

Position Paper



E4FC calls for a socially responsible aviation sector

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Aviation has seen an almost unprecedented competition in recent years, putting great strain on all aspects of an aircraft operation. Business models are constantly changing, new ones emerge, and as a part of this, circumvention of applicable social law and the disrespect of social rights are potential distorters to fair competition. Therefore, E4FC would like to highlight the following points to ensure a socially responsible aviation sector:

1. Prevent the use of fictitious home base

Existing practices show that some EU airlines assign crew to a fictitious home base in a Member State with lower social charges, away from the base in the Member State where the crew actually performs their duty. This practice is often used in conjunction with employment through agencies located in a third Member State or even a non-EU country. In addition, this may also be combined with a lack of appropriate specific legislation on the posting of highly mobile workers in the aeronautics industry, which certain airlines effectively use to undermine local airlines that do abide by national legislations and social security schemes. Consequently, such practices result in a distortion of competition.

The revision of Regulation 1008/2008 or another appropriate legal instrument (see below) must include provisions to prevent those practices.

E4FC also calls for the adoption of the revisions of Regulations (EU) 883/2004 and 987/2009 to prevent the use of a fictitious home base. Member States should equally be urged to enforce Regulation (EU) 465/2012. The enforcement of this regulation must be secured through regular oversight and inspections at national level. Furthermore, the European Labour Authority could promote and coordinate joint actions on this issue.

2. Clarify applicable law to aircrew

While the free movement of people, workers, goods, services and capital are fundamental rights of the European Union, the regulation related to international movement of aircrew, is ambiguous. Clarification is needed to avoid tedious court cases and circumvention of applicable law.

E4FC calls on the Commission and Member States to provide clarity on the criteria that constitute the home base for an aircrew.

3. Stop fraudulent practices related to social security certificates

The coordination of social security systems for the posting of workers is handled through the use of certificates (A1, formerly E101) issued by national authorities, confirming that a given worker is affiliated with a Member State's social security system. However, this system is exploited through tacit approval of these certificates by certain Member States, which facilitates fraudulent practices. Furthermore, current legislation also allows for considerable periods where crew may be posted or rotated in such a way that local social security legislation is circumvented.

E4FC calls on the EU institutions to adopt the revisions of Regulations (EU) 883/2004 and 987/2009, which aim at ending fraudulent practices related to social security certificates.

4. Ban bogus self-employment

Existing practices also show that some airlines hire EU crew members through agencies, which require the crew to establish a company as their employer. This allows for circumvention of national, and even EU law. The employees may even have their contracts with a non-EU agency, effectively paying taxes in countries outside EU, while working within the EU. This deprives the employee of social rights he or she may be entitled to and allows for avoidance of payment of social security and income taxes in the EU.

E4FC calls on the European Commission and Member States to ban bogus self-employment for aircrew in commercial aviation.

5. Increase the level playing field on social standards with third country carriers operating to the EU

The high social standards in the EU may result in a competitive disadvantage for European airlines vis-à-vis third country carriers: outside the EU, crews are often employed at financial costs and social standards considerably lower than those of EU-crew.

Therefore, the Commission should ensure that any carrier operating into/in the EU must adhere to a specified minimum of social standards, which do not give third country carriers an advantage over EU carriers.

This also means that comprehensive air transport agreements must have clear provisions to ensure these social standards are applied. The enforcement of these agreements related to securing these social standards must be ensured through authority oversight and inspections at national level. The European Labour Authority could also promote and coordinate joint actions in this field.