



February 2007
AK Position Paper

Proposal for a regulation of the European Parliament and the Council on common rules for the operation of air transport services in the Community (Revised version)

About Us

The Federal Chamber of Labour is by law representing the interests of about 3 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore the Austrian Federal Chamber of Labour is part of the Austrian social partnership.

The AK EUROPA office in Brussels was established in 1991 to bring forward the interests of all its members directly vis-à-vis the European Institutions.

Organisation and Tasks of the Austrian Federal Chamber of Labour

The Austrian Federal Chamber of Labour is the umbrella organisation of the nine regional Chambers of Labour in Austria, which have together the statutory mandate to represent the interests of their members.

The Chambers of Labour provide their members a broad range of services, including for instance advice on matters of labour law, consumer rights, social insurance and educational matters.

More than three quarters of the 2 million member-consultations carried out each year concern labour-, social insurance- and insolvency law. Furthermore the Austrian Federal Chamber of Labour makes use of its vested right to state its opinion in the legislation process of the European Union and in Austria in order to shape the interests of the employees and consumers towards the legislator.

All Austrian employees are subject to compulsory membership. The member fee is determined by law and is amounting to 0.5% of the members' gross wages or salaries (up to the social security payroll tax cap maximum). 560.000 - amongst others unemployed, persons on maternity (paternity) leave, community- and military service - of the 3 million members are exempt from subscription payment, but are entitled to all services provided by the Austrian Federal Chambers of Labor.

Herbert Tumpel
president

Werner Muhm
director

Executive Summary

The proposal is to revise the regulations (EEC) No 2407/92 on licensing of air carriers, (EEC) No 2408/92 on the access for Community air carriers to intra-Community air routes and (EEC) No 2409/92 on fares and rates for air services and is to summarize them in only one regulation.

The liberalisation framework created by the regulations above - the so-called third package - intends to lay down stricter criteria for licensing, aircraft leasing, public services obligations and rules for traffic distribution on the one hand and to lift still existing restrictions on air services that may result from bilateral agreements on the other hand. The proposal strengthens the rights of consumers by promoting price transparency through obligatory gross price quotation.

The Federal Chamber of Labour (AK) welcomes the European Commission's initiative to create more transparency in the field of airline fares, but firmly rejects the proposal to confer on the Commission the exclusive authority to conclude air services agreements with third countries.

As to the provisions in detail

The Member States are obliged to strengthen supervision on licences and suspend or revoke them if the requirements are no longer fulfilled

Since the operation of financially unstable air carriers is connected with safety risks in addition to financial risk which customers have to bear in the case of the insolvency of an air carrier, the Member States are to be obliged to strengthen supervision on licences and suspend or revoke them if the requirements are no longer fulfilled (Articles 5 to 10). In case of inaction of a Member State, the Commission is to be entitled to revoke the operating licence (Article 14).

The proposal also aims at tightening the requirements regarding the leasing of aircraft (Article 13). The „wet leasing“ of aircraft from third countries provides more flexibility which must not come at the expense of social conditions and safety.

Therefore stricter requirements are to be introduced in order to reduce the risk of negative social effects and to improve safety. It is specified that the responsible licensing authority must confirm that safety standards equal to those of the Community are kept when agreeing with leasing agreements. Concerning the leasing of aircraft registered in third countries, they will only be allowed in exceptional circumstances for a maximum duration of six months, renewable only once in a second non-consecutive period of up to six months.

From the AK's point of view, guaranteeing employees' social conditions or even improving them cannot be achieved by only limiting leasing contracts temporarily.

Tender procedures involving public utility obligations need to be changed so that the maximum duration of the licence is raised from three to four years (in case of outermost regions to five years). The call for tender for the licence renewal must be initiated at least six months in advance to enable a careful evaluation of the further necessity to restrict access to this air route.

Furthermore, an urgency procedure was introduced to be able to intervene in case of inter-ruptions of air route services for which public utility obligations have been specified.

According to the proposal of the European Commission, the European Community should be responsible for negotiating intra-Community traffic rights with third countries in the future.

This initiative to confer exclusive authority to conclude air services agreements upon the Commission is rejected by most Member States and is also firmly rejected by the AK. The current procedure whereby Member States entrust the Commission with an individual negotiating mandate should be maintained.

The announcement of fares without detailed taxes, fees or kerosene charges has become widespread practice, which - from the AK's point of view - does not enable customers to compare offers and choose their most favourable tariff.

Air carriers have to inform the public comprehensively about fares and rates and the conditions attached to them.

The home country of flight passengers also leads to different ticket fares for one and the same air route.

According to the Commission's proposal, all fares have to contain all the applicable taxes, fees, and charges, and air carriers have to inform the public comprehensively about fares and rates and the conditions attached to them. (Article 2 paragraph 18 and Article 24 paragraph 1).

The AK welcomes the EU-Commission's initiative contained in the revised version of the third package to carry out gross price quotation with fares and establish a ban on the discrimination against flight passengers based on their domicile country, their nationality or the registered office of the travel agency with fares.

However, in our view, the order of gross price quotations (Article 2 paragraph 19 and Article 24 paragraph 1) should not open up any scope of interpretation. The wording chosen, however, does not state explicitly whether gross price quotation exists generally, i.e. in advertising, too. In any case, airlines should be obliged to do so.

Moreover, AK's long-standing demand for an insolvency insurance for airlines is raised once again in this context. A number of insolvencies in the past have proved the importance of this issue and have demonstrated the lack of protection for flight passengers. A corresponding regulation could be drafted in analogy with Article 7 of the EU-package tour guideline laying down an insolvency safeguard obligation for tour operators. Airlines would be obliged to demonstrate that the refunding of deposited or paid tickets as well as the return trip of the passenger is guaranteed in case of insolvency of the carrier.

For any further questions please contact

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