



2017/0116(COD)

12.12.2017

AMENDMENTS

17 - 58

Draft report
Ramon Tremosa i Balcells
(PE613.502v01-00)

on the proposal for a regulation of the European Parliament and of the Council
on safeguarding competition in air transport, repealing Regulation (EC) No
868/2004

Proposal for a regulation
(COM(2017)0289 – C8-0183/2017 – 2017/0116(COD))

Amendment 17
Alfred Sant

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) Aviation plays a crucial role in Union's economy. It is a strong driver for economic growth, jobs, trade and mobility. Over the past decades, growth in air transport services significantly contributed to improving connectivity within the Union and with third countries and has been a significant enabler of Union economy at large.

Amendment

(1) Aviation plays a crucial role in Union's economy ***and the everyday lives of European Union citizens***. It is a strong driver for economic growth, jobs, trade, ***as well as connectivity*** and mobility ***for businesses and citizens alike***. Over the past decades, growth in air transport services significantly contributed to improving connectivity within the Union and with third countries and has been a significant enabler of Union economy at large.

Or. en

Amendment 18
Hugues Bayet

Proposal for a regulation
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The European aviation sector represents around 2 million direct jobs and international aviation is expected to grow by around 5 % per year until 2030.

Or. fr

Amendment 19
Hugues Bayet

Proposal for a regulation
Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) It is essential for the European Union to provide effective protection for the various sectors of its economy and its workers against any unfair competitive practices from third countries.

Or. fr

Amendment 20

Alfred Sant

Proposal for a regulation

Recital 2

Text proposed by the Commission

Amendment

(2) Union air carriers are at the centre of a global network connecting Europe internally and with the rest of the world. They should be enabled to compete against third countries air carriers in an environment of open and fair competition between all air carriers. This would contribute to maintaining conditions conducive to a high level of Union's connectivity.

(2) Union air carriers are at the centre of a global network connecting Europe internally and with the rest of the world. They should be enabled to compete against third countries air carriers in an environment of open and fair competition between all air carriers ***taking into account regulatory issues such as labour conditions and environmental protection.*** This would contribute to maintaining conditions conducive to a high level of Union's connectivity.

Or. en

Amendment 21

Hugues Bayet

Proposal for a regulation

Recital 2

Text proposed by the Commission

Amendment

(2) Union air carriers are at the centre of a global network connecting Europe internally and with the rest of the world.

(2) Union air carriers are at the centre of a global network connecting Europe internally and with the rest of the world.

They should be enabled to compete against third countries air carriers in an environment of open and fair competition between all air carriers. This would contribute to maintaining conditions conducive to a high level of Union's connectivity.

They should be enabled to compete against third countries air carriers in an environment of open, *equal* and fair competition between all air carriers. This would contribute to *protecting jobs and the competitiveness of European airlines and to* maintaining conditions conducive to a high level of Union's connectivity.

Or. fr

Amendment 22
Sander Loones

Proposal for a regulation
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Neither an unacceptable trend towards protectionism, nor, on their own, measures to ensure fair competition can guarantee the competitiveness of the EU aviation sector.

Or. en

Amendment 23
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) It is important to ensure that the concept of fair competition does not narrowly focus on “equality of benefits”, as sustainable competitiveness underpinning the fair competition clause is an essential element in guaranteeing quality, productivity and innovation leading to a reduction of the environmental footprint of the air

transport sector.

Or. en

Amendment 24

Miguel Viegas

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) The fair competition principle is well established within the Union where market distortive practices are subject to existing Union law, which guarantees equal opportunities and fair competition conditions for all air carriers, European and non-European, operating in the Union.

Amendment

(4) The fair competition principle is well established within the Union where market distortive practices are subject to existing Union law, which guarantees equal opportunities and fair competition conditions for all air carriers, European and non-European, operating in the Union.

That principle can under no circumstances override a State's desire to maintain public ownership of its company for strategic reasons and with a view to guaranteeing the cohesion of its territory and the link between its country and its emigrant community.

Or. pt

Amendment 25

Miguel Viegas

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) Efforts should therefore be strengthened in the context of ICAO and of WTO to actively support the development of international rules guaranteeing fair competition conditions between all air carriers.

Amendment

(6) Efforts should therefore be strengthened in the context of ICAO and of WTO to actively support the development of international rules guaranteeing fair competition conditions between all air carriers, ***without ever placing the market above the free will of States when managing their public companies in line***

with their development objectives.

Or. pt

Amendment 26
Burkhard Balz

Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) *In light of the United Kingdom's notification to the European Council of 29 March 2017, informing about its intention to withdraw from the European Union in accordance with Article 50 TEU, the European Commission should conduct a thorough assessment of the consequences of this withdrawal on air transport between the Union or its Members and the United Kingdom, with the aim of achieving as little disruption as possible in air transport services for carriers based in the EU and for consumers.*

Or. en

Amendment 27
Hugues Bayet

Proposal for a regulation
Recital 8

Text proposed by the Commission

Amendment

(8) Fair competition between air carriers can also be ensured through appropriate Union legislation such as Council Regulation (EEC) No 95/93²⁰ and Council Directive 96/97/EC²¹. Insofar as fair competition supposes protection of Union air carriers from certain practices adopted by third countries or third country

(8) Fair competition between air carriers can also be ensured through appropriate Union legislation such as Council Regulation (EEC) No 95/93²⁰ and Council Directive 96/97/EC²¹. Insofar as fair competition supposes protection of Union air carriers from certain practices adopted by third countries or third country

carriers, this issue is currently addressed in Regulation (EC) No 868/2004 of the European Parliament and of the Council²². However, Regulation (EC) No 868/2004 has proven *insufficiently effective*, in respect of its underlying general aim of fair competition. This is notably due to certain of its rules pertaining notably to the definition of the practices concerned, other than subsidisation, and to the requirements regarding the initiation and conduct of investigations. In addition, Regulation (EC) No 868/2004 fails to provide for a dedicated Union internal procedure in respect of obligations contained in air transport or air services agreements to which the Union is a party and intended to ensure fair competition. Given the number and importance of the amendments that would be necessary to address these issues, it is appropriate to replace Regulation (EC) No 868/2004 by a new act.

²⁰ Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (OJ L 14, 22.1.1993, p.1).

²¹ Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports (OJ L 272, 25.10.1996, p. 36).

²² Regulation (EC) No 868/2004 of the European Parliament and of the Council of 21 April 2004 concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of air services from countries not members of the European Community (OJ L 162, 30.04.2004, p.1).

carriers, this issue is currently addressed in Regulation (EC) No 868/2004 of the European Parliament and of the Council²². However, Regulation (EC) No 868/2004 has proven *totally ineffective*, in respect of its underlying general aim of fair competition. This is notably due to certain of its rules pertaining notably to the definition of the practices concerned, other than subsidisation, and to the requirements regarding the initiation and conduct of investigations. In addition, Regulation (EC) No 868/2004 fails to provide for a dedicated Union internal procedure in respect of obligations contained in air transport or air services agreements to which the Union is a party and intended to ensure fair competition. Given the number and importance of the amendments that would be necessary to address these issues, it is appropriate to replace Regulation (EC) No 868/2004 by a new act.

²⁰ Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports (OJ L 14, 22.1.1993, p.1).

²¹ Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports (OJ L 272, 25.10.1996, p. 36).

²² Regulation (EC) No 868/2004 of the European Parliament and of the Council of 21 April 2004 concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of air services from countries not members of the European Community (OJ L 162, 30.04.2004, p.1).

Or. fr

Amendment 28

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) However, any actions to ensure fair competition with third countries carriers, shall not impede the Union's efforts to carefully examine its own inter- and intra-model of competition and in particular how its aviation sector has benefited from direct and indirect subsidisation as well as assess to which extent this artificially inflated demand for air transport and led to misallocation of resources.

Or. en

Amendment 29
Hugues Bayet

Proposal for a regulation
Recital 9

Text proposed by the Commission

Amendment

(9) Effective, proportionate and dissuasive legislation remains necessary in order to maintain conditions conducive to a high level of Union connectivity and to ensure fair competition with third countries air carriers. To that end, the Commission should be entrusted with the power to conduct an investigation and to take measures where necessary. Such measures should be available either where relevant obligations under an agreement to which the Union is a party are violated, or where practices affecting competition cause or threaten to cause injury to Union air carriers.

(9) Effective, proportionate and dissuasive legislation remains necessary in order to maintain conditions conducive to a high level of Union connectivity and to ensure fair competition with third countries air carriers, ***thus preserving jobs in Union airlines***. To that end, the Commission should be entrusted with the power to conduct an investigation and to take measures where necessary. Such measures should be available either where relevant obligations under an agreement to which the Union is a party are violated, or where practices affecting competition cause or threaten to cause injury to Union air carriers.

Or. fr

Amendment 30
Hugues Bayet

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) In order for the Commission to be adequately informed about possible elements justifying the initiation of an investigation, any Member State, Union carrier or association of Union air carriers **should** be entitled to lodge a complaint.

Amendment

(11) In order for the Commission to be adequately informed about possible elements justifying the initiation of an investigation, any Member State, Union carrier or association of Union air carriers **must** be entitled to lodge a complaint.

Or. fr

Amendment 31
Hugues Bayet

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) Proceedings **should not be initiated or should** be concluded without redressive measures under this Regulation where the adoption of the latter would be against the Union interest, having regard to their impact on other persons, notably consumers or undertakings in the Union. Proceedings should also be concluded without measures where the requirements for such measures are not, or no longer met.

Amendment

(15) Proceedings **may** be concluded without redressive measures under this Regulation where the adoption of the latter would be against the Union interest, having regard to their impact on other persons, notably consumers or undertakings in the Union. Proceedings should also be concluded without measures where the requirements for such measures are not, or no longer met.

Or. fr

Amendment 32
Alfred Sant

Proposal for a regulation
Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. An investigation shall be initiated following a written complaint submitted by a Member State, a Union air carrier or an association of Union air carriers in accordance with paragraph 2, or on the Commission's own initiative, if there is prima facie evidence of either of the following:

Amendment

1. An investigation shall be initiated following a written complaint submitted by a Member State, a Union air carrier or an association of Union air carriers in accordance with paragraph 2, ***a national consumer organisation***, or on the Commission's own initiative, if there is prima facie evidence of either of the following:

Or. en

Amendment 33
Wolf Klinz

Proposal for a regulation
Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. An investigation shall be initiated following a written complaint submitted by a Member State, a Union air carrier or an association of Union air carriers in accordance with paragraph 2, or on the Commission's own initiative, if there is prima facie evidence of either of the following:

Amendment

1. An investigation shall be initiated following a written complaint submitted by a Member State, ***the European Parliament***, a Union air carrier or an association of Union air carriers in accordance with paragraph 2, or on the Commission's own initiative, if there is prima facie evidence of either of the following:

Or. en

Amendment 34
Hugues Bayet

Proposal for a regulation
Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

1. An investigation shall be initiated following a written complaint submitted by a Member State, a Union air carrier or an association of Union air carriers in accordance with paragraph 2, or on the Commission's own initiative, if there *is prima facie evidence* of either of the following:

Amendment

1. An investigation shall be initiated following a written complaint submitted by a Member State, a Union air carrier or an association of Union air carriers in accordance with paragraph 2, or on the Commission's own initiative, if there *are reasonable and factual indications* of either of the following:

Or. fr

Amendment 35

Hugues Bayet

Proposal for a regulation

Article 3 – paragraph 2

Text proposed by the Commission

2. A complaint shall include *prima facie evidence* of one of the cases referred to in paragraph 1.

Amendment

2. A complaint shall include *reasonable and factual indications* of one of the cases referred to in paragraph 1.

Or. fr

Amendment 36

Alfred Sant

Proposal for a regulation

Article 3 – paragraph 4

Text proposed by the Commission

4. The Commission may decide not to initiate an investigation where the adoption of measures in accordance with Articles 10 or 13 would be against the Union interest *or where the Commission considers that the facts put forward in the complaint neither raise a systemic issue, nor have a significant impact on one or more Union air carriers.*

Amendment

4. The Commission may decide not to initiate an investigation where the adoption of measures in accordance with Articles 10 or 13 would be against the Union interest.

Amendment 37

Hugues Bayet

Proposal for a regulation

Article 3 – paragraph 4

Text proposed by the Commission

4. The Commission may decide not to initiate an investigation where ***the adoption of measures in accordance with Articles 10 or 13 would be against the Union interest or where the Commission*** considers that the facts put forward in the complaint neither raise a systemic issue, nor have a significant impact on one or more Union air carriers.

Amendment

4. The Commission may decide not to initiate an investigation where ***it*** considers that the facts put forward in the complaint neither raise a systemic issue, nor have a significant impact on one or more Union air carriers.

Or. fr

Amendment 38

Sander Loones

Proposal for a regulation

Article 3 – paragraph 5

Text proposed by the Commission

5. Where the evidence presented is insufficient for the purposes of paragraph 1, the Commission shall inform the complainant about the insufficiency within **60** days of the date on which the complaint was lodged. The complainant shall be given 30 days to provide additional evidence. Where the complainant fails to do so within that time limit, the Commission may decide not to initiate the investigation.

Amendment

5. Where the evidence presented is insufficient for the purposes of paragraph 1, the Commission shall inform the complainant about the insufficiency within **30** days of the date on which the complaint was lodged. The complainant shall be given 30 days to provide additional evidence. Where the complainant fails to do so within that time limit, the Commission may decide not to initiate the investigation.

Or. en

Amendment 39
Hugues Bayet

Proposal for a regulation
Article 3 – paragraph 5

Text proposed by the Commission

5. Where the evidence presented is insufficient for the purposes of paragraph 1, the Commission shall inform the complainant about the insufficiency within 60 days of the date on which the complaint was lodged. The complainant shall be given **30** days to provide additional *evidence*. Where the complainant fails to do so within that time limit, the Commission may decide not to initiate the investigation.

Amendment

5. Where the evidence presented is insufficient for the purposes of paragraph 1, the Commission shall inform the complainant about the insufficiency within 60 days of the date on which the complaint was lodged. The complainant shall be given **60** days to provide additional *information*. Where the complainant fails to do so within that time limit, the Commission may decide not to initiate the investigation.

Or. fr

Amendment 40
Sander Loones

Proposal for a regulation
Article 3 – paragraph 6

Text proposed by the Commission

6. The Commission shall decide on the initiation of an investigation in accordance with paragraph 1 within **6** months of the lodging of the complaint.

Amendment

6. The Commission shall decide on the initiation of an investigation in accordance with paragraph 1 within **three** months of the lodging of the complaint.

Or. en

Amendment 41
Miguel Viegas

Proposal for a regulation
Article 3 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. *The fair competition principle must not override a sovereign country's desire to maintain public ownership of its airline, with management geared to the cohesion of its territory and the link between the country and its emigrant community.*

Or. pt

Amendment 42
Alfred Sant

Proposal for a regulation
Article 4 – paragraph 2 – point b

Text proposed by the Commission

(b) whether a practice affecting competition, adopted by a third country or a third country entity, has caused injury or threat of injury to the Union air carrier(s) concerned.

Amendment

(b) whether a practice affecting competition, adopted by a third country or a third country entity, has caused injury or threat of injury to the Union air carrier(s) concerned *or where irregular behaviour restricting competition had a negative impact on the internal market of the European Union.*

Or. en

Amendment 43
Hugues Bayet

Proposal for a regulation
Article 4 – paragraph 5

Text proposed by the Commission

5. If it appears necessary, the Commission may carry out investigations in the territory of the third country concerned, provided that the government of the third country concerned and the third country entity concerned have been

Amendment

5. If it appears necessary, the Commission may carry out investigations in the territory of the third country concerned *or of another third country*, provided that the government of the third country concerned and the third country

officially notified *and have given their consent*.

entity concerned have been officially notified.

Or. fr

Amendment 44
Hugues Bayet

Proposal for a regulation
Article 4 – paragraph 7

Text proposed by the Commission

7. Complainants, interested parties, the Member State(s) concerned and the representatives of the third country or third country entity concerned may consult all information made available to the Commission, except for internal documents that are for the use of the Commission and the administrations, provided that such information is not confidential within the meaning of Article 6 and provided that it has addressed a request in writing to the Commission.

Amendment

7. Complainants, interested parties, the Member State(s) concerned, ***the competent committees of the European Parliament*** and the representatives of the third country or third country entity concerned may consult all information made available to the Commission, except for internal documents that are for the use of the Commission and the administrations, provided that such information is not confidential within the meaning of Article 6 and provided that it has addressed a request in writing to the Commission.

Or. fr

Amendment 45
Hugues Bayet

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

In cases where access to the necessary information is refused or is otherwise not provided within the appropriate time limits, or where the investigation is significantly impeded, findings shall be made on the basis of the available facts. Where the Commission finds that false or misleading information has been submitted, such

Amendment

In cases where access to the necessary information is refused or is otherwise not provided within the appropriate time limits, ***where a third country concerned has not granted access to its territory in order to conduct investigations*** or where the investigation is significantly impeded, findings shall be made on the basis of the

information shall be disregarded.

available facts. Where the Commission finds that false or misleading information has been submitted, such information shall be disregarded.

Or. fr

Amendment 46
Alfred Sant

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. The proceedings shall be concluded within *two years*. That period may be prolonged in duly justified cases.

Amendment

1. The proceedings shall be concluded within *an 18 month period following the initiation of an investigation*. That period may be prolonged *within a set timeline* in duly justified cases.

Or. en

Amendment 47
Sander Loones

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. The proceedings shall be concluded within *two years*. That period may be prolonged in duly justified cases.

Amendment

1. The proceedings shall be concluded within *one year*. That period may be prolonged in duly justified cases.

Or. en

Amendment 48
Alfred Sant

Proposal for a regulation
Article 9 – paragraph 2

Text proposed by the Commission

2. In case of urgency, such as in situations where there is a risk of immediate and irreversible injury to Union air carrier(s), the proceedings may be shortened to *one year*.

Amendment

2. In case of urgency, such as in situations where there is a risk of immediate and irreversible injury to Union air carrier(s), the proceedings may be shortened to *a maximum period of six months*.

Or. en

Amendment 49
Sander Loones

Proposal for a regulation
Article 9 – paragraph 2

Text proposed by the Commission

2. In case of urgency, such as in situations where there is a risk of immediate and irreversible injury to Union air carrier(s), the proceedings may be shortened to *one year*.

Amendment

2. In case of urgency, such as in situations where there is a risk of immediate and irreversible injury to Union air carrier(s), the proceedings may be shortened to *six months*.

Or. en

Amendment 50
Alfred Sant

Proposal for a regulation
Article 9 – paragraph 3 – introductory part

Text proposed by the Commission

3. The Commission may suspend the proceedings where the third country or the third country entity concerned has taken decisive steps to eliminate, as the case may be:

Amendment

3. The Commission may, *with the right of appeal by injured parties*, suspend the proceedings where the third country or the third country entity concerned has taken decisive steps to eliminate, as the case may be:

Or. en

Amendment 51
Hugues Bayet

Proposal for a regulation
Article 9 – paragraph 4

Text proposed by the Commission

4. If the violation of applicable international obligations or the practice affecting competition, the injury or the threat of injury to the Union air carrier(s) concerned has not been eliminated following a reasonable period of time, the Commission *may* resume the proceedings.

Amendment

4. If the violation of applicable international obligations or the practice affecting competition, the injury or the threat of injury to the Union air carrier(s) concerned has not been eliminated following a reasonable period of time, the Commission *shall* resume the proceedings.

Or. fr

Amendment 52
Hugues Bayet

Proposal for a regulation
Article 10 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

The Commission shall, by means of *implementing* acts, terminate the investigation conducted under Article 4 without adopting redressive measures in any of the following cases:

Amendment

The Commission shall, by means of *delegated* acts, terminate the investigation conducted under Article 4 without adopting redressive measures in any of the following cases:

Or. fr

Amendment 53
Hugues Bayet

Proposal for a regulation
Article 10 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The implementing acts referred to in the

Amendment

deleted

first subparagraph shall be adopted in accordance with the advisory procedure referred to in Article 15(2).

Or. fr

Amendment 54

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 11 – paragraph 1 – point a

Text proposed by the Commission

(a) the situation of the Union air carrier(s) concerned, notably in terms of aspects such as frequency of services, utilisation of capacity, network effect, sales, market share, profits, return on capital, investment and employment;

Amendment

(a) the situation of the Union air carrier(s) concerned, notably in terms of aspects such as frequency of services, utilisation of capacity, network effect, sales, market share, profits, return on capital, ***environmental protection***, investment and employment;

Or. en

Amendment 55

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 11 – paragraph 2 – point a

Text proposed by the Commission

(a) the foreseeable evolution of the situation of the Union air carrier(s) concerned notably in terms of frequency of services, utilisation of capacity, network effect, sales, market share, profits, return on capital, investment and employment;

Amendment

(a) the foreseeable evolution of the situation of the Union air carrier(s) concerned notably in terms of frequency of services, utilisation of capacity, network effect, sales, market share, profits, return on capital, ***environmental protection***, investment and employment;

Or. en

Amendment 56
Hugues Bayet

Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

The Commission shall, by means of ***implementing*** acts, terminate the investigation conducted in accordance with Article 4 without adopting redressive measures where:

Amendment

The Commission shall, by means of ***delegated*** acts, terminate the investigation conducted in accordance with Article 4 without adopting redressive measures where:

Or. fr

Amendment 57
Wolf Klinz

Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) the Commission concludes that adopting redressive measures in accordance with Article 13 would be against Union interest;

Amendment

(b) the Commission, ***after consulting the European Parliament***, concludes that adopting redressive measures in accordance with Article 13 would be against Union interest;

Or. en

Amendment 58
Hugues Bayet

Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 15(2).

Amendment

deleted

Or. fr

