

Airport charges

2007/0013(COD) - 23/06/2008 - Council position

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 Members 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.