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

2006/0130(COD) - 24/09/2008 - Final act

PURPOSE: to modernise the single market legislation for aviation with the aim of guaranteeing the uniform application of Community law in all of the Member States and of creating equal conditions for all airlines.

LEGISLATIVE ACT: Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community (recast).

CONTENT: the Regulation regulates the licensing of Community air carriers, the right of Community air carriers to operate intra-Community air services and the pricing of intra-Community air services. It simplifies into one single regulation three existing regulations on operating licences, the rights to provide air services within the EU, and pricing in air transport – the so-called “third aviation package” adopted in 1992.

The main elements of the recast are as follows:

Reinforcement of the requirements for the granting and revoking of an operating licence: the Regulation clarifies that the Member State authority will be responsible for the safety oversight of any given operator as well as being responsible for issuing operating licences. It requires Member States to reinforce the supervision of the operating licences and to suspend or revoke it when the requirements of the regulation are no longer met. An operating licence shall be valid as long as the Community air carrier meets the obligations of the Regulation. In any event, the competent authority shall check compliance with these requirements in the following cases: (a) two years after a new operating licence has been granted; (b) when a potential problem has been suspected; or (c) at the request of the Commission. The competent licensing authority 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.

Stricter requirements on the financial strength of air carriers: each applicant shall submit a business plan for at least the first three years of operation. The competent licensing authority shall closely assess whether an undertaking applying for the first time for an operating licence can demonstrate that: (a) it can meet at any time its obligations established under realistic assumptions, for a period of 24 months from the start of operations; (b) it can meet its fixed and operational costs incurred from operations according to its business plan and established under realistic assumptions, for a period of three months from the start of operations, without taking into account any income from its operations.

Strengthen the requirements for the leasing of aircraft: the Regulation eases the leasing of aircraft registered in the Union but introduces stricter requirements for the leasing of third country aircraft – especially when leased with crew - to ensure safety standards and minimize adverse social consequences. In order to agree with leasing agreements, the competent licensing authority must confirm that safety standards equivalent to the Community safety requirements are met. Concerning the leasing of aircraft registered in third countries, they will only be allowed in exceptional circumstances for a maximum duration of seven months and renewable only once for a period of up to seven months.

Clarify the rules applicable to public service obligations (PSO): a Member State, following consultations with the other Member States concerned and after having informed the Commission, the

airports concerned and air carriers operating on the route, may impose a public service obligation in respect of scheduled air services between an airport in the Community and an airport serving a peripheral or development region in its territory or on a thin route to any airport on its territory any such route being considered vital for the economic and social development of the region which the airport serves. The tender procedures have been modified by extending the maximum concession period from three to four years (and five years in the case of ultra-peripheral regions).The tender procedure for the renewal of a concession must be launched at least six months in advance in order to allow a careful assessment of the continued necessity of the restricted access to the route. Furthermore, an urgency procedure has been introduced to cope with sudden interruptions of service on routes with a PSO.

Social dimension of the internal market: a recital reiterates the Member States' obligation to apply the relevant national and European 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.

Clarification of the rules applicable to traffic distribution between airports: the Regulation provides that traffic may be distributed between airports provided that the airports: (a) serve the same city or conurbation; (b) are served by an adequate transport infrastructure with, as far as possible, a direct connection making it possible to arrive at the airport in less than 90 minutes including, where necessary, on a cross-border basis; (c) are linked with each other and the city or conurbation they serve by frequent, reliable and efficient public transport services; (d) provide the services needed by air carriers and do not unduly prejudice their commercial opportunities.

Better protection of EU consumers (price transparency): the scope of the obligation for transparent information and non-discrimination has been extended to all flights leaving the Community, including flights operated by third country air carriers. From now on, the final prices announced for these flights must include the applicable air fare or air rate as well as all applicable taxes, and charges, surcharges and fees which are unavoidable and foreseeable at the time of publication. Member States shall lay down penalties for infringements of the provisions on fares.

Environmental measures: Member States may impose traffic rights restrictions in case of serious environmental concerns. These measures must be non-discriminatory and must not unduly distort competition between air carriers.

ENTRY INTO FORCE: 01/11/2008.