

Safeguarding competition in air transport

2017/0116(COD) - 14/03/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 478 votes to 100 with 18 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on safeguarding competition in air transport, repealing Regulation (EC) No 868/2004.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

Objective

The Regulation lays down rules on the conduct of investigations by the Commission and on the adoption of redressive measures, relating to practices distorting competition between Union air carriers and third-country air carriers and causing, or threatening to cause, injury to Union air carriers.

Discrimination shall mean differentiation of any kind without objective justification in respect of the supply of goods or services, including public services, employed for the operation of air transport services, or in respect of their treatment by public authorities relevant to such services, including practices relating to air navigation or airport facilities and services, fuel, ground handling, security, computer reservation systems, slot allocation, charges, and the use of other facilities or services employed for the operation of air transport services.

Union interest

A determination of the Union interest shall be made by the Commission based on an appreciation of all the various interests, which are relevant in the particular situation, taken as a whole. When determining the Union interest, priority shall be given to the need to protect consumer interests and to maintain a high level of connectivity for passengers and for the Union. In the context of the whole aviation chain, the Commission may also take into account relevant social factors. The Commission shall also take into consideration the need to eliminate the practice distorting competition, to restore effective and fair competition, and to avoid any distortion to the internal market.

The Union interest shall be determined on the basis of an economic analysis by the Commission based on information collected from the interested parties provided that this information is supported by actual evidence.

Interested parties shall be given the opportunity to make themselves known, present their views in writing or request a hearing by the Commission within a specified time limit.

Proceedings

An investigation shall be initiated following a written complaint submitted by a Member State, one or more Union air carriers or an association of Union air carriers, or on the Commission's initiative. When it receives a complaint, the Commission shall inform all Member States.

When deciding not to initiate an investigation, the Commission shall inform the complainant and all Member States. The information shall contain the reasons for the decision and be forwarded to the European Parliament.

The Commission shall decide to open an investigation within a maximum period of 5 months from the lodging of the complaint and inform the Member States and the European Parliament.

Suspension

The Commission may suspend the investigation if it appears more appropriate to address the practice distorting competition exclusively under the dispute settlement procedures established by an applicable air transport or air services agreement to which the Union is a party, or to any other agreement which contains provisions on air transport services to which the Union is a party. The Commission shall notify the Member States of the suspension of the investigation.

The Commission may resume the investigation if the practice distorting competition has not been eliminated within 12 months from the date of suspension of the investigation.

Duration of proceedings and suspension

The investigation shall be concluded within 12 months while the proceedings shall be concluded within 20 months. That period may be prolonged in duly justified cases. In the case of urgency, that is in situations where, following clear evidence submitted by the complainant or the interested parties, the injury to Union air carriers might be irreversible, the proceedings may be shortened to 9 months.

Redressive measures

The Commission shall adopt implementing acts, laying down redressive measures if the investigation determines that a practice distorting competition, adopted by a third country or a third-country entity, has caused injury to the Union air carriers concerned.

The redressive measures shall not lead the Union or the Member States concerned to violate air transport or air services agreements, or any provision on air transport services included in a trade agreement or any other agreement concluded with the third country concerned.

The Commission shall regularly report to the European Parliament and the Council on the application of the Regulation. The European Parliament and the Council may invite the Commission to present and explain any issue related to its application.