Airport charges

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The Commission presents a report on the application of Directive 2009/12/EC of the European Parliament and of the Council on airport charges.

The Airport Charges Directive, which the Member States were required to transpose to national law by 15 March 2011, is a specific EU legal framework for airport charges at all airports in the European Economic Area and Switzerland with more than 5 million passenger movements per year and at least the largest airport in each Member State. Around 70 EU airports fall within the scope of the Directive; representing just under 80% of EU passenger traffic.

The Directive sets **common principles for the levying of airport charges**.

In this report, the Commission provides an overview of the application of the Directive in the Member States and indicates specific findings with regard to possible problems in its implementation with a possible follow up for future analysis.

Main conclusions: by early 2013, all Member States had notified their full transposition of the Directive. However, formal transposition is only the first step. The correct, practical application of the Directive and its impact on airport operators, airlines and the broader aviation sector are of also of great importance. At this early stage, the Commission finds that a number of the main objectives of the Directive have already been achieved. However, there are specific problems regarding transposition and application in a number of Member States and these are to be resolved by drawing Member States' attention to identified problems and via the infringement procedure where necessary.

In general, the report stresses that although it is too early to draw definitive conclusions on the impact of the Directive due to its recent entry into force, preliminary conclusions can be drawn. These concern the following issues:

Increased transparency in defining airport charges at the largest European airports: whilst the Directive appears to have made an important contribution to improving the process for setting airport charges at the larger European airports at which it applies, its application needs to be further monitored. Several infringement procedures have been initiated and the Commission will act, as appropriate, in other cases on the basis of complaints received or *exofficio*.

Better and regular consultation: views among stakeholders vary regarding the provisions on consultation. Although a fair number of airports already had a consultation mechanism in place, the Directive has brought more clarity as to the timelines and format of the consultation. Airlines question the application of the consultation arrangements, arguing airports should do more to engage with airlines rather than merely provide information. Among airports, those with a wider base of airport users (Amsterdam Schiphol, Heathrow, Aéroports de Paris and Frankfurt) are generally satisfied with the consultation process and find it useful to have codified guidelines at EU level. On the other hand, concerns about the formality of the process and the administrative burden associated with organising a formal consultation procedure are cited by some of the smaller airports subject to the Directive. The Directive also provides for a **duty for airports to consult airport users before plans for new infrastructure projects are finalised**, although the procedure to be followed and the minimum requirements are not specified.

Remedy procedures: airlines in particular are satisfied that the Directive provides for a clear remedy procedure in case of disagreement on the setting of the airport charges but it remains to be seen how the role of independent supervisory authorities develops. On the side of the airports, concerns were raised on the increase in appeals procedures by airlines to the ISA and the suspensive effect of appeals. The most important issues surrounding appeals seems to be that the Directive does not expressly provide for a statutory deadline for airlines to submit an appeal and the suspensory effect of appeals, which might have the effect of holding up investment in infrastructure.

Setting up of ISAs: the Directive has brought clarity by obliging the **setting up of independent supervisory authorities** (ISA) in each Member State, although establishing them has sometimes been a slow process. Their establishment, along with the necessary degree of independence as required by the Directive, is crucial to the attainment of the Directive's objectives. The role of the authorities in all Member States will be addressed as a priority issue.

The Commission also intends to create a **forum of ISAs**, meeting regularly to discuss issues related to the enforcement of provisions of the Directive in the Member States. The objective is to help these ISAs to develop their working methods and knowledge by sharing experience and best practice. The first meeting will take place on 13 June 2014.

Non-discrimination of airport charges: non-discrimination in the application of airport charges among airport users is of key importance. The Commission will encourage the sharing of experience among Member States, with a view to promoting best practices taking into account the possibility for airports to set their tariffs on the basis of economic criteria, and in compliance with the provisions of the Directive. A balance has to be reached between providing airports with an appropriate degree of commercial freedom, for the benefit of airports but also airlines and passengers, and safeguarding the position of carriers which may not have the power to moderate airports' pricing behaviour. Improving the transparency of **incentive schemes** could be an important first step.

Next steps: the report concludes that it will also be necessary to reflect on to what extent the objectives behind the Directive might need to be revisited in the future as a result, for example, of changes in the competitive landscape in which airports operate. Similarly, the Commission will need to determine whether the attainment of the Directive's objectives could be better served by revising the Directive.