

# Air transport: aviation security charges

2009/0063(COD) - 05/05/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 613 votes to 7, with 16 abstentions, the legislative resolution on the proposal for a directive of the European Parliament and of the Council on aviation security charges.

It adopted its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure).

Parliament amends the Commission's proposal as follows:

**Harmonisation of the Commission's proposal with Directive 2009/12/EC on airport charges:** the Commission's proposal draws heavily on the Directive on airport charges. The amendments seek, as far as possible and desirable, to harmonise the two legal texts.

**Purpose:** the Directive applies to any airport located in a territory subject to the provisions of the Treaty and open to commercial traffic.

**Definitions:** "competent body" means an airport managing body or any other body or authority responsible for the application and/or the setting of the level and the structure of aviation security charges at Community airports. The definition of "security charge" is also specified: it is a levy collected by any entity, airport or airport user in different forms which is specifically designed to recover the costs of security measures intended to protect civil aviation against acts of unlawful interference. This cost of aviation security may include the costs incurred for ensuring the application of Regulation (EC) No 300/2008 or for fulfilling the related regulatory and supervisory costs by the appropriate authority.

The definition of "aviation security" has been introduced to mean the combination of measures and human and material resources intended to safeguard civil aviation against acts of unlawful interference that jeopardise the security of civil aviation.

**Airport network:** a new article stipulates that Member States may allow the competent body of an airport network to introduce a common and transparent charging system for security charges to cover the airport network.

**Common charging systems:** after having informed the Commission and in accordance with Community law, Member States may allow the competent body to apply a common and transparent charging system at airports serving the same city or conurbation, provided that each airport fully complies with the requirements on transparency set out in the Directive.

**Consultation and remedy:** a compulsory procedure for regular consultation between the competent body and airport users or the representatives or associations of airport users should be established with respect to the operation of the system of security charges and the level of such charges. The competent body shall submit any proposal to modify the system or the level of security charges to the airport users or the representatives or associations of airport users no later than four months before it enters into force, together with the reasons for the proposed changes. In the event of a disagreement over a decision on security charges taken by the competent body, either party may seek the intervention of the independent supervisory authority which shall examine the justifications for the modification of the system or the level of security charges. A Member State may decide not to apply this provision in relation to changes to the level or the structure of the aviation security charges at those airports for which: i) there is a mandatory procedure under national law whereby aviation security charges, or their maximum level, are to be

determined or approved by the independent supervisory authority; or ii) there is a mandatory procedure under national law whereby the independent supervisory authority examines, on a regular basis or in response to requests from interested parties, whether such airports are subject to effective competition.

**Transparency:** an amendment seeks to clarify the provisions regarding the provision of information concerning the setting of security charges. Firstly, information on both the structure and the level of charges has to be communicated. Secondly, all airports should be obliged to provide this information. The information should include, among other things: (i) the overall cost structure with regard to the facilities and services to which security charges relate; (ii) the revenue of the security charges and the total cost of the services covered by them; (iii) any financing from public authorities of the facilities and services to which security charges relate; (iv) forecasts of the level of security charges taking into account proposed investments, traffic growth and increased levels of security threats.

Airport users should submit information to the competent body before every consultation concerning in particular the amount of the security charge levied by airport users on passengers departing from the airport and information on the components serving as a basis for determining these charges.

Information on the amount of security charges levied by the competent body and the airport users should be publicly accessible. Subject to national legislation, the information provided shall be regarded as confidential or economically sensitive and handled accordingly. In the case of airport managing bodies that are quoted on a stock exchange, stock exchange regulations in particular shall be complied with.

**More stringent measures:** the Commission's proposal lays down an obligation to undertake an economic impact assessment where more stringent measures are adopted by the Member States. However, Members propose that the funding of these more stringent measures, where they involve additional costs, shall be borne by the Member States. In this case, it would no longer be compulsory to proceed with an impact assessment.

**Relation between costs and safety charges:** the proposal states that security charges shall be used exclusively to meet security costs. Parliament considers that the total revenue from security charges shall not be higher than the total costs of aviation security for that airport, airport network, or group of airports. An amendment adopted in plenary stipulates that the Member States should ensure that the national and/or international level of the security threat should be taken into account. The cost base for the calculation of security charges shall not include any costs that would be incurred for more general security functions performed by Member States such as general policing, intelligence gathering and national security.

**Independent supervisory authority:** Parliament considers that it is essential to have the possibility to delegate the powers of the national supervisory authority to regional authorities in charge of the economic regulation of airports in federal systems. When a Member State applies, in accordance with its national law, a regulatory or legislative procedure to determine and approve the structure or level of security charges at national level, the national authorities responsible for examining the validity of security charges shall perform the tasks of the independent supervisory authority.

**Report:** the Commission shall submit a report on the funding of aviation security, examining the evolution of aviation security costs and the methods for funding aviation security, no later than two years after entry into force of this Directive.

Member States shall transpose the Directive no later than two years after its entry into force.