Air transport: list of air carriers subject to an operating ban within the Community and informing passengers of the identity of the operating air carrier

2005/0008(COD) - 14/12/2005 - Final act

PURPOSE : to grant each air passenger the right to be informed of the identity of the operating carrier.

LEGISLATIVE ACT : Regulation 2111/2005/EC of the European Parliament and of the Council on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC.

CONTENT : This Regulation is part of a legislative process pursuing an efficient and coherent approach to reinforcing air safety in the Community. It establishes rules:

- on the establishment and publication of a Community list, based on common criteria, of air carriers which, for safety reasons, are subject to an operating ban in the Community;

and

- on informing air passengers of the identity of the air carrier operating the flights on which they travel.

As regards the establishment of the Community List, the Regulation states that with a view to reinforcing air safety, a list of air carriers that are subject to an operating ban in the Community (hereinafter referred to as the Community list) shall be established. Each Member State shall enforce, within its territory, the operating bans included in the Community list in respect of the air carriers that are the subject of those bans.

The common criteria for imposing an operating ban on an air carrier, which shall be based on the relevant safety standards, are set out in the Annex. The Commission may modify the Annex, in particular in order to take account of scientific and technical developments.

For the purpose of establishing the Community list for the first time, each Member State shall, by 16 February 2006, communicate to the Commission the identity of the air carriers that are subject to an operating ban in its territory, together with the reasons which led to the adoption of such bans and any other relevant information. The Commission shall inform the other Member States of these operating bans. Within one month of receiving the information communicated by the Member States, the Commission shall, on the basis of the common criteria, decide on the imposition of an operating ban on the air carriers concerned and shall establish the Community list of air carriers on which it has imposed an operating ban.

Furthermore, the Community list shall be updated:

- to impose an operating ban on an air carrier and include this air carrier on the Community list, on the basis of the common criteria;

- to remove an air carrier from the Community list, if the safety deficiency or deficiencies that gave rise to the inclusion of the air carrier on the Community list have been remedied and there is no other reason, on the basis of the common criteria, to maintain the air carrier on the Community list;

- to modify the conditions of an operating ban imposed on an air carrier which is included on the Community list.

At least every three months, the Commission shall verify whether it is appropriate to update the Community list. Each Member State and the European Aviation Safety Agency shall communicate to the Commission all information that may be relevant in the context of updating the Community list. The Commission shall forward all relevant information to the other Member States.

As regards the publication of the list, the Community list and any modification thereto shall be published immediately in the Official Journal of the European Union. The Commission and the Member States shall take the measures necessary to facilitate public access to the Community list, as most recently updated, in particular through the use of the Internet. Air carriage contractors, national civil aviation authorities, the European Aviation Safety Agency and airports in the territory of the Member States shall bring the Community list to the attention of passengers, both via their websites and, where relevant, in their premises.

On information to passengers, upon reservation, the air carriage contractor shall inform the passenger of the identity of the operating air carrier or carriers, whatever the means used to make the reservation. Where the identity of the operating air carrier or carriers is not yet known at the time of reservation, the air carriage contractor shall ensure that the passenger is informed of the name or names of the air carrier or carriers that is or are likely to act as operating air carrier or carriers on the flight or flights concerned. In such case, the air carriage contractor shall ensure that the passenger is informed of the identity of the operating air carrier or carriers as soon as such identity is established. Wherever the operating air carrier or carriers is or are changed after reservation, the air carriage contractor shall, irrespective of the reason for the change, take immediately all appropriate steps to ensure that the passenger is informed of the change as soon as possible. In all cases, passengers shall be informed at check-in, or on boarding where no check-in is required for a connecting flight. The air carrier or the tour operator, as the case may be, shall ensure that the relevant air carriage contractor is informed of the identity of the operating air carrier or carriers as soon as this is known, in particular in the event of a change of such identity. If a ticket seller has not been informed of the identity of the operating air carrier, it shall not be responsible for not complying with the obligations provided for in this Article.

The obligation of the air carriage contractor to inform passengers of the identity of the operating air carrier or carriers shall be specified in the general terms of sale applicable to the contract of carriage.

The Regulation lays down provisions concerning the right to reimbursement or re-routing.

It should also be noted that by 16 January 2009, the Commission shall report to the European Parliament and to the Council on the application of this Regulation. The report shall be accompanied, where necessary, by proposals for the amendment of this Regulation.

Lastly, the application of this Regulation to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated. Application of this Regulation to Gibraltar airport shall be suspended until the arrangements included in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 enter into operation. The Governments of Spain and the United Kingdom will inform the Council of such date of entry into operation.

ENTRY INTO FORCE : 16/01/2006. Articles relating to the scope of information to passengers, information on the identity of the operating air carrier and the right to reimbursement or re-routing shall apply from 16 July 2006. The Article concerning penalties shall apply from 16 January 2007.