



Plenary sitting

A8-0150/2018

27.4.2018

*****I**
REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1008/2008 on common rules for the operation of air services in the Community
(COM(2016)0818 – C8-0531/2016 – 2016/0411(COD))

Committee on Transport and Tourism

Rapporteur: Claudia Țapardel

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1008/2008 on common rules for the operation of air services in the Community (COM(2016)0818 – C8-0531/2016 – 2016/0411(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0818),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0531/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 5 July 2017¹,
 - after consulting the Committee of the Regions,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A8-0150/2018),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 345, 13.10.2017, p. 126.

Amendment 1

Proposal for a regulation Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) *Taking into account the fact that the Commission is currently evaluating Regulation (EC) No 1008/2008, including its provisions on wet lease, and their possible impact on workers and consumers, a process which could lead in due course to a general revision of Regulation (EC) No 1008/2008, , the present amendment should be limited in scope to aligning the Regulation with the international obligations described above.*

Amendment 2

Proposal for a regulation Article 1 – paragraph 1 Regulation (EC) No 1008/2008 Article 13 – paragraph 3 – point b – introductory part

Text proposed by the Commission

Amendment

unless otherwise provided for in an international agreement **concluded** by the Union, one of the following conditions is fulfilled

(b) unless otherwise provided for in an international agreement **on wet-leasing signed** by the Union **that is based on an existing Air Transport Agreement which was signed before 1 January 2008**, one of the following conditions is fulfilled:

EXPLANATORY STATEMENT

Wet-leasing, an important tool for the growth of the European aviation sector

The creation of the EU's Single Aviation Market 25 years ago led to a substantial increase in air travels and has transformed the sector into a key driver of economic growth by creating jobs, facilitating trade and allowing people to move freely between an increasing numbers of destinations at a lower cost. To this end, wet-leasing aircraft can be a tool for creating and sustaining the growth in the EU aviation sector, absolutely essential in modern day operations to allow flexible capacity to be brought into an airline's activity for specific operational or seasonal needs of a limited duration.

Wet leasing is used by airlines for a variety of reasons, including crew shortages and training issues, aircraft grounded due to technical issues, to name a few.

The view of your rapporteur

The Commission proposes to amend Art.13(3)(b) of Regulation N°1008/2008 and opening the possibility to lift the restrictive conditions applying to wet-lease agreements for aircraft registered in a third country when a specific wet-lease regime has been included in an international agreement concluded by the Union. The Commission's proposal is extremely short and has been presented as a purely 'technical' issue, the argument being that it would merely ensure legal consistency between EU legislation and existing international agreements.

While this is theoretically true, the change might nevertheless have wide-ranging repercussions for Europe's aviation market, particularly concerning social standards and passenger rights. It could lead to opening the EU market to unrestricted wet-leasing of aircraft registered in third countries, depending of what has been negotiated. On the long term, time limitations and seasonality might be dropped with wet-leasing becoming a permanent feature of the airlines' business models. In practice, this could mean that growth could be satisfied only through aircraft and crew from third countries, to the detriment of our Member States, but also with a potential negative impact on the quality of services for passengers and lowering social standards for the employees. Simultaneously, unlimited wet-lease agreements could lead to creating "EU virtual airlines" operating under third countries AOC by permanently outsourcing their operation.

For these reasons, your rapporteur is of the opinion that wet-leasing should in principle continue to be of an exceptional and temporary nature. It should not have a negative impact on the normal functioning of the EU aviation market nor provide means to circumvent the obligations of EU AOC holders.

Consequently, the draft report intends to strike the right balance between this need to give the EU enough flexibility when negotiating international agreements and, at the same time, to uphold our essential EU rights and principles, in any cases.

Finding this narrow way is not easy, however your rapporteur believes it is the right thing to do in order to act in accordance with the EU long standing policy and spirit regarding wet-lease of aircraft registered in third countries, as it is very well described in Recital 8 of EU Regulation 1008/2008:

"in order to avoid excessive recourse to lease arrangements of aircraft registered in third countries, especially wet-lease, these possibilities should only be allowed in exceptional circumstances, such as a lack of adequate aircraft on the Community market, and they should be strictly limited in time and fulfil safety standards equivalent to the safety rules of Community and national legislation".

Today, a 7+7-month period applies to wet-lease of aircraft registered in third countries and your rapporteur proposes to allow for a derogation from this 7+7-month general rule, provided that the wet-lease operation continues to be exceptional even after the 7+7-month period has terminated. This continued exceptional nature is to be further verified by the competent Member State authority. In practice, this will mean that the authority may decide to authorise the carrier to lease-in an aircraft with crew from third countries for longer than 14 consecutive months, if the following three requirements are met:

- Firstly, there must already be an Air Transport Agreement (ATA) in place between the EU and the third country in question and the wet-lease agreement in it explicitly provides for the reciprocal removal of restrictions currently set by the law applicable to leasing operations. Both the EU and the third country will have to adapt their respective laws and regulations in order to give effect to the wet-lease agreement, with due attention to social and working conditions, as well as passengers' rights.

- Secondly, the renewal/extension of a leasing authorisation should be granted by the competent authority if it has been demonstrated that, during the initial 14-month period, the wet-lease operations between the EU and the third country carriers were conducted on the basis of effective reciprocity in terms of equal market access opportunities, and there was no proven decrease of the security, safety and social standards, as well as passenger rights are comparable to those apply in the EU.

-Thirdly, the competent authority shall verify that the EU and the third country in question enjoy comparable social and economic conditions and have already achieved a very high degree of cooperation in regulatory matters such as aviation safety and security, competition, social, environmental and consumers' protection. This is a fundamental requirement to ensure that EU airlines operating wet-lease agreements under third countries' AOC always

implement standards that are comparable to those in place in the EU. This will also contribute to prevent possible side effects of the agreement, notably market distortions, unfair competition and social dumping.

Your rapporteur would like to recall that, with this text, if she understands the need to extend the possibility of wet-leasing beyond what is currently permitted by the EU legislation, this should not in any way affect European social and environmental standards or passenger rights and safety obligations.

Further steps

As shown also in the Communication “An Open and Connected Europe” published by the Commission in June 2017, the European aviation sector is undergoing significant changes and, in order to remain globally competitive and seize the opportunities offered by the opening of markets, policy actions are needed immediately.

The Communication indicates, overall, that the European Union needs to facilitate growth, but also to uphold the highest standards in terms of social and working conditions and passenger rights. Public Service Obligations and the rules of ownership and control of airlines are just some of the topics that are expected to be addressed in the near future.

In light of all of this, your rapporteur considers that the European Commission should present, within an appropriate period of time, a full revision of Regulation N°1008/2008, based on an impact study which could identify the policy instruments that are necessary for the success of the European aviation sector.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Common rules for the operation of air services in the Community	
References	COM(2016)0818 – C8-0531/2016 – 2016/0411(COD)	
Date submitted to Parliament	21.12.2016	
Committee responsible Date announced in plenary	TRAN 19.1.2017	
Rapporteurs Date appointed	Claudia Țapardel 27.3.2017	
Discussed in committee	27.2.2018	12.4.2018
Date adopted	25.4.2018	
Result of final vote	+: –: 0:	25 22 1
Members present for the final vote	Daniela Aiuto, Lucy Anderson, Marie-Christine Arnautu, Georges Bach, Izaskun Bilbao Barandica, Michael Cramer, Luis de Grandes Pascual, Isabella De Monte, Ismail Ertug, Jacqueline Foster, Dieter-Lebrecht Koch, Merja Kyllönen, Miltiadis Kyrkos, Bogusław Liberadzki, Peter Lundgren, Renaud Muselier, Markus Pieper, Tomasz Piotr Poręba, Gabriele Preuß, Dominique Riquet, Massimiliano Salini, Claudia Schmidt, Jill Seymour, Claudia Țapardel, Keith Taylor, István Ujhelyi, Peter van Dalen, Elissavet Vozemberg-Vrionidi, Roberts Zīle, Kosma Złotowski, Elżbieta Katarzyna Łukacijewska	
Substitutes present for the final vote	Matt Carthy, Jakop Dalunde, Michael Detjen, Markus Ferber, Michael Gähler, Maria Grapini, Karoline Graswander-Hainz, Kateřina Konečná, Peter Kouroumbashev, Werner Kuhn, Ramona Nicole Mănescu, Jozo Radoš, Matthijs van Miltenburg, Henna Virkkunen	
Substitutes under Rule 200(2) present for the final vote	Anna Hedh, Jeroen Lenaers, Mylène Troszczynski	
Date tabled	27.4.2018	

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

25	+
ALDE	Izaskun Bilbao Barandica, Jozo Radoš, Dominique Riquet, Matthijs van Miltenburg
ECR	Jacqueline Foster, Tomasz Piotr Poręba, Roberts Zīle, Kosma Złotowski, Peter van Dalen
EFDD	Peter Lundgren
PPE	Georges Bach, Markus Ferber, Michael Gahler, Dieter-Lebrecht Koch, Werner Kuhn, Jeroen Lenaers, Renaud Muselier, Ramona Nicole Mănescu, Markus Pieper, Massimiliano Salini, Claudia Schmidt, Henna Virkkunen, Elissavet Vozemberg-Vrionidi, Luis de Grandes Pascual, Elżbieta Katarzyna Łukacijewska

22	-
EFDD	Jill Seymour
ENF	Marie-Christine Arnautu, Mylène Troszczynski
GUE/NGL	Matt Carthy, Kateřina Konečná, Merja Kyllönen
S&D	Lucy Anderson, Isabella De Monte, Michael Detjen, Ismail Ertug, Maria Grapini, Karoline Graswander-Hainz, Anna Hedh, Peter Kouroumbashev, Miltiadis Kyrkos, Bogusław Liberadzki, Gabriele Preuß, István Ujhelyi, Claudia Țapardel
Verts/ALE	Michael Cramer, Jakop Dalunde, Keith Taylor

1	0
EFDD	Daniela Aiuto

Key to symbols:

+ : in favour

- : against

0 : abstention