

Wednesday 5 May 2010

Aviation security charges *I**

P7_TA(2010)0123

European Parliament legislative resolution of 5 May 2010 on the proposal for a directive of the European Parliament and of the Council on aviation security charges (COM(2009)0217 – C7-0038/2009 – 2009/0063(COD))

(2011/C 81 E/29)

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2009)0217),
- having regard to Article 251(2) and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C7-0038/2009),
- having regard to the Communication from the Commission to the European Parliament and the Council entitled ‘Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures’ (COM(2009)0665),
- having regard to Article 294(3) and Article 100(2) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 5 November 2009,
- having consulted the Committee of the Regions,
- having regard to Rule 55 of its Rules of Procedure,
- having regard to the report of the Committee on Transport and Tourism (A7-0035/2010),

1. Adopts the position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, to the Commission and to the national parliaments.
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Wednesday 5 May 2010

P7_TC1-COD(2009)0063

Position of the European Parliament adopted at first reading on 5 May 2010 with a view to the adoption of Directive 2010/.../EU of the European Parliament and of the Council on aviation security charges

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Aviation security at European airports is essentially a state responsibility. ■ It is ■ necessary to establish a common framework regulating the essential features of security charges and the way they are set, as in the absence of such framework basic requirements in the relationship between **bodies setting such charges** and airport users may not be respected.
- (2) The collection of charges with respect to the provision of air navigation services and groundhandling services has already been addressed by Commission Regulation (EC) No 1794/2006 of 6 December 2006 laying down a common charging scheme for air navigation services ⁽³⁾ and Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports ⁽⁴⁾, respectively.
- (3) It is vital for airport users to obtain from the **body setting or applying the charges**, on a regular basis, information on how and on what basis aviation security charges are calculated. This information will provide **airport users** with an insight into the costs incurred by providing security services **such as those referred to in Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security ⁽⁵⁾ and its implementing rules**, the productivity of related investments **and any grants and subsidies allocated by the authorities for security purposes**. To allow **the competent body setting or applying the charges** to properly assess the requirements with regard to its future investments, ■ airport users should be required to share all their operational forecasts, developments projects and specific demands and wishes with the **competent body** on a timely basis.

⁽¹⁾ OJ C 128, 18.5.2010, p. 142.

⁽²⁾ Position of the European Parliament of 5 May 2010.

⁽³⁾ OJ L 341, 7.12.2006, p. 3.

⁽⁴⁾ OJ L 272, 25.10.1996, p. 36.

⁽⁵⁾ **OJ L 97, 9.4.2008, p. 72.**

Wednesday 5 May 2010

- (4) As the methods for **funding or** establishing and levying the amounts due for the coverage of security costs differ across the Union, the harmonisation of the basis for charging security costs at Union airports where the costs of security are reflected in the security charges is necessary. At these airports the charge should be related to the cost for providing security, taking into account any public **funding** of security costs, **with a view to avoiding any profit and to providing suitable and cost-effective security services and facilities at the airports concerned.**
- (5) It is important to establish transparency **with regard to the use** of national security measures more stringent than the common basic standards established in accordance with Regulation (EC) No 300/2008.
- (6) **In every Member State in which security charges are levied at airports** an independent supervisory authority **■** should ensure the proper and effective application of this Directive. The authority should be in possession of all the necessary resources in terms of staffing, expertise and the financial resources for the performance of its tasks.
- (7) **Member States should have the possibility of applying a common charging system to cover an airport network or other groups of airports including those serving the same city or conurbation.**
- (8) **When calculating security charges in respect of cost-relatedness, objective criteria should be used as a basis, such as those laid down in the relevant International Civil Aviation Organization documents, which advocate the use of the number of passengers or aircraft maximum take-off weight or a combination of these.**
- (9) Since the objectives of the action taken cannot be sufficiently achieved by the Member States, as security charges systems cannot be put in place at national level in a uniform manner throughout the Union and can therefore, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter

1. This Directive sets common principles for the levying of security charges at Union airports.
2. This Directive applies to any airport located in a territory subject to the provisions of the Treaty **and open to commercial traffic.**

This Directive does not apply to the charges collected for the remuneration of en-route and terminal air navigation services in accordance with Regulation (EC) No 1794/2006, or to the charges collected for the remuneration of groundhandling services referred to in the Annex to Directive 96/67/EC.

Article 2

Definitions

For the purposes of this Directive, the following definitions apply:

- (a) 'airport' means any land area especially adapted for the landing, taking-off and manoeuvring of aircraft, including the ancillary installations which these operations may involve for the requirements of aircraft traffic and services including the installations needed to assist commercial air services;

Wednesday 5 May 2010

- (b) 'airport managing body' means a body which, whether or not in conjunction with other activities, has as its objective under national laws or regulations the administration and management of the airport infrastructures and the coordination and control of the activities of the different operators present in the airports concerned;
- (c) *'airport network' means a number of airports in a Member State that are operated by an airport managing body designated by the competent national authority;*
- (d) *'competent body' means an airport managing body or any other body or authority responsible for the application and/or the setting of the level and the structure of aviation security charges at Union airports;*
- (e) 'airport user' means any natural or legal person responsible for the carriage of passengers, mail and/or freight by air from or to the airport concerned;
- (f) 'security charge' means a levy **collected by any entity, airport or airport user in different forms** which is specifically designed to recover ■ the **costs** of security measures intended to protect civil aviation against acts of unlawful interference. ***This cost of aviation security may include the costs incurred for ensuring the application of Regulation (EC) No 300/2008 or for fulfilling the related regulatory and supervisory costs by the appropriate authority;***
- (g) *'aviation security' means the combination of measures and human and material resources intended to safeguard civil aviation against acts of unlawful interference that jeopardise the security of civil aviation.*

Article 3

Non-discrimination

Member States shall ensure that security charges do not discriminate between airport users or air passengers.

Article 4

Airport network

Member States may allow the competent body of an airport network to introduce a common and transparent charging system for security charges to cover the airport network.

Article 5

Common charging systems

After having informed the Commission and in accordance with Union law, Member States may allow the competent body to apply a common and transparent charging system at airports serving the same city or conurbation, provided that each airport fully complies with the requirements on transparency set out in Article 7.

Article 6

Consultation **and** remedy

1. Member States shall ensure that the **competent** body has access to all necessary information on the costs of providing aviation security services at the airport.

Wednesday 5 May 2010

2. Member States shall ensure that **a compulsory procedure for regular consultation** between the **competent** body and airport users **or the representatives or associations of airport users** is established with respect to the operation of the system of security charges and the level of such charges. **Such** consultation shall take place at least once a year, **unless agreed otherwise in the latest consultation. Where a multi-annual agreement between the competent body and the airport users exists, the consultations shall take place as provided for in such an agreement. Member States shall retain the right to request more frequent consultations.**

3. The **competent** body shall submit any proposal to modify the system or the level of security charges to the airport users **or the representatives or associations of airport users** no later than four months before it enters into force, together with the reasons for the proposed changes. The **competent** body shall hold consultations on the proposed changes with the airport users and take their views into account before a decision is taken.

4. The **competent** body shall publish its decision no later than two months before it enters into force. When no agreement on the proposed changes is reached between the **competent** body and the airport users, the **competent** body shall justify its decision with regard to the airport users.

5. **Member States shall ensure that in the event of a disagreement over a decision on security charges taken by the competent body, either party may seek the intervention of the independent supervisory authority referred to in Article 10 which shall examine the justifications for the modification of the system or the level of security charges.**

6. **A Member State may decide not to apply paragraph 5 in relation to changes to the level or the structure of the aviation security charges at those airports for which:**

- (a) there is a mandatory procedure under national law whereby aviation security charges, or their maximum level, are to be determined or approved by the independent supervisory authority; or**
- (b) there is a mandatory procedure under national law whereby the independent supervisory authority examines, on a regular basis or in response to requests from interested parties, whether such airports are subject to effective competition. Whenever the situation so warrants on the basis of such an examination, the Member State shall decide that the aviation security charges, or their maximum level, are to be determined or approved by the independent supervisory authority. This decision shall apply for as long as is necessary on the basis of the examination conducted by that authority.**

The procedures, conditions and criteria applied by the Member State for the purposes of this paragraph shall be relevant, objective, non-discriminatory and transparent.

Article 7

Transparency

1. Member States shall ensure that the **competent** body provides each airport user, **or the representatives or associations of airport users, every time consultations as referred to in Article 6(2) are to be held**, with information on the components serving as a basis for determining **the structure and** the level of all security charges levied at **each** airport. This information shall at least include:

- (a) a list of the various services and infrastructure provided in return for the security charge levied;**

Wednesday 5 May 2010

- (b) the method of calculation of security charges;
- (c) *the overall cost structure with regard to the facilities and services to which security charges relate;*
- (d) the revenue **■** of *the* security charges *and the total cost of the services covered by them;*
- (e) the total number of staff deployed to services which give rise to the collection of security charges;
- (f) *any financing from public authorities of the facilities and services to which security charges relate;*
- (g) forecasts of the level of security charges *taking into account proposed investments, traffic growth and increased levels of security threats;*
- (h) any intended investments that may affect significantly the level of security charges.

2. Member States shall ensure that airport users submit information to the **competent** body before every consultation, as provided for in Article 6, concerning in particular:

- (a) forecasts as regards traffic;
- (b) forecasts as to the composition and envisaged use of their fleet;
- (c) their development projects at the airport concerned;
- (d) their requirements at the airport concerned;
- (e) *the amount of the security charge levied by airport users on passengers departing from the airport and information on the components serving as a basis for determining these charges in accordance with points (a) to (h) of paragraph 1.*

3. *Member States shall ensure that information on the amount of security charges levied by the competent body and the airport users is publicly accessible.*

4. *Subject to national legislation, the information provided on the basis of this Article shall be regarded as confidential or economically sensitive and handled accordingly. In the case of airport managing bodies that are quoted on a stock exchange, stock exchange regulations in particular shall be complied with.*

Article 8

More stringent measures

1. *The additional costs of implementing more stringent measures pursuant to Article 6 of Regulation (EC) No 300/2008 shall be borne by the Member States.*

Wednesday 5 May 2010

2. *Before adopting measures pursuant to Article 4 of Regulation (EC) No 300/2008, the Commission shall undertake an impact assessment with regard to the effects on the level of security charges. The Commission shall consult the Stakeholders' Advisory Group constituted under Article 17 of Regulation (EC) No 300/2008 about the outcome of this impact assessment.*

Article 9

Cost-relatedness of security charges

Security charges shall be used exclusively to meet security costs. These costs shall be determined using the principles of accounting and evaluation generally accepted in each of the Member States. ***The total revenue from security charges shall not be higher than the total costs of aviation security for that airport, airport network, or group of airports.***

However, Member States shall ensure that particular account is taken of:

- the cost of financing the facilities and installations dedicated to security operations, including fair depreciation in the value of these facilities and installations;
- ***the national and/or international level of the security threat;***
- the expenditure on security staff and security operations;
- the grants and subsidies allocated by the authorities for security purposes.

The cost base for the calculation of security charges shall not include any costs that would be incurred for more general security functions performed by Member States such as general policing, intelligence gathering and national security.

Article 10

Independent supervisory authority

1. Member States shall nominate or establish an independent body as their national independent supervisory authority in order to ensure the correct application of the measures taken to comply with this Directive. That body may be the same as the entity entrusted by a Member State with the application of Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges ⁽¹⁾.

2. ***This Directive shall not prevent the national independent supervisory authority from delegating, under its supervision and full responsibility, and in compliance with national law, the implementation of this Directive to other independent supervisory authorities, provided that implementation takes place in accordance with the same standards.***

3. Member States shall guarantee the independence of the independent supervisory authority by ensuring that it is legally distinct from and functionally independent of any ***competent*** body ***or*** air carrier. Member States that retain ownership or control of airports, airport managing bodies or air carriers shall ensure effective structural separation of the regulatory function from activities associated with ownership or control. Member States shall ensure that the independent supervisory authority exercises its powers impartially and transparently.

⁽¹⁾ OJ L 70, 14.3.2009, p. 11.

Wednesday 5 May 2010

4. Member States shall notify to the Commission the name and address of the independent supervisory authority, its assigned tasks and responsibilities, and the measures taken to ensure compliance with paragraph 3.

5. Member States shall ensure, in respect of disagreements with regard to security charges, that measures are taken to:

- (a) establish a procedure for resolving disagreements between the **competent** body and the airport users;
- (b) determine the conditions under which a disagreement may be submitted to the independent supervisory authority and in particular provide for the dismissal by the authority of complaints which it deems are not properly justified or adequately documented; and
- (c) determine the criteria against which disagreements will be assessed for resolution.

These procedures, conditions and criteria shall be non-discriminatory, transparent and objective.

6. The independent supervisory authority shall publish an annual report concerning its activities.

7. When a Member State applies, in accordance with its national law, a regulatory or legislative procedure to determine and approve the structure or level of security charges at national level, the national authorities responsible for examining the validity of security charges shall perform the tasks of the independent supervisory authority set out in paragraphs 1 to 6.

Article 11

Report and revision

1. The Commission shall not later than ... ⁽¹⁾ submit a report to the European Parliament and the Council on the operation of this Directive as well as, where appropriate, any suitable proposal.

2. The Member States and the Commission shall co-operate in the application of this Directive, particularly as regards the collection of information for the report mentioned in paragraph 1.

3. The Commission shall not later than ... ⁽²⁾ submit a report on the funding of aviation security, examining the evolution of aviation security costs and the methods for funding aviation security.

Article 12

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive **before ... ⁽³⁾**. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

⁽¹⁾ Four years after the entry into force of this Directive.

⁽²⁾ **Two years after the entry into force of this Directive.**

⁽³⁾ **Two years after the entry into force of this Directive.**

Wednesday 5 May 2010

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

3. A Member State shall not be required to comply with paragraphs 1 and 2, in so far as no security charges are levied at any airport in that Member State, and without prejudice to Article 11(2).

Article 13

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 14

Addressees

This Directive is addressed to the Member States.

Done at ...,

For the European Parliament
The President

For the Council
The President

Community guidelines for the development of the trans-European transport network (recast) *I**

P7_TA(2010)0124

European Parliament legislative resolution of 5 May 2010 on the proposal for a decision of the European Parliament and of the Council on Community guidelines for the development of the trans-European transport network (recast) (COM(2009)0391 – C7-0111/2009 – 2009/0110(COD))

(2011/C 81 E/30)

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2009)0391),
- having regard to Article 251(2) and Article 156(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C7-0111/2009),
- having regard to the Communication from the Commission to the European Parliament and the Council entitled 'Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures' (COM(2009)0665),
- having regard to Article 294(3) and Article 172(1) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 4 November 2009,
- having consulted the Committee of the Regions,
- having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ⁽¹⁾,

⁽¹⁾ OJ C 77, 28.3.2002, p. 1.