

Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2007/0013(COD) Procedure completed
Airport charges	
Subject 3.20.01 Air transport and air freight	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	TRAN Transport and Tourism		15/07/2008
		PSE STOCKMANN Ulrich	
	Former committee responsible		
	TRAN Transport and Tourism		06/03/2007
		PSE STOCKMANN Ulrich	
	Former committee for opinion		
ECON Economic and Monetary Affairs		13/02/2007	
	UEN RYAN Eoin		
ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.		
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.		
REGI Regional Development			20/03/2007
	PPE-DE DE BLASIO Antonio		
Council of the European Union	Council configuration	Meeting	Date
	Transport, Telecommunications and Energy	2924	19/02/2009
	Agriculture and Fisheries	2881	23/06/2008
	Transport, Telecommunications and Energy	2861	07/04/2008
	Transport, Telecommunications and Energy	2835	29/11/2007
European Commission	Commission DG	Commissioner	
	Energy and Transport	TAJANI Antonio	

Key events			
24/01/2007	Legislative proposal published	COM(2006)0820	Summary
13/03/2007	Committee referral announced in Parliament, 1st reading		

21/11/2007	Vote in committee, 1st reading		Summary
29/11/2007	Debate in Council	2835	Summary
10/12/2007	Committee report tabled for plenary, 1st reading	A6-0497/2007	
14/01/2008	Debate in Parliament		
15/01/2008	Results of vote in Parliament		
15/01/2008	Decision by Parliament, 1st reading	T6-0004/2008	Summary
23/06/2008	Council position published	08332/2/2008	Summary
10/07/2008	Committee referral announced in Parliament, 2nd reading		
07/10/2008	Vote in committee, 2nd reading		Summary
08/10/2008	Committee recommendation tabled for plenary, 2nd reading	A6-0375/2008	
22/10/2008	Debate in Parliament		
23/10/2008	Decision by Parliament, 2nd reading	T6-0517/2008	Summary
19/02/2009	Act approved by Council, 2nd reading		
11/03/2009	Final act signed		
11/03/2009	End of procedure in Parliament		
14/03/2009	Final act published in Official Journal		

Technical information

Procedure reference	2007/0013(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 080-p2
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/6/65198

Documentation gateway

Legislative proposal		COM(2006)0820	24/01/2007	EC	Summary
Document attached to the procedure		SEC(2006)1688	24/01/2007	EC	
Document attached to the procedure		SEC(2006)1689	24/01/2007	EC	
Committee opinion	ECON	PE388.728	27/06/2007	EP	
Committee draft report		PE392.008	06/07/2007	EP	
Committee opinion	REGI	PE390.357	17/09/2007	EP	
Amendments tabled in committee		PE393.935	21/09/2007	EP	

Economic and Social Committee: opinion, report		CES1244/2007	26/09/2007	ESC	
Committee report tabled for plenary, 1st reading/single reading		A6-0497/2007	10/12/2007	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0004/2008	15/01/2008	EP	Summary
Commission response to text adopted in plenary		SP(2008)1176	27/02/2008	EC	
Council statement on its position		10256/2008	16/06/2008	CSL	
Council position		08332/2/2008	23/06/2008	CSL	Summary
Commission communication on Council's position		COM(2008)0455	08/07/2008	EC	Summary
Committee draft report		PE409.609	23/07/2008	EP	
Committee recommendation tabled for plenary, 2nd reading		A6-0375/2008	08/10/2008	EP	
Text adopted by Parliament, 2nd reading		T6-0517/2008	23/10/2008	EP	Summary
Commission opinion on Parliament's position at 2nd reading		COM(2009)0086	18/02/2009	EC	Summary
Draft final act		03712/2008/LEX	11/03/2009	CSL	
Follow-up document		COM(2014)0278	19/05/2014	EC	Summary

Additional information

National parliaments	IPEX
European Commission	EUR-Lex

Final act

[Directive 2009/12](#)
[OJ L 070 14.03.2009, p. 0011](#) Summary

Airport charges

PURPOSE: to set common principles for the levying of airport charges at Community airports.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: at present, pricing of airport infrastructure is regulated at national level through systems that are not always properly justified and the provision of information thereon can be inadequate. Users are not systematically consulted at all EU airports prior to the determination of charges or before the modification of a charging system. Airport users are not usually informed about future investments at airports and their necessity. Airport charges are an important link in this chain as they account for between 4% and 8% of the major EU air carriers' operational costs. The majority of EU airports are still publicly owned and as a result the public authorities have an interest to maximize profits from airport operations. Yet, the number of privately owned EU airports is growing, and shareholders equally have an interest in the maximization of profitability and may press the public authorities thereon. Public authorities have an interest to facilitate charges increases at airports that are in the preparatory stages to privatisation so as to generate optimal revenues from the sale of an airport to private investors.

Reference is made to ICAO's 'Policies on charges for airports and air navigation services'. The recommendations therein recognise the need for the economic regulation of airports to include elements such as non-discrimination in the application of the charges, the ensuring of transparency and consultation, and the establishment and review of quality standards. The present proposal gives heed to this policy guidance.

CONTENT: this ambitious proposal for a directive on airport charges will re-define the relationship between airport operators and airport users by requiring total transparency, user-consultation and the application of the principle of non-discrimination when calculating charges levied on users. Moreover, it will create a strong, independent national authority to arbitrate and settle disputes in order to achieve a speedy resolution.

The proposal defines a number of basic principles to be respected by airport operators when they determine their airport charges.

Non-discrimination: charging systems should not discriminate between carriers or passengers. Furthermore, differences in treatment should be related to the actual cost of the facilities and services

provided.

Consultation and remedy: the airport managing body and the air carriers serving the airport, or their representative organisations, must engage in a dialogue on the charging system applicable at an airport not only when such system is modified but also when the levels of the respective charges are being established. The aim of this requirement is that the two parties exchange views on a regular basis on the levels of the charges as well as on all factors and regulatory requirements that have an influence on their determination.

Transparency: the proposed Directive does not contain provisions on calculation methods for charges that should be applied in each Member State. The Commission acknowledges the large diversity of airport regulation existing in the various Member States but a reasonable amount of information must be provided by the operator to the air carriers so as to make the consultation process between airports and air carriers meaningful. To this end the Directive establishes which information should be provided on a regular basis by the airport managing body. Air carriers should, in turn, give information as to their traffic forecasts, their intended fleet use and their present and future specific requirements at the airport so as to allow the airport managing body to employ their capital and dedicate their capacity in an optimal way.

Quality standards: sub-standard quality of airline operations and airports' services disturbs the efficiency of the airport system especially in departure and transfer operations. Delays in embarking and the subsequent possibility of the loss of slots are, especially at airport rush hours, relatively severe consequences. Both players have an interest, therefore, to come to an agreement that may safeguard the quality of service at an airport. Either party should be given the possibility to seek the intervention of an independent regulatory authority when an agreement is not reached.

Differentiation of charges: charges are set on the basis of fixed criteria. This is different for the passenger charge which is related to the use of the terminal. At an airport, one terminal may differ from another and as a result the level and quality of service in the various terminals on offer may not be the same: the difference in quality, and age and degree of dilapidation, of a terminal itself may equally

be a point of distinction between the various levels of passenger charge to be paid by the airport users at one airport. It is necessary to ensure that in principle all air carriers wishing to have access to the terminal or services at reduced costs and quality will have such access on a non-discriminatory basis.

Security charges: the protection of air passengers and cargoes from acts of unlawful interference committed against air transport has been enhanced by Regulation 2320/2002/EC establishing common rules in the field of aviation security and a series of implementation Regulations which have laid down more specific measures for the implementation of common basic standards. The funding of security measures is not addressed by this legislation. Four main mechanisms are currently being used to fund aviation security activities within Europe: funding by (i) aviation security taxes, (ii) security surcharges or fees, (iii) airport security charges and, to a lesser extent, (iv) State grants and subsidies. As certain EU airports levy charges for security services, this subject should be within the remit of this Directive especially as significant differences in the way security costs are passed on, or not, to airport users between one airport and another can have a distortive effect on competition.

Regulatory authority: a draft Directive that contains principles to be respected by the main partners in the air transport industry i.e. the airports and air carriers, which have diverging interests, needs to be properly applied and adhered to at Member States' level. An authority to be established in each Member State that is in charge of ensuring the correct application of the Directive would be an appropriate guarantee that its provisions are respected.

It should be noted that the present Directive is part of an "airport package" consisting of three key initiatives: a proposal for a directive on airport charges, a communication on airport capacity, efficiency and safety in Europe and a report on the implementation of the ground handling directive. The package focuses on the role of airports in the further development and competitiveness of the European internal aviation market and will mark the future of airport regulation in Europe by ensuring regulatory convergence between Member States.

The communication on airport capacity, efficiency and safety in Europe provides a comprehensive action plan detailing a coherent strategy for responsibly tackling congestion at European airports. The five principal measures highlighted that aim to accommodate traffic growth in an environmentally sustainable manner are: to optimise the use of existing capacity; to provide a coherent approach to air safety operations at aerodromes; to promote "co-modality"; to improve the environmental capacity of airports and the planning framework of new airport infrastructure; and to develop and implement cost efficient technological solutions.

The first report on the implementation of the ground handling directive demonstrates the positive effects that the initial phase of liberalisation has had on opening up access to ground handling markets at European airports to competition and opens the door for a debate as to the next steps that need to be taken.

Airport charges

The Committee on Transport and Tourism adopted the report by Ulrich STOCKMANN (PES, DE) amending, under the 1st reading of the codecision procedure, the proposal for a directive of the European Parliament and of the Council on airport charges.

Purpose: this Directive sets common principles for the levying of airport charges at Community airports. The committee intends to specify that this shall be without prejudice to the freedom of the airport managing body to opt for the single or dual till system or for a combined system.

Scope: although the European Commission proposed that the Directive should apply to any airport located in a territory subject to the provisions of the Treaty and open to commercial traffic whose annual traffic is over 1 million passenger movements or 25 000 tonnes of cargo, MEPs consider that this Directive should apply to any airport located in a territory subject to the provisions of the Treaty and open to commercial traffic whose annual traffic is over 5 million passenger movements or which accounts annually for more than 15 % of the passenger movements in the Member State in which it is located. Member States may, after a thorough investigation by the national competition authority, also apply this directive to other airports if this proves necessary. Lastly, this directive shall also apply to airport networks and all airports organised into networks in any territory subject to the provisions of the EC Treaty.

Non discrimination: the proposal states that Member States shall ensure non discrimination among airport users or air passengers. According

to the MEPs, this provision shall not stand in the way of the introduction of adjustments to charges for objective, transparent reasons of general interest.

Airport networks: the report suggests that Member States should permit the operators of airport networks to introduce a uniform and transparent system of airport charges for all the airports belonging to the network. Permission may only be granted on condition that competition between the airports in different Member States is not distorted, for example from the point of view of tourism.

Consultation: although the Commission proposes that a consultation should take place at least once a year, the committee considers that a consultation is only necessary if changes are to be made. Member States shall ensure that such consultation takes place in advance of airport managing bodies or airport users wishing to introduce or to make significant changes to the structure or level of airport charges. The independent regulatory authority nominated or established shall establish a procedure for resolving disagreements between the airport managing body and the airport users or their representatives on changes to the level or structure of airport charges, including changes relating to quality of service.

Transparency: at least once a year, the airport managing body must provide airport users with information on the components serving as a basis for determining the level of all charges levied at the airport. In the interests of transparency, this information must include the amount of State and regional aid granted to airports; the amount of resources derived from central financing connected with public service obligations; forecasts of the situation at the airport as

regards traffic growth and any major proposed investment; the predicted output of any major proposed investments in terms of their effects on airport capacity and service quality.

New infrastructure: the Directive proposes that Member States shall ensure that the airport managing body consults with airport users before plans for new infrastructure projects are finalised. MEPs introduced an amendment stipulating that within a maximum of 5 years before the investment becomes operational, the airport managing body may assert its interests by way of prefinancing when airport charges are set. The airport managing body may prefinance new infrastructure projects by increasing airport charges under certain conditions.

Different charges: according to the committee, the amount of airport charges may also be differentiated according to environmental performance, noise pollution or other public interests on the condition that it is determined on the basis of relevant, objective and transparent criteria. Member States shall also ensure that airports levy the same charge for the same service.

Security charges: security charges shall be used exclusively to meet security costs and shall not exceed those costs. No profit may be made on security charges. These costs shall be determined using the principles of economic and operational efficiency and of accounting and evaluation generally accepted in each of the Member States. The Member States shall ensure that the costs are distributed fairly among the various user groups at each airport. Moreover, the revenue obtained from airport charges introduced to cover security costs should be used exclusively for implementing security measures.

Independent regulatory authority: the national independent regulatory authority may delegate, under its supervision, the implementation of the provisions, or parts of the provisions, of this directive to regional independent regulatory authorities, provided that the implementation takes place in accordance with the same standards. The national independent regulatory authority shall continue to bear responsibility for ensuring the correct application of the provisions of this Directive. When carrying out an investigation into the justification for modifying the structure, level or airport charge, the independent regulatory authority shall be able to request necessary information from the parties concerned and shall be required to consult the parties concerned and any other affected parties in order to reach its decision. It shall reach its decision as soon as practical within 3 months of the receipt of a complaint and shall be required to publish the decision and the reasons behind it.

Airport charges

The Council reached a general approach concerning the proposed Directive on airport charges.

The Council's bodies agreed to several changes to the text of the Commission's proposal in order to enhance its clarity but also to accommodate certain concerns expressed by some Member States. The Ministers solved all outstanding issues, which concern in particular the following points:

- **Scope:** the Commission initially proposed to include all airports with an annual traffic of more than 1 million passengers within the scope of the Directive. In the text agreed by Ministers the threshold has been increased to 5 million and the Directive will apply equally to the largest airport in each Member State ;
- **Modulation of charges for environmental and other purposes of public interest:** this possibility has been included in the article on non-discrimination, in order to enable Member States to promote environmentally-friendly aircrafts at the expense of polluting aircrafts;
- **Cost-relatedness:** the addition of a recital referring to the ICAO Council policies on airport charges that include, inter alia, principles of cost-relatedness of charges, non-discrimination and an independent mechanism for the economic regulation of airports;
- **Extending the implementation period:** the period for the transposition of the Directive into national law has been extended from 24 to 36 months.

Airport charges

The European Parliament adopted a legislative resolution based on the report drafted by Ulrich STOCKMANN (PES, DE) amending, under the 1st reading of the codecision procedure, the proposal for a directive on airport charges. The resolution was adopted by 613 votes for, 33 against, and 51 abstentions.

Purpose: the Directive sets common principles for the levying of airport charges at Community airports. The committee intends to specify that this shall be without prejudice to the freedom of the airport managing body to opt for the single or dual till system or for a combined system.

Scope: although the European Commission proposed that the Directive should apply to any airport located in a territory subject to the provisions of the Treaty and open to commercial traffic whose annual traffic is over 1 million passenger movements or 25 000 tonnes of cargo, MEPs considered that this Directive should apply to any airport located in a territory subject to the provisions of the Treaty and open to commercial traffic whose annual traffic is over 5 million passenger movements or which accounts annually for more than 15 % of the

passenger movements in the Member State in which it is located. Member States may, after a thorough investigation by the national competition authority, also apply this directive to other airports if this proves necessary. The directive shall also apply to airport networks and all airports organised into networks in any territory subject to the provisions of the EC Treaty. Member States shall publish a list of the airports on their territory to which this Directive applies. This list shall be based on data from EUROSTAT and shall be updated annually. The directive will not apply to the charges levied for the funding of assistance to disabled passengers and passengers with reduced mobility referred to in Regulation (EC) No 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air.

Non discrimination: the provision on non-discrimination will provision shall not stand in the way of the introduction of adjustments to charges for objective, transparent reasons of general interest.

Airport networks: this is defined as means a number of airports in a Member State that are operated by an airport management body designated by the competent national authority. In order to ensure that access is provided to the airports in an airport network at a cost commensurate with the number of air passengers, Member States may permit the operators of airport networks to introduce a uniform and transparent system of airport charges for all the airports belonging to the network. Permission may only be granted on condition that competition between the airports in different Member States is not distorted, for example from the point of view of tourism. In the event of a dispute, the complainant may apply to the Commission on the basis of the relevant EC competition rules.

Consultation: Parliament deleted the Commission's proposal that a consultation should take place at least once a year. Consultation will take place with respect to the operation of the system of airport charges and the level of such charges, including the level of service quality to be provided by the airport managing body in return for the airport charge .Parliament added that Member States shall ensure that such consultation takes place in advance of airport managing bodies or airport users wishing to introduce or to make significant changes to the structure or level of airport charges. Where there is a multi-annual agreement between the airport managing body and the airport users or representatives of airport users, consultation shall take place in accordance with the provisions of that agreement.

Changes to airport charges: changes to the airport charges system will be submitted at least six months before they enter into force (rather than four months.) The airport managing body shall publish its final decision within a reasonable time prior to it entering into force. Member States shall ensure that in the event of a definitive disagreement over a decision on airport charges, the airport managing body or the airport users, as long as they represent at least two unrelated airlines or at least 10% of the annual aircraft movements or the annual passenger numbers at the relevant airport, may seek the intervention of the independent regulatory authority. This body must (a) establish a procedure for resolving disagreements between the airport managing body and the airport users or their representatives on changes to the level or structure of airport charges, including changes relating to quality of service; (b) determine the conditions under which a disagreement can be brought to it for resolution; (c) determine the criteria against which disagreements will be assessed. The examination of a change to the airport charges system or the level of airport charges shall not have a suspensory effect.

Transparency at least once a year, the airport managing body must provide airport users with information on the components serving as a basis for determining the level of all charges levied at the airport. In the interests of transparency, this information must include the amount of State and regional aid granted to airports; the amount of resources derived from central financing connected with public service obligations; forecasts of the situation at the airport as regards traffic growth and any major proposed investment; the predicted output of any major proposed investments in terms of their effects on airport capacity and service quality.

New infrastructure: the Directive proposes that Member States shall ensure that the airport managing body consults with airport users before plans for new infrastructure projects are finalised. MEPs introduced an amendment stipulating that within a maximum of 5 years before the investment becomes operational, the airport managing body may assert its interests by way of pre-financing when airport charges are set. The airport managing body may prefinance new infrastructure projects by increasing airport charges under certain conditions.

Different charges: the amount of airport charges may also be differentiated according to environmental performance, noise pollution or other public interests on the condition that it is determined on the basis of relevant, objective and transparent criteria. Member States shall also ensure that airports levy the same charge for the same service. The airport managing body may grant airport user concessions on charges based on the quality of a service used, provided that the concession in question is available to all users of the airport under publicised, transparent and objective conditions. It may grant a concession to users which open new routes, provided that the concession is similarly granted in a public and non-discriminatory manner and is made available to all airport users in the same way, in accordance with EC competition law.

Security charges: security charges shall be used exclusively to meet security costs and shall not exceed those costs. No profit may be made on security charges. These costs shall be determined using the principles of economic and operational efficiency and of accounting and evaluation generally accepted in each of the Member States. Member States shall ensure that the costs are distributed fairly among the various user groups at each airport. The proceeds from security charges levied at a particular airport may be used only to cover airport security expenditure incurred in the place in which the charges were levied. In the case of airport networks, the proceeds from security charges may be used only to cover security expenditure arising at airports belonging to the network. A new article states that The costs of implementing security measures which are more stringent than the minimum security measures laid down in Regulation (EC) No 2320/2002 shall be borne by the Member States.

Independent regulatory authority: the national independent regulatory authority may delegate, under its supervision, the implementation of the provisions, or parts of the provisions, of this directive to regional independent regulatory authorities, provided that the implementation takes place in accordance with the same standards. The national independent regulatory authority shall continue to bear responsibility for ensuring the correct application of the provisions of the Directive. When carrying out an investigation into the justification for modifying the structure, level or airport charge, the independent regulatory authority shall be able to request necessary information from the parties concerned and shall be required to consult the parties concerned and any other affected parties in order to reach its decision. It shall reach its decision as soon as practical within 3 months of the receipt of a complaint and shall be required to publish the decision and the reasons behind it.

Airport charges

The European Parliament adopted 45 amendments to the Commission proposal. The Council common position reflects changes to the Commission proposal by incorporating a considerable number of amendments, either verbatim (4 EP amendments) or in spirit, by means of similar wording (7 EP amendments). However, a substantial number of amendments are not reflected in the common position, because the Council considered that either: i) they were redundant, as they were already covered by other instruments adopted after the EP adopted its

opinion; or ii) they were taken into account elsewhere in the text because the Commission's initial proposal had been redrafted in the common position.

The Council holds that the common position is balanced and respects the aims and objectives behind the Commission's proposal. It also takes into account the results of the European Parliament's first reading. The Council notes the informal negotiations that have already taken place between the Council and the European Parliament and trusts that the compromise texts identified will allow for quick adoption of the Directive in the near future.

As regards the main modifications to the Commission proposal. Taking as a basis the Commission's proposal, the Council introduced several modifications, which could be summarised as follows:

Scope of the proposed Directive: the Commission initially proposed to include all airports with an annual traffic of more than 1 million passengers. The Council agreed to increase this threshold to 5 million and to add the largest airport in each Member State. This scope is, moreover, in line with the EP opinion.

Modulation of charges for environmental and other purposes of public interest: the Council agreed on the inclusion of this possibility in the article on nondiscrimination. This addition reflects the wish of Member States to have the possibility to promote the use of more environmentally-friendly aircraft through modulation of airport charges, as well as for other purposes.

Cost-relatedness: a recital reflects a balanced compromise between the wish of Member States that airport charges are strictly related to the level of the cost of providing airport services (in line with ICAO policy recommendations on airport charges) and an appropriate degree of flexibility for other Member States, including those considering that this could have implications for the functioning of airport networks as some Member States need flexibility to use the commercial revenues within the airport network.

Airport network and airport system: the Council agreed that it was necessary to introduce in the text of the draft Directive a definition of airport networks. Moreover, it considered appropriate to include a text ensuring that airports serving the same city or conurbation can share a common charging system.

Economic oversight measures: the Council considered appropriate the addition of a provision on economic oversight measures, under which Member States, which use economic oversight systems, are not obliged to apply the Directive's prescribed dispute settlements procedure. This is on the grounds that economic oversight offers a degree of protection comparable to that set out in the Directive.

Deadline for transposition of the Directive: the Council extended the period required for the transposition of the Directive into national law to 36 months in order to allow all Member States sufficient time to take the necessary measures for its implementation.

The Council moreover considered a number of amendments, even though it did not include them in its common position. These issues could be summarised as follows:

Security charges: the common position did not include the amendments on security financing considering that the EP's concerns on this matter are already addressed by the entry into force of the new Regulation on civil aviation security (Regulation 300/2008). These concerns will be also addressed in a future Commission policy initiative.

Pre-financing: the common position acknowledges the importance of new infrastructure projects and ensures the possibility of the financing thereof, while protecting the interests of airport users. This principle of pre-financing is already mentioned in ICAO texts, but the Council considered it more appropriate not to include this in its common position due to differing approaches in Member States and the need to maintain flexibility. The Commission has not accepted these amendments.

Single or dual till system: the Council considered necessary to foresee the establishment of a common framework regulating the essential features of airport charges and the way they are set, but also considered that Member States should be free to allow single or dual till or a combination of the two systems and not be obliged to adopt legislation making compulsory one of these systems or to give airports the right to choose which till they adopt. For these reasons, the common position did not include any express provision on this issue.

Coverage of all airports in a network: the common position did not accept these amendments for reasons of coherence with the whole approach on networks, namely non-discrimination of networks between Member States, elimination of unnecessary bureaucracy at small airports and lack of practical need, since the Council considers that the risk of cross-subsidisation is unfounded.

The common position did not include a number of amendments for three reasons: i) the Council considered that they were not coherent with the philosophy and the approach followed by the draft Directive; ii) the Council considered that their drafting was not sufficiently clear and could entail legal uncertainty, as they could be interpreted in more than one way; iii) the Council considered that they would be impractical to implement by Member States, in particular concerning amendments setting deadlines, which Member States consider either too short or too long. The amendments in question concern the following: principles of competition and state aid; non-discrimination; conditions for the intervention of the independent supervisory body and delegation of authority; level of service and service quality; reference to factors determining level of charges; consultations; timing for presentation of changes to charging system; admissibility of complaints; transparency; deadline for decision of independent supervisory body.

Airport charges

The Council adopted its common position by qualified majority. However Luxembourg argued that the amended scope of the directive discriminates between airports with comparable traffic data in different Member States.

The Commission considers that the common position reflects the main objectives of its proposal at those airports where it will apply. Nevertheless, the significant reduction of the scope also will mean that these objectives will not be met at several airports in the European Union. The Commission still considers that the initially proposed scope - that the directive should apply to all airports with an annual traffic of more than 1 million passengers or more than 25 000 tons of cargo - would better support the objectives of the directive and be more aligned with other Community instruments on similar matters.

The Commission considers that the only way to allow the procedure to continue is by not opposing it.

The Commission made the following statement: "The Commission will assess whether, as a result of the implementation of the proposed

Directive, the airports referred to in Article 1(2) are being unjustifiably disadvantaged vis-à-vis other airports with comparable traffic data of other Member States with which they are in competition. Where appropriate, the Commission will take adequate initiatives in order to restore a level playing field including, if necessary, making proposals for reviewing the Directive's thresholds?.

Airport charges

The Committee on Transport and Tourism adopted a report drafted by Ulrich STOCKMANN (PES, DE) and made some amendments to the Council's common position for adopting a directive of the European Parliament and of the Council on airport charges.

The main amendments - recommended for second reading in the framework of codecision procedure - are as follows:

Airport with the highest passenger movement in each Member State: the committee clarified in the recitals that in a Member State where no airport reaches the minimum size for the application of the Directive, the airport with the highest passenger movements enjoys such a privileged position as a point of entry to that Member State that it is necessary to apply the provisions of the Directive to that airport in order to guarantee the respect of certain basic principles in the relationship between the airport managing body and the airport users, in particular with regard to transparency of charges and non-discrimination among airport users.

Pre-financing: a new recital notes that different systems exist in different Member States concerning the pre-financing of airport investments. In Member States where pre-financing occurs, Member States or airports should refer to ICAO policies and/or establish their own safeguards.

Level of airport charges: Members deleted the provision in the common position which stated that Member States may allow an airport managing body for airports serving the same city or conurbation, to apply the same level of airport charges to all the airports concerned, provided that each airport fully complies with the requirements on transparency. They considered that the same level of charges need not be applied but the charging system must be common and transparent. The same level of charges would not be appropriate as it would not be cost related or related to the level of service or facilities provided.

Common charging systems: a new article stipulates that, having informed the Commission and in accordance with Community law, Member States may allow an airport managing body to apply a common and transparent charging system at airports serving the same city or conurbation, provided that each airport fully complies with the requirements on transparency set out in the text.

Independent supervisory authority: the independent supervisory body is re-named the independent supervisory authority. In compliance with national law, the provisions of the Directive shall not prevent the independent supervisory authority from delegating, under its supervision and full responsibility, the implementation of the Directive to other independent supervisory authorities, provided that implementation takes place in accordance with the same standards.

Deadlines for decisions on charges: the managing body must publish new charges at least two months before they enter into force and the independent supervisory authority has four weeks to come to an interim decision and four months, extendable to six in exceptional cases, to come to its final decision after the receipt of a complaint. This has the effect of reducing uncertainty for stakeholders.

Mandatory procedure for charges: the committee amended the Council's text on determining airport charges in those Member States who decide not to use the independent supervisory authority to arbitrate on the level of charges. The new provision states that a Member State may decide not to apply certain provisions taken by the airport managing body in relation to changes to the level of charges or the structure of the airport charges at those airports for which : (a) there is a mandatory procedure under national law whereby airport charges, or their maximum level, shall be determined or approved by the independent supervisory authority or (b) there is a mandatory procedure under national law whereby the independent supervisory authority examines on a regular basis or in response to requests from interested parties whether such airports are subject to effective competition. Whenever warranted on the basis of such an examination, the Member State shall decide that the airport charges, or their maximum level, shall be determined or approved by the independent supervisory authority. This decision shall apply for as long as is necessary on the basis of the examination conducted by the same authority. The procedures, conditions and criteria applied for the purpose of this paragraph by the Member State shall be relevant, objective, non-discriminatory and transparent.

Information provided on charges: this must include, inter alia, any financing from public authorities of the facilities and services which airport charges relate to and the predicted outcome of any major proposed investments in terms of their effects on airport capacity.

Differentiation of services: the title of this Article has been changed from "Tailored services".

Airport charges

The European Parliament adopted by 549 votes to 12 with 24 abstentions, a legislative resolution amending the Council's common position for adopting a directive of the European Parliament and of the Council on airport charges. The report had been tabled for consideration in plenary by Ulrich STOCKMANN (PES, DE) on behalf of the Committee on Transport and Tourism.

The amendments were the result of a compromise between Parliament and Council, and they follow those amendments made by Parliament's competent committee.

The main amendments ? adopted in 2nd reading of codecision procedure - are as follows:

Airport with the highest passenger movement in each Member State: Parliament clarified in the recitals that in a Member State where no airport reaches the minimum size for the application of the Directive, the airport with the highest passenger movements enjoys such a privileged position as a point of entry to that Member State that it is necessary to apply the provisions of the Directive to that airport in order to guarantee the respect of certain basic principles in the relationship between the airport managing body and the airport users, in particular with regard to transparency of charges and non-discrimination among airport users.

Pre-financing: a new recital notes that different systems exist in different Member States concerning the pre-financing of airport investments. In Member States where pre-financing occurs, Member States or airports should refer to ICAO policies and/or establish their own safeguards.

Level of airport charges: Members deleted the provision in the common position which stated that Member States may allow an airport

managing body for airports serving the same city or conurbation, to apply the same level of airport charges to all the airports concerned, provided that each airport fully complies with the requirements on transparency. They considered that the same level of charges need not be applied but the charging system must be common and transparent.

Common charging systems: a new article stipulates that, having informed the Commission and in accordance with Community law, Member States may allow an airport managing body to apply a common and transparent charging system at airports serving the same city or conurbation, provided that each airport fully complies with the requirements on transparency set out in the text.

Independent supervisory authority: the independent supervisory body is re-named the independent supervisory authority. In compliance with national law, the provisions of the Directive shall not prevent the independent supervisory authority from delegating, under its supervision and full responsibility, the implementation of the Directive to other independent supervisory authorities, provided that implementation takes place in accordance with the same standards.

Deadlines for decisions on charges: the airport managing body shall normally publish its decision or recommendation no later than two months before its entry into force. The independent supervisory authority shall, within four weeks of the matter being brought before it, take an interim decision on the entry into force of the modification of airport charges, unless the final decision can be taken within the same deadline. A final decision must be taken as soon as possible, and in any case within four months of the matter being brought before it. This period may be extended by two months in exceptional and duly justified cases.

Mandatory procedure for charges: a new provision states that a Member State may decide not to apply certain provisions to decisions taken by the airport managing body in relation to changes to the level of charges or the structure of the airport charges at those airports for which : (a) there is a mandatory procedure under national law whereby airport charges, or their maximum level, shall be determined or approved by the independent supervisory authority or (b) there is a mandatory procedure under national law whereby the independent supervisory authority examines on a regular basis or in response to requests from interested parties whether such airports are subject to effective competition. Whenever warranted on the basis of such an examination, the Member State shall decide that the airport charges, or their maximum level, shall be determined or approved by the independent supervisory authority. This decision shall apply for as long as is necessary on the basis of the examination conducted by the same authority. The procedures, conditions and criteria applied for the purpose of this paragraph by the Member State shall be relevant, objective, non-discriminatory and transparent.

Information provided on charges: this must include, inter alia, any financing from public authorities of the facilities and services which airport charges relate to and the predicted outcome of any major proposed investments in terms of their effects on airport capacity.

Differentiation of services: the title of this Article has been changed from "Tailored services.?"

Airport charges

The Commission accepts the following amendments made by the European Parliament at second reading.

They concern in particular those which:

- significantly improve the clarity of the text compared to the Council's common position;
- refer to several issues such name and time limits;
- clarify certain aspects of financing;
- introduce a recital that clarifies that pre-financing of airport infrastructure should be accompanied with safeguards;
- requires airports to provide information on any financing from public authorities;
- further strengthen the principle of non-discrimination;
- clarify that the functions of the independent supervisory authority can be delegated;
- clarify the reasons for including the largest airport per Member State in the scope of application of the Directive.

Furthermore, the amendments confirm the agreement between the institutions. The Council has already sent a letter to the Parliament endorsing the amendments by the Parliament.

Airport charges

PURPOSE: facilitate the discussions on airport charges between airports and airlines.

LEGISLATIVE ACT: Directive 2009/12/EC of the European Parliament and of the Council on airport charges.

CONTENT: the Council adopted this Directive on airport charges, approving all amendments voted by the European Parliament at second reading.

This Directive sets common principles for the levying of airport charges at Community airports. It applies to any airport located in the EU and open to commercial traffic whose annual traffic is over 5 million passenger movements and to the airport with the highest passenger movement in each

Member State. Member States must publish a list of the airports on their territory to which the Directive applies.

The Directive aims to clarify the relationship between airport operators and airport users by requiring transparency, user consultation and the application of the principle of non-discrimination when calculating charges levied on users. In addition, it aims to create strong, independent national authorities in Member States to arbitrate and settle disputes, in order to reach a speedy resolution.

The Directive introduces some basic rules on the procedures for levying charges. These rules are based on generally accepted principles already endorsed by Member States in the council of the International Civil Aviation Organization.

The first principle aims at ensuring regular consultations between airports and airlines on charges in which both parties can explain and develop their views. The objective is to ensure that airports have consulted and informed airlines before deciding on airport charges.

The second principle concerns transparency on the elements that form the basis of airport charges. This information will be discussed in the regular consultations. Prohibition of discrimination between airlines is the third principle.

The Directive also suggests the establishment of an independent regulatory authority in each Member State. This authority shall oversee the levying of charges and ensure that the relevant provisions of the directive are complied with. The authority will consequently act upon complaints on airport charges from the parties.

Report and revision: the Commission will submit a report by 15/03/2013, assessing progress made in attaining its objective as well as, where appropriate, any suitable proposal.

ENTRY INTO FORCE: 15/03/2009.

TRANSPOSITION: 15/03/2011.

Airport charges

The Commission presents a report on the application of Directive 2009/12/EC of the European Parliament and of the Council on airport charges.

The Airport Charges Directive, which the Member States were required to transpose to national law by 15 March 2011, is a specific EU legal framework for airport charges at all airports in the European Economic Area and Switzerland with more than 5 million passenger movements per year and at least the largest airport in each Member State. Around 70 EU airports fall within the scope of the Directive; representing just under 80% of EU passenger traffic.

The Directive sets common principles for the levying of airport charges.

In this report, the Commission provides an overview of the application of the Directive in the Member States and indicates specific findings with regard to possible problems in its implementation with a possible follow up for future analysis.

Main conclusions: by early 2013, all Member States had notified their full transposition of the Directive. However, formal transposition is only the first step. The correct, practical application of the Directive and its impact on airport operators, airlines and the broader aviation sector are of also of great importance. At this early stage, the Commission finds that a number of the main objectives of the Directive have already been achieved. However, there are specific problems regarding transposition and application in a number of Member States and these are to be resolved by drawing Member States' attention to identified problems and via the infringement procedure where necessary.

In general, the report stresses that although it is too early to draw definitive conclusions on the impact of the Directive due to its recent entry into force, preliminary conclusions can be drawn. These concern the following issues:

Increased transparency in defining airport charges at the largest European airports: whilst the Directive appears to have made an important contribution to improving the process for setting airport charges at the larger European airports at which it applies, its application needs to be further monitored. Several infringement procedures have been initiated and the Commission will act, as appropriate, in other cases on the basis of complaints received or ex officio.

Better and regular consultation: views among stakeholders vary regarding the provisions on consultation. Although a fair number of airports already had a consultation mechanism in place, the Directive has brought more clarity as to the timelines and format of the consultation. Airlines question the application of the consultation arrangements, arguing airports should do more to engage with airlines rather than merely provide information. Among airports, those with a wider base of airport users (Amsterdam Schiphol, Heathrow, Aéroports de Paris and Frankfurt) are generally satisfied with the consultation process and find it useful to have codified guidelines at EU level. On the other hand, concerns about the formality of the process and the administrative burden associated with organising a formal consultation procedure are cited by some of the smaller airports subject to the Directive. The Directive also provides for a duty for airports to consult airport users before plans for new infrastructure projects are finalised, although the procedure to be followed and the minimum requirements are not specified.

Remedy procedures: airlines in particular are satisfied that the Directive provides for a clear remedy procedure in case of disagreement on the setting of the airport charges but it remains to be seen how the role of independent supervisory authorities develops. On the side of the airports, concerns were raised on the increase in appeals procedures by airlines to the ISA and the suspensive effect of appeals. The most important issues surrounding appeals seems to be that the Directive does not expressly provide for a statutory deadline for airlines to submit an appeal and the suspensory effect of appeals, which might have the effect of holding up investment in infrastructure.

Setting up of ISAs: the Directive has brought clarity by obliging the setting up of independent supervisory authorities (ISA) in each Member State, although establishing them has sometimes been a slow process. Their establishment, along with the necessary degree of independence as required by the Directive, is crucial to the attainment of the Directive's objectives. The role of the authorities in all Member States will be addressed as a priority issue.

The Commission also intends to create a forum of ISAs, meeting regularly to discuss issues related to the enforcement of provisions of the Directive in the Member States. The objective is to help these ISAs to develop their working methods and knowledge by sharing experience and best practice. The first meeting will take place on 13 June 2014.

Non-discrimination of airport charges: non-discrimination in the application of airport charges among airport users is of key importance. The Commission will encourage the sharing of experience among Member States, with a view to promoting best practices taking into account the possibility for airports to set their tariffs on the basis of economic criteria, and in compliance with the provisions of the Directive. A balance has to be reached between providing airports with an appropriate degree of commercial freedom, for the benefit of airports but also airlines and passengers, and safeguarding the position of carriers which may not have the power to moderate airports' pricing behaviour. Improving the transparency of incentive schemes could be an important first step.

Next steps: the report concludes that it will also be necessary to reflect on to what extent the objectives behind the Directive might need to be revisited in the future as a result, for example, of changes in the competitive landscape in which airports operate. Similarly, the Commission will need to determine whether the attainment of the Directive's objectives could be better served by revising the Directive.

