposal;
- the proposal, which had previously fallen under the old consultation procedure (CNS), was classified as an interinstitutional non-legislative procedure (NLE).

EC/Romania agreement: air services, replacing the bilateral agreements by a Community agreement

As announced in Official Journal C 252 of 18 September 2010, the Commission decided to withdraw this proposal, which had become obsolete.