

COUNCIL REGULATION (EEC) No 3925/91

of 19 December 1991

concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Article 8a of the Treaty provides that the internal market shall comprise an area without internal frontiers in which the free movement, in particular, of goods is ensured; whereas in this context ports and airports stand apart as either may constitute, at the same time, an external frontier and an internal border; whereas the application of the principle of freedom of movement should nevertheless result in the elimination of controls on the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing;

Whereas a journey by air may involve several successive legs some being within Community territory and others outside it; whereas the treatment of some flights must take into account the practicalities of organizing controls and of international competition; whereas specific provision should be made to cover such special cases;

Whereas maritime transport may involve different types of voyage; whereas specific provision should be made to cover certain special cases of maritime transport;

Whereas such specific provisions must be applied without prejudice to safety and security checks,

Whereas Member States must, however, be free to take specific measures compatible with Community law for the purpose of carrying out special controls, *inter alia*, in order to prevent criminal activities linked in particular to terrorism, drugs and the traffic in works of art,

⁽¹⁾ OJ No C 212, 25. 8. 1990, p. 8.

⁽²⁾ OJ No C 106, 22. 4. 1991, p. 80; and OJ No C 326, 16. 12. 1991.

⁽³⁾ OJ No C 60, 8.3. 1991, p. 12.

Article 1

1. Subject to Articles 3, 4 and 5, no controls or formalities shall be carried out in respect of:

- the cabin and hold baggage of persons taking an intra-Community flight,
- the baggage of persons making an intra-Community sea crossing.

2. This Regulation shall apply without prejudice to:

- the safety and security checks carried out on baggage by the authorities of the Member States, port or airport authorities or carriers,
- checks linked to prohibitions or restrictions laid down by the Member States, provided they are compatible with the three Treaties establishing the European Communities.

Article 2

For the purposes of this Regulation:

1. 'Community airport' means any airport situated in Community customs territory;
2. 'international Community airport' means any Community airport which, having been so authorized by the competent authorities, is approved for air traffic with third countries;
3. 'intra-Community flight' means the movement of an aircraft between two Community airports, without any stopovers, and which does not start from or end at a non-Community airport;
4. 'Community port' means any sea port situated in Community customs territory;
5. 'intra-Community sea crossing' means the movement between two Community ports without any intermediate calls, of a vessel plying regularly between two or more specified Community ports;
6. 'pleasure craft' means private boats intended for journeys whose itinerary depends on the wishes of the user;

7. 'tourist or business aircraft' means private aircraft intended for journeys whose itinerary depends on the wishes of the user.

Article 3

Any controls and any formalities applicable:

1. to the cabin and hold baggage of persons taking a flight in an aircraft which comes from a non-Community airport and which, after a stopover at a Community airport, continues to another Community airport, shall be carried out at this last airport provided it is an international Community airport;
2. to the cabin and hold baggage of persons taking a flight in a aircraft which stops over at a Community airport before continuing to a non-Community airport, shall be carried out at the airport of departure provided it is an international Community airport;
3. to the baggage of persons using a maritime service provided by the same vessel and comprising successive legs departing from, calling at or terminating in a non-Community port shall be carried out at the port at which the baggage in question is loaded or unloaded as the case may be.

Article 4

Any controls and any formalities applicable to the baggage of persons on board:

1. pleasure craft, shall be carried out in any Community port, whatever the origin or destination of these craft;
2. tourist or business aircraft, shall be carried out:
 - at the first airport of arrival which must be an international Community airport, for flights coming from a non-Community airport where the aircraft, after a stopover, continues to another Community airport,
 - at the last international Community airport, for flights coming from a Community airport where the aircraft, after a stopover, continues to a non-Community airport.

Article 5

Except in special cases to be determined in accordance with the procedure laid down in Article 8, any controls and any formalities applicable to:

1. hold baggage arriving at a Community airport on board an aircraft coming from a non-Community airport and

transferred, at that Community airport, to another aircraft proceeding on an intra-Community flight shall be carried out at the airport of arrival of the intra-Community flight, provided the latter airport is an international Community airport;

2. hold baggage loaded at a Community airport onto an aircraft proceeding on an intra-Community flight for transfer, at another Community airport to an aircraft whose destination is a non-Community airport, shall be carried out at the airport of departure of the intra-Community flight, provided that airport is an international Community airport;
3. baggage arriving at a Community airport on board a scheduled or charter flight from a non-Community airport and transferred, at that Community airport, to a tourist or business aircraft proceeding on an intra-Community flight shall be carried out at the airport of arrival of the scheduled or charter flight;
4. baggage loaded at a Community airport onto a tourist or business aircraft proceeding on an intra-Community flight for transfer, at another Community airport, to a scheduled or charter flight whose destination is a non-Community airport, shall be carried out at the airport of departure of the scheduled or charter flight.

Article 6

1. A Committee on the Movement of Air or Sea Passengers' Baggage (hereinafter referred to as 'the Committee') is hereby set up, composed of representatives of the Member States and chaired by a representative of the Commission.

2. The Committee shall draw up its own rules of procedure.

Article 7

The Committee shall have power to examine any question relating to the implementation of this Regulation, submitted to it by its chairman either on his own initiative or at the request of a representative of a Member State.

Article 8

1. The provisions necessary for applying this Regulation shall be adopted in accordance with the procedure laid down in paragraphs 2 and 3.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a

time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty.

3. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.
- (b) If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.
- (c) If, on the expiry of a three-month period from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 9

1. This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

It shall apply from 1 January 1993.

2. Before 1 October 1992, the Council shall review this Regulation on the basis of a progress report from the Commission on the harmonization of provisions on the achievement of the internal market which are necessary for the correct application of this Regulation, and in particular those relating to the abolition of limits on travellers' allowances in intra-Community traffic. The report shall be accompanied by proposals, should there be any, on which the Council shall decide by a qualified majority.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 December 1991.

For the Council
The President
P. DANKERT
