

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

2006/0130(COD) - 11/07/2007 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the report by Ar?nas DEGUTIS (ALDE, LT) on the proposal for a regulation on common rules for the operation of air transport services in the Community (recast).

The report deals with the Commission proposal on the revision the 1992 "third liberalisation package" of the internal aviation market that aims to increase market efficiency, to enhance the safety of air services and to improve passenger protection. The regulation lays down rules for, inter alia, operating licences, leasing of aircraft, public service obligations, traffic distribution rule and price transparency.

The main amendments are as follows:

Scope: the regulation regulates the licensing of Community air carriers, the right of Community air carriers to operate air services within the Community, and the pricing of air services operated within the

Community. Parliament wishes to extend the scope of the regulation by including provisions on information and non-discrimination in pricing shall apply to flights departing from an airport situated in the territory of a Member State and to flights contracted by a Community carrier departing from an airport located in a third country to an airport situated in the territory of a Member State, unless air carriers are subject to the same obligations in that third country.

Definitions: the definition of "regional airport" has been deleted. A new article defining a "dry lease agreement" has been introduced. It shall mean an agreement between air carriers where the aircraft is operated under the AOC of the lessee. A "wet lease agreement" shall mean an agreement between air carriers where the aircraft is operated under the AOC of the lessor. The "Principal place of business" shall mean the place of the head office and, if any, the registered office of a Community air carrier in a Member State within, to or from which the Community air carrier carries out a significant part of its operational activities.

Insurance: the airline should provide evidence that it has sufficient insurance cover to be able to refund sums paid and to cover the costs of repatriating passengers in the event of it being unable to operate booked flights because of insolvency or revocation of its operating licence. The amount of net capital is an important indicator of the financial situation of the companies. Therefore every air carrier shall satisfy a minimum criterion in this regard. Parliament calls for a minimum of EUR 100 000.

Validity of operating licences: the competent licensing authority in any case review compliance with these requirements in the following cases: (a) two years after a new operating licence has been granted, or (b) when a potential problem has been suspected, or (c) at the request of the Commission.

The time limit of 6 months from cessation of operations is established practice and should be retained (as opposed to 3 months). In advance of any plans to operate new scheduled services or non-scheduled services to a continent or a world region not previously served, change the type or number of aircraft used or to substantially change the scale of its activities.

Suspension and withdrawal of operating licences: the competent licensing authority shall suspend or revoke the operating licence if there are reasonable grounds for suspecting that the Community air carrier cannot meet its actual and potential obligations for a 12-month period.

Registering aircraft: the Member State whose competent licensing authority is responsible for granting the operating licence of the Community air carrier may require such aircraft to be registered in its national register.

Short-term wet leasing: in the case of short-term wet lease agreements to meet temporary needs of a Community air carrier, or otherwise in exceptional circumstances the competent licensing authority may grant waivers to the requirement of registration provided that: (a) the Community air carrier can justify such leasing on the basis of an exceptional need, in which case a waiver may be granted for a period of up to 7 months, that may, in exceptional circumstances, be renewed once only for a second period of up to 7 months; or (b) the Community air carrier demonstrates that leasing is necessary to satisfy seasonal capacity needs, which cannot reasonably be satisfied through leasing aircraft in which case the waiver may be granted for a period of up to 7 months, that may be renewed; or (c) the Community air carrier demonstrates that leasing is necessary to overcome unforeseen operational difficulties, such as technical problems (in which case the waiver shall be of a limited duration which is strictly necessary for overcoming the difficulties).

Rights of defence: a new article stipulates that the competent licensing authority and the Commission shall ensure that, when adopting a decision to suspend or revoke the operating licence of a Community air carrier, the Community air carrier concerned is given the opportunity of being heard, taking into account the need, in some cases, for an urgency procedure.

Social legislation: with respect to employees of a Community air carrier operating air services from an operational base outside the territory of the Member State where that Community air carrier has its principal place of business, Member States shall ensure the proper application of Community and national social legislation.

Provision of intracommunity air services: an amendment aims at specifying that the liberalization will be applied exclusively within EU and to Community carriers without modifying the existing bilateral agreement with third countries. The carriers of third countries will be authorized only if they have the underlying rights in the air services agreements in order to respect the reciprocity principle.

Access to airports: the report calls for airports to be served by an adequate transport infrastructure making it possible to arrive at the airport, using public transport, within an hour.

General principle of the public service obligations: when a Member State wishes to impose a public service obligation, it shall communicate the complete text of the envisaged imposition of the public service obligation to the Commission, to the other Member States concerned, to the airports concerned and to the air carriers operating the route in question. Parliament believes that any definition of "regional airport" for the

purpose of public service obligations will include some airports in economically viable regions and exclude some airports in regions needing economic or social support. PSOs are justified only to airports which serve regions with economic or social needs. Therefore this definition should be deleted.

Passenger information: air carriers operating within the Community shall provide the general public with comprehensive information on their air fares and rates and on all applicable taxes, non-avoidable charges, surcharges and fees levied by them for the benefit of third parties. Air fares published in any form, including on the Internet, which are addressed directly or indirectly to the travelling public shall include all applicable taxes, non avoidable charges, surcharges and fees known at the time of publication. Air fares shall not incorporate costs not actually incurred by air carriers.

Optional price supplements: shall be communicated in a clear, transparent and unambiguous way at the start of any booking process and their acceptance by the passenger should be on an "opt-in" basis. Implied agreements to accept such supplements shall be null and void. All costs which are not part of the air fare and which are not levied by air carriers operating within the Community must be comprehensively advertised by the "ticket seller". An air carrier may not impose rules on passengers and travel agencies serving, in practice, to restrict their free and equal access to air fares.

Transparency in charging: air carriers shall advertise their air fares and rates and the conditions attached, and all applicable taxes, charges and fees levied by them for the benefit of third parties, using the following categories: (i) taxes and other state charges and duties; (ii) air traffic control charges; (iii) charges, duties, fees and other costs for the benefit of the airlines; (iv) fees, levies, charges and other costs for the benefit of the airport operators.

Where airport or on-board security costs are included in the price of an air ticket, those costs shall be shown separately on the ticket or otherwise indicated to the passenger. Security taxes and charges, whether levied by Member States or by air carriers or entities, shall be transparent and shall be used exclusively to meet airport or onboard aircraft security costs.

Sanctions: as the Commission does not provide any sanction if the rules on pricing are not applied, the resolution states that Member States shall lay down sanctions for infringements thereof.

It should be noted that Annex II was deleted by the MEPs.