Slovenian national procedure for the allocation of limited air traffic rights
(2010/C 62/03)

In accordance with Article 6 of Regulation (EC) No 847/2004 of the European Parliament and of the Council of 29 April 2004 on the negotiation and implementation of air service agreements between Member States and third countries (1), the European Commission publishes the following national procedure for the distribution among eligible Community carriers of air traffic rights where they are limited under air service agreements with third countries.

Pursuant to Article 74 of the Public Administration Act (Official Gazette of the Republic of Slovenia No 113/05 — official consolidated text, No 126/07 — ZUP-E and No 48/09) and Article 81 of the Aviation Act (Official Gazette of the Republic of Slovenia No 113/06 — official consolidated text and No 33/09) the Minister for Transport hereby issues the:

RULES ON THE PROCEDURE FOR THE DISTRIBUTION OF TRAFFIC RIGHTS

Article 1

Scope

1. These Rules for the implementation of Regulation (EC) No 847/2004 lay down the procedure for the allocation of traffic rights where the Republic of Slovenia concludes a bilateral air transport agreement, amendments thereto or annexes to such agreements that provide for limitations on the use of traffic rights or the number of Community air carriers eligible to be designated to take advantage of traffic rights.

2. For the purposes of these Rules, the public service obligation stemming from Articles 16 to 18 of Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) (2) is not considered to be a limited traffic right.

Article 2

Traffic rights and demand from carriers for the exercise of such rights

1. Information on traffic rights and the exercise of such rights on air routes between the Republic of Slovenia and non-EU Member States with which the Republic of Slovenia has concluded air transport agreements shall be provided by the Ministry of Transport (hereinafter ‘the Ministry’), specifically at its headquarters or on its website (http://www.mzp.gov.si/).

2. The Ministry shall publish the details of planned negotiations for traffic rights on the website specified in the preceding paragraph.

3. Community carriers who are interested in operating services on air routes with limited traffic rights or on air routes between the Republic of Slovenia and a country which is not a Member State of the European Union and with which Slovenia has not concluded an air transport agreement may notify their plans and applications to the Ministry. The Ministry shall take such applications into account in negotiations aimed at concluding air transport agreements.

(2) OJ L 293, 31.10.2008, p. 3.
Article 3

Applications for licences

1. Where a Community carrier expresses interest in unused capacity on an air route with limited traffic rights, the Ministry shall issue a call for applications for licences for the exercise of traffic rights on routes with limited traffic rights (hereinafter 'licence'). The call for applications shall be sent by electronic means to all Community carriers operating air transport services into and/or out of the Republic of Slovenia and to those which have requested information on unused capacity. It shall also be published on the website specified in Article 2(1) of these Rules. It shall specify a deadline for submitting applications in writing, which shall be at least 15 days.

2. Written applications for licences must contain at least the following documents and information:
   (a) a copy of the operating licence;
   (b) a description of the transport service which the carrier plans to operate on the route (number of flights per week, aircraft type, stopovers of any kind, annual and seasonal nature of the service);
   (c) duration of the planned services;
   (d) type of transport (passenger, freight or other);
   (e) details of transport accessibility and customer support (ticket sales network, online support services, etc.);
   (f) details of any connecting transport services;
   (g) pricing policy for the individual route.

3. The written application shall be submitted, in Slovenian, to the Ministry by the deadline specified in paragraph 1.

4. If a licence is terminated or revoked, or if spare capacity arises in some other way, the procedure provided for in paragraph 1 shall be launched.

5. Irrespective of the other provisions of these Rules on providing information, the Ministry shall ex officio receive information relating to facts on which it keeps official records itself and facts on which records are kept by another competent Slovenian authority or holder of a public authorisation awarded by a Slovenian state body.

Article 4

Licence to exercise traffic rights

1. After a preliminary assessment has been carried out of passenger and/or freight services, the promotion of competition and the balanced development of Community transport, the Ministry shall, in accordance with the available transport rights, grant a licence to the selected applicant who fulfils the conditions. The licence shall be valid for at least one transport season and at most three years, unless specified otherwise by international agreement.

2. In accordance with the available transport rights, the party selected to exercise traffic rights on a given route shall be the air carrier which best meets the following criteria:
   — satisfaction of demand for air transport (mixed or freight-only services, direct services or services with intermediate stops, service frequency, days of service),
   — pricing policy (particularly ticket prices, provision for reductions and other adjustments),
   — quality of service (particularly the layout of the aircraft, provision for exchanging tickets and the possible existence of sales offices open to the public),
   — contribution to ensuring a satisfactory level of competition,
   — intended service launch date,
   — guarantees regarding the sustainability of the service,
— development of Community air carriers’ market share on the bilateral route concerned,
— environmental performance of the aircraft used, particularly with regard to noise pollution.

The following criteria may also be taken into account:
— development of onward connections for passengers,
— age of the complete application,
— contribution to spatial planning,
— potential for developing tourism in Slovenia,
— suitability of the aircraft for operations at the Slovenian airports they serve,
— status of the carrier with regard to payment of airport charges and charges for air navigation services in Slovenia,
— existence of a Slovene-language sales service.

3. If several air carriers wish to operate on a given route, the Ministry shall conduct a public hearing which all applicants may attend. If a public hearing is conducted, the Ministry shall not issue a licence to exercise transport rights on the air route concerned until all the applicants have received a written copy of the minutes and until the time limit for comments on possible inaccuracies therein has elapsed.

4. The procedure for the allocation of limited transport rights shall be carried out in accordance with the law governing general administrative procedures, and the decision awarding the licence shall be published on the Ministry’s website.

5. Under the law governing aviation, parties shall have the right to appeal against the decision issued by the Ministry. In the event of an appeal, the final decision on the appeal shall be published on the Ministry’s website.

Article 5
Reassessment of licences

1. The Ministry shall monitor the exercise of rights awarded pursuant to Article 4 of these Rules and every year shall carry out an analysis of the effective use of limited transport rights, in which all carriers which participated in the selection procedure may take part. If it is found that transport rights are not being exercised effectively, the licence issued shall be reassessed.

2. A licence shall also be reassessed at the request of a Community carrier operating air services into and/or out of Slovenia. In such cases, reassessment shall not be possible for a period of three years following the issue of the licence or the previous reassessment.

3. Licence holders shall be informed of each reassessment. Reassessment notices shall be posted on the Ministry website. The notices must include the deadline by which Community carriers interested in exercising the traffic rights covered by the licence must submit their licence applications if the licence is revoked on the basis of the reassessment.

4. When a licence is being reassessed in accordance with paragraph 2, Article 3(2) and (3) and Article 4 of these Rules shall be applied in such a way as not to affect the current licence, provided that the traffic rights covered by the licence are exercised effectively and in accordance with the competition rules of the European Community and relevant Slovenian legislation.

Article 6
Revocation, cancellation and restriction of licences

1. If the service for which a licence was issued:
— does not commence in the transport period following the day specified as the date on which the transport service is to commence, or
— ceases and is not resumed during the next two transport periods,

and the licence holder does not indicate within a reasonable time limit set by the Ministry that this non-
performance or interruption is due to circumstances beyond its control, the licence shall be revoked.

2. A licence shall also be revoked if the licence holder informs the Ministry in writing that it no longer
intends to exercise the traffic rights covered by the licence or that the carrier no longer has a valid operating
licence or other documents legally required in order to provide air transport services.

3. The Ministry shall revoke a licence completely or for a specified period, or restrict the activities
covered by the licence, if the licence holder:

— does not provide air transport services in accordance with the terms of the licence, or

— does not comply with the air transport agreement on the basis of which the licence was issued or fulfil
other international obligations, or

— does not meet the required conditions governing the exercise of the traffic rights, or

— does not provide air transport services in accordance with the schedule.

Article 7

Transitional provision

Notwithstanding the provisions of Article 5(1) and (2) of these Rules, the reassessment of licences issued
before these Rules enter into force shall be possible on expiry of a period of three years following the entry
into force of these Rules.

Article 8

Entry into force

These Rules shall enter into force on the fifteenth day following their publication in the Official Gazette of the
Republic of Slovenia.

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