

Air transport: aviation security charges

2009/0063(COD) - 17/12/2009

The Council took note of a progress report on a proposal for a directive establishing common principles for the levying of security charges at EU airports (doc. [17393/09](#)).

The Commission submitted its proposal in May 2009 in response to a commitment it made to the European Parliament in 2007 during the negotiations leading to the adoption of framework regulation 300/2008 on aviation security. The European Parliament started its examination of the proposal this autumn.

The Council preparatory bodies dealing with this issue were able to resolve many technical difficulties resulting from the different charging and regulatory systems in place in individual Member States.

The key issues where positions still differ are as follows:

Scope: positions still differ is the **scope** of the proposed legislation. Under the original Commission proposal, the directive would apply to all EU airports. At the current stage of discussions, the presidency proposes that all commercial EU airports with annual traffic of over five million passenger movements should be covered. A broad majority of delegations could support this.

A number of delegations, however, would prefer to include all commercial airports or to lower the threshold for passenger movements, whereas the Member States sticking to the threshold of five million passengers fear that this might entail a major administrative burden. The Council invited its preparatory bodies to pursue discussion of the issue.

Impact assessment (Article 6): the Presidency compromise text slightly modifies the Commission proposal by stipulating that, for any modification to the structure or level of security charges in relation to more stringent measures pursuant to Article 6 of Regulation (EC) No 300/2008, Member States shall ensure that an impact assessment is undertaken with regard to the effects of the costs of those more stringent measures on the level of security charges. In addition, it was considered sufficient that the airport users be informed about the outcome of the impact assessments instead of consulted. A number of delegations expressed a concern which, according to them, would create an ambiguity in relation to the application of Article 6 of Regulation (EC) No 300/2008. It was also argued that the issue of impact assessment is already dealt with in Article 6 of Regulation (EC) No 300/2008 which lays down a requirement for Member States to do risk assessments if they introduce more stringent measures.

Cost-relatedness of security charges (Article 7): the Presidency suggested to add to the Commission proposal that the calculation of security charges shall be based on objective criteria, deriving from those laid down in the relevant ICAO documents, such as the number of passengers, aircraft weight or a combination of these or other relevant factors. Furthermore, the Presidency compromise text lays down that the total revenue from security charges at an airport, airport network or group of airports shall not be higher than the total costs of aviation security for that airport, airport network or group of airports.

According to some delegations, this article is conflicting with the application of Article 5 of Regulation (EC) 300/2008. These delegations could only accept to use the exact wording of Article 5 of Regulation (EC) 300/2008 and a reference to ICAO principles in a recital. Otherwise, according to these delegations, Article 7 should be deleted. Other delegations would prefer to be more specific in setting the list of criteria which Member States will have to take into account when determining the costs of aviation security by including additional elements based on ICAO recommendations.

Supervisory authority (Article 8): under the proposal, Member States shall nominate or establish an independent body as their national independent supervisory authority in order to ensure the correct application of the measures taken to comply with this Directive. Moreover, Member States shall ensure that measures are taken as regards resolving disagreements with regard to security charges. Given the fact that some Member States have a different procedure under national law to determine and approve the structure or the level of security charges, the Presidency suggested the inclusion of an additional paragraph stipulating that these Member States may decide not to apply the provisions of this Article. However, this exemption raised concerns expressed by some Member States since it would, according to these delegations, create different rules in the Member States resulting in an unbalanced level playing field. In addition, some delegations would prefer to extensively align the text of Article 8 with Directive 2009/12. One delegation also expressed that it would prefer the provisions of this article less mandatory.