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

2018/0433(COD) - 27/03/2019 - Final act

PURPOSE: to ensure basic air transport connectivity in order to avoid a total interruption of air traffic between the EU and the United Kingdom in the event of Brexit without agreement.

LEGISLATIVE ACT: Regulation (EU) 2019/502 of the European Parliament and of the Council on common rules ensuring basic air connectivity with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union.

CONTENT: the purpose of this Regulation is to establish interim measures to govern air transport between the Union and the United Kingdom after the United Kingdom has withdrawn from the EU, in the absence of a withdrawal agreement.

The measures would allow carriers licensed by the United Kingdom to provide air transport services between the United Kingdom and the remaining 27 Member States. The rights thus granted would be subject to the United Kingdom granting equivalent rights to air carriers licensed by the Union and would be subject to certain conditions ensuring fair competition.

Traffic rights

Air carriers from the United Kingdom could, under the conditions set out in the regulation:

- fly over the territory of the Union without landing there;

- make stopovers in the territory of the Union for non-commercial purposes within the meaning of the Chicago Convention;

- operate scheduled and non-scheduled international air transport services for passengers, combined passenger and freight services and freight services only, between two points, one of which is located in the United Kingdom and the other in the territory of the Union;

- for a maximum period of 5 months from the first day of application of the regulation to operate scheduled and non-scheduled international air transport services for freight services only, between two points, one of which is located in the territory of the Union and the other in the territory of a third country, in the context of services whose point of origin or destination is located in the United Kingdom;

- continue to operate scheduled flights in accordance with public service obligations until 28 October 2019, the aim being to ensure the continuity of public services while the national authorities make the necessary adjustments to the new situation.

Ownership and control requirements

Where an air carrier holding an operating licence issued by a Member State other than the United Kingdom ceases to comply with the requirements (‘ownership and control requirements’) due to the withdrawal of the United Kingdom from the Union, it shall have until 28 October 2019 to comply fully with all such requirements.

Within two weeks of the entry into force of the Regulation, the air carrier shall present a plan for remedial action to the competent licensing authority containing the measures provided for to ensure that the ownership and control requirements are fully respected no later than six months from the date of application of the Regulation.

Equivalence of rights

Where the Commission determines that the rights granted by the United Kingdom to Union air carriers are not, de jure or de facto, equivalent to those granted to UK air carriers under this Regulation, or that those rights are not equally available to all Union carriers, the Commission shall, without delay and in order to restore equivalence, adopt implementing acts to:

- establish limits to the allowable capacity for scheduled air transport services available to UK air carriers and require the Member States to adapt the operating authorisations of UK air carriers, both existing and newly granted, accordingly;

- require the Member States to refuse, suspend or revoke the said operating authorisations; or

- impose financial duties or operational restrictions.

Operating authorisation

Without prejudice to Union law and national aviation safety law, UK air carriers shall be required to obtain an operating authorisation from each Member State in which they wish to operate. At least 30 days before the start of operations, they must submit their operational plans, programmes and air service schedules to the competent authorities of each Member State concerned for approval.

Member States may refuse, withdraw, suspend, limit or impose conditions on the operating authorisation of a United Kingdom air carrier if, for example, the applicable safety and security requirements are not met.

ENTRY INTO FORCE: 28.3.2019. The Regulation shall apply from the day following that on which Union law ceases to apply to the United Kingdom pursuant to Article 50(3) of the Treaty on European Union.

The Regulation shall apply until an air transport agreement with the United Kingdom enters into force or until 30 March 2020, whichever is the earlier.