

Laying down detailed rules for the list of air carriers banned from operating or subject to operational restrictions within the Union

2022/2988(DEA) - 02/12/2022 - Non-legislative basic document

The Commission delegated regulation lays down detailed rules for the list of air carriers banned from operating or subject to operational restrictions within the Union referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council and repeals Regulation (EC) No 473/2006 laying down implementing rules for the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council.

Background

Chapter II of Regulation (EC) No 2111/2005 lays down procedures for updating the list of air carriers that are banned from operating or subject to operational restrictions within the Union (the Union list), as well as procedures allowing Member States, in certain circumstances, to adopt exceptional measures imposing operating bans within their territory.

Article 8 of Regulation (EC) No 2111/2005 empowers the Commission to adopt delegated acts in order to supplement that Regulation by laying down detailed rules in respect of the procedures referred to in Chapter II taking due account of the need for decisions to be taken swiftly on updating the Union list.

The main objective of this initiative is to replace the current Regulation (EC) No 473/2006 with updated detailed rules, notably with regard to the exercise of air carriers' right of defence.

Content

This regulation lays down detailed rules in respect to the following procedures referred to in Chapter II of Regulation (EC) No 2111/2005:

- establishment of the Union list;
- updating of the Union list;
- exceptional measures adopted by a Member State;
- exercise of air carriers' right of defence;
- enforcement of the Union list by Member States.

Requests by Member States to update the Union list

The delegated regulation specifies the information to be provided by Member States when requesting the Commission to take a decision under Article 4(2) of Regulation (EC) No 2111/2005 to update the Union list by issuing a new operating ban, lifting an existing ban or amending the conditions thereof.

Joint consultation with the authorities responsible for the oversight of the air carrier concerned

The adoption of the decisions referred to in Article 4(2) and Article 5 of Regulation (EC) No 2111/2005 will be preceded, when appropriate and feasible, by consultations with the authorities responsible for the oversight of the air carrier concerned. Whenever possible, consultations will be held jointly by the Commission, the Agency, and the Member States. In cases where urgency so requires, joint consultations may be held after the adoption of the decisions.

Exercise of air carriers' right of defence

The delegated regulation defines the conditions for the exercise of the rights of defence of carriers subject to decisions taken by the Commission to update the Union list and clarifies the procedures relating to the rights of defence of carriers.

Before the Commission adopts a decision, it will disclose to the air carrier concerned the essential facts and considerations that form the basis for such decision. The air carrier concerned will be given an opportunity to submit written comments to the Commission within 10 working days from the date of disclosure.

At the request of the air carrier concerned, it will be permitted to present its position orally in front of the Air Safety Committee before a decision is adopted. When the Commission adopts a decision, it will immediately inform the carrier concerned and the authorities responsible for its oversight.

Exceptional measures adopted by a Member State

When a Member State has subjected an air carrier to an immediate operating ban in its territory, it will immediately inform the Commission of that fact and communicate to the Commission the information set out in Annex II and III. The Commission will inform the Agency and the other Member States through their representatives in the Air Safety Committee in accordance with the procedures provided in the Committee's internal rules.