

# Safeguarding competition in air transport

2017/0116(COD) - 28/03/2018 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Transport and Tourism adopted the report by Markus PIEPER (EPP, DE) on the proposal for a regulation of the European Parliament and of the Council on safeguarding competition in air transport, repealing Regulation (EC) No 868/2004.

The proposed Regulation lays down rules on the conduct of investigations by the Commission and on the adoption of redressive measures, relating to violation of applicable international obligations and to practices distorting competition between Union air carriers and other air carriers and causing or threatening to cause injury to Union air carriers.

The committee recommended that the European Parliaments position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows:

Union interest: Members considered it necessary to clarify the concept of Union interest when deciding whether or not to apply redressive measures in the event of unfair practices by a carrier from a third country.

When determining the Union interest, priority shall be given to the need to:

- restore effective and fair competition,
- ensure transparency,
- avoid any distortion to the internal market,
- avoid undermining Member States socio-economic situation,
- maintain a high level of connectivity for passengers and the Union.

When determining whether or not the Union interest calls for intervention, the Commission shall take into account the views of all interested parties. In order to organise consultations with all interested parties and to give them the opportunity to be heard, time-limits for providing information or for requesting a hearing shall be specified in the notice of initiation of the investigation. Interested parties should be aware of the conditions of disclosure for the information they provide and should be entitled to respond to other parties comments.

Procedure: the Commission may decide not to initiate an investigation where the facts put forward in the complaint neither raise a systemic issue, nor have a significant impact on one or more Union air carriers, and are unwarranted.

The decision not to initiate an investigation shall be duly substantiated by a statement of reasons. The European Parliament may call on the Commission to further justify its decision. Complainants may appeal such a decision within 60 days from its publication. The investigation should be completed within 12 months, which may be extended in duly justified cases.

In case of urgency, such as in situations where there is a risk of immediate and irreversible injury to Union air carrier(s), the proceedings may be shortened to six months or, as a last resort, the Commission may adopt provisional redressive measures to prevent or offset such injury.

Bilateral agreements: where bilateral air transport or air services agreements with third countries include fair competition clauses or similar provisions, exhausting dispute settlement procedures foreseen in such international agreements shall not be a precondition for opening a procedure under this Regulation.

Concluding the investigation: the Commission shall conclude the investigation after gathering all necessary information from relevant stakeholders and on the basis of best available evidence. Only the Commission may terminate the investigation without adopting redressive measures where the complaint is withdrawn. Union carriers have the right to appeal against a Commission decision to terminate the investigation. The Commission shall further justify its decision before the competent committees of the European Parliament.

Redressive measures: the redressive measures shall have regard to the proper functioning of the Union air transport market and shall not result in an undue advantage being given to any air carrier or group of air carriers. The redressive measures may be provisional and may be adopted, where necessary, when the investigation determines, on the basis of available facts, that a threat of injury exists.