Ensuring basic air connectivity with regard to the withdrawal of the United Kingdom from the Union

2018/0433(COD) - 19/12/2018 - Legislative proposal

PURPOSE: to avoid a total interruption of air traffic between the EU and the United Kingdom in the absence of an agreement to withdraw the United Kingdom from the Union.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure on an equal footing with the Council.

BACKGROUND: on 13 December 2018, the European Council (Article 50) renewed its call to intensify work on preparing, at all levels, for the consequences of the United Kingdom's withdrawal from the Union, taking into account all possible outcomes.

In response to this call, this Regulation is part of a package of emergency measures proposed by the Commission in view of the uncertainty in the United Kingdom regarding the ratification of the withdrawal agreement.

Regulation (EC) No 1008/2008 of the European Parliament and of the Council sets out the conditions for the granting of the Union operating licence to air carriers and establishes the freedom to provide intra-EU air services. In the absence of any provisions to the contrary in a withdrawal agreement, air services between the United Kingdom and the Member States would cease to be governed by the said Regulation upon withdrawal.

Moreover, certain air carriers, by reason of their holding an operating licence issued by the United Kingdom, or their principal place of business being located in the United Kingdom, or their being majority owned or effectively controlled by the United Kingdom or its nationals, would cease to meet the conditions laid down in the said Regulation to qualify as Union carriers. The carriers in any of the situations described above would lose their Union operating licence and, as a consequence, no longer enjoy the right to provide intra-Union air services.

Direct air transport services between the United Kingdom and the Member States are almost entirely in the hands of United Kingdom and Union air carriers. The loss by those air carriers of their right to provide air services between the United Kingdom and the Member States would therefore result in serious disruption. Most, if not all, air routes between the Union and the United Kingdom would cease to be served.

In a no-deal scenario, it is expected that the consequences for the respective economies would be severe. The Commission considers it necessary to establish a temporary set of measures enabling carriers licensed in the United Kingdom to provide air transport services between the territory of the latter and the remaining 27 Member States.

CONTENT: the present proposal thus has the objective to lay down **provisional measures** to govern air transport between the Union and the United Kingdom following the latter's withdrawal from the Union. This proposal complements Union Regulation (EC) No 1008/2008. Although the approach followed in the

Union's air transport agreements with third countries has been respected in some areas (e.g. operating authorisations), the specific purpose and context of this Regulation, as well as its unilateral nature, necessarily require a more restrictive approach in the grant of rights, as well as specific provisions intended to preserve equality of rights and a level playing field.

Maintain basic connectivity

The proposed Regulation provides for the unilateral grant of first, second, third and fourth freedom traffic rights to United Kingdom air carriers so that these can continue to overfly and make technical stops in Union's territory, as well as serve direct routes between the respective territories. No distinction is made between passenger and cargo operations, or scheduled and non-scheduled services.

These measures are intended to maintain basic connectivity for a short transition period ending **30 March, 2020**.

Reciprocity and fair competition

The measures would enter into force subject to the United Kingdom granting equivalent rights to EU air carriers and ensuring fair competition. Otherwise, the Commission would be empowered to adopt the necessary measures to correct the situation by means of implementing acts, including the limitation or withdrawal of operating authorisations of United Kingdom air carriers.

A level playing field requires that, even after the withdrawal, the United Kingdom continues to apply sufficiently high standards in the area of air transport as regards: (i) fair competition; (ii) the prohibition of unjustified government subsidies; (iii) the protection of workers; (iv) the protection of the environment; (v) safety and security; (vi) non-discrimination of EU carriers in the United Kingdom.