



Council of the European Union  
General Secretariat

**Brussels, 04 May 2020**

**WK 4550/2020 ADD 3**

**LIMITE**

**AVIATION**

### WORKING PAPER

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#### **WORKING DOCUMENT**

From:	General Secretariat of the Council
To:	Working Party on Aviation
N° prev. doc.:	ST 7586/20
N° Cion doc.:	ST 7576/20
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) N° 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community in view of the COVID-19 pandemic - Comments from Member States on the Commission Proposal

Delegations will find attached comments from Slovakia on the above-mentioned proposal.



**Positions of the Slovak Republic  
to the Proposal for a Regulation of the European Parliament and of the Council amending  
Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common  
rules for the operation of air services in the Community in view of the COVID-19 pandemic  
COM(2020) 178**

***General Position***

In general, the Slovak Republic has no objections to regulate the area of operating licenses granted to European Union air carriers, as well as the area of groundhandling services, taking into account the impact of the communicable disease COVID-19 on civil aviation.

***Comments of the Slovak Republic***

*To Recital*

The Slovak Republic proposes to include information about public health protection as one of reasons to suspend flights.

*To point 1 of the Proposal of the Regulation (EU)*

The Slovak Republic has concerns with the amendment of Article 1 (1) of the effective Regulation (EC) No 1008/2008 as amended. Groundhandling services should be dealt with in a separate legally binding act of the European Union. The field of groundhandling services is not related to the legislation of the effective Regulation (EC) No 1008/2008 as amended. Moreover, the headline of the Proposal of the Regulation (EU) does not include “information” about groundhandling services.

*To point 2 of the Proposal of the Regulation (EU)*

The Slovak Republic does not consider as appropriate to limit the time period mentioned in the draft paragraph 1a to the end of 2020 and to limit the time period of “reconstruction” to 12 months. It is the responsibility of the competent licensing authority to assess the financial performance of the air carrier, taking into account the communicable disease COVID-19.

In paragraph 1a the Slovak Republic recommends to replace words “*from 1 March 2020 to 31 December 2020*” by words “*from the day of the declaration of a pandemic by the World Health Organization to no later than 12 months after its withdrawal*”. The paragraph 1b, 1c and 1d should be deleted.

At the same time, in the opinion of the Slovak Republic, the 12-month period for proving a “satisfactory financial recovery” can not be met. This is a very short period because of the fact that there will be no immediate increase in travel. State restrictions on the protection of public health may also remain in force, which may limit the demand for commercial air transport. As a result, the financial performance of European Union air carriers may deteriorate even beyond the proposed period.

From the point of view of a uniform approach and application by the competent licensing authorities of the Member States of the European Union, it is necessary to define the term “satisfactory financial reconstruction”.

In the draft paragraph 1a, the Slovak Republic proposes to replace the words “*may decide before the end of that period not to*” by words “*does not*” due to the uniform approach of all competent licensing authorities of the Member States of the European Union.

The Slovak Republic has concerns with the proposed competence for the European Commission to adopt delegated acts on the basis of “best available scientific data”. This is a very uncertain and unclear concept and at the same time it is not clear which authority will be considered and by whom to be able to provide such data.

*To point 3 of the Proposal of the Regulation (EU)*

The draft paragraph 2 does not clearly define the phrase “adequate justification”. Without a clear definition of this link, each Member State of the European Union may state a different justification.

The Slovak Republic asks to clarify the meaning of the paragraph 3. There is no reason to authorize another Member State of the European Union to request to suspend the actions taken by another Member State of the European Union. At the same time, the phrase “may suspend” is unclear.

The Slovak Republic has concerns with the proposed competence for the European Commission to adopt delegated acts on the basis of “best scientific knowledge, evidence and data”. This is an unclear concept and at the same time it is not clear which authority will be considered and by whom to be able to provide such data.

*To point 4 of the Proposal of the Regulation (EU)*

The Slovak Republic has concerns with regulation of groundhandling services through this Proposal of the Regulation (EU).

The draft paragraph 7 contains the phrase “Article 4”, but Article 4 Regulation (EC) No 1008/2008 as amended deals with the conditions for the granting of an operating license to an air carrier and is not related to groundhandling services.

*To point 5 of the Proposal of the Regulation (EU)*

This point should be modified in line with comments to point 2 of the Proposal of the Regulation (EU).

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## *Article 1*

*Regulation (EC) N°1008/2008 is amended as follows:*

*(2) in Article 9 the following paragraphs 1a, ~~1b and 1c~~ are inserted :*

*1a. Based on assessments referred to in the paragraph 1, carried out from ~~1 March 2020 until 31 December 2020~~ the day of the declaration of a pandemic by the World Health Organization to no later than 12 months after its withdrawal, the competent licensing authority ~~may decide before the end of that period not to~~ **does not** suspend or revoke the operating license of the Union carrier provided that safety is not at risk, and that there is a realistic prospect of a satisfactory financial reconstruction within the following 12 months. It shall review the performance of this Union air carrier at the end of the 12-month period and decide whether the operating license shall be suspended or revoked and a temporary license shall be granted on the basis of paragraph 1.*

*~~1b. Where the Commission finds, on the basis of data published by Eurocontrol, that the reduction in the level of air traffic as compared to the level in the corresponding period in the previous year is persisting and is likely to persist, and also finds, on the basis of the best available scientific data, that this situation is the result of the impact of the COVID-19 pandemic, the Commission shall adopt~~*

~~delegated acts in accordance with Article 25a to amend the period of 1 March 2020 to 31 December 2020 referred to in paragraph 1a accordingly.~~

~~1c. The Commission shall continuously monitor the situation using the criteria set out in paragraph 1b. Based on the information available to it, the Commission shall present a summary report on this matter to the European Parliament and to the Council by 15 November 2020. When criteria mentioned in paragraph 1b are fulfilled, the Commission shall adopt the delegated act provided for in paragraph 1b as soon as possible.~~

~~1d. Where, in the case of a prolonged impact of the COVID-19 pandemic on the air transport sector in the Union, imperative grounds of urgency so require, the procedure provided for in Article 25b shall apply to delegated acts adopted pursuant to this Article.'~~

#### *Article 25a*

##### ***Exercise of the delegation***

3. The delegation of power referred to in ~~Article 9(1b)~~, Article 21a(4) and Article 24a(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.