

Position Paper



E4FC position paper on social issues related to the revision of Regulation (EC) 1008/2008 on common rules for the operation of air services in the Community

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Social matters related to aircrew have been analyzed and debated by EU institutions, Member States, aviation stakeholders and social partners for several years. Therefore, Europeans for Fair Competition (E4FC) highly welcomes the European Commission's increased recognition of the social challenges in the air transport sector, which is shown (amongst others) by its intention to revise Regulation (EC) 1008/2008, which also addresses social issues.

The COVID-19 pandemic has led to an unprecedented loss of jobs in aviation, therefore, securing employment in European aviation should be a top priority for the EU institutions, thereby ensuring that high European social standards are upheld. The resilience and the ecological transition must be inclusive and socially responsible. Non-European carriers operating to and from the European market should not be allowed to undermine high European social and environmental standards. Sustainability in European aviation should be understood holistically and include acceptable social standards. Access by non-European airlines that disregard fundamental social rights and undermine the efforts of European network carriers to promote and enforce high social standards - even in the present crisis - should be limited or even banned. To ensure a socially responsible aviation sector, E4FC would like to highlight the need to clarify the legal framework for aircrew, prevent the use of fictitious home base and clearly define operational base.

Clarify applicable law to aircrew

E4FC underlines the importance of clear, unambiguous and legally binding rules on the applicable law for aircrew when habitually based at a location away from their declared home base. In the revision of Regulation (EC) 1008/2008, we believe this issue should be resolved. In the absence of a revision, another instrument must be urgently found. Similar problems were identified in the road transport sector and were indeed properly

resolved through a specific legal instrument on posting of drivers in the road transport sector¹.

Prevent the use of fictitious home base

The practice used by some EU carriers to 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 actual duty is performed, is made possible due to a lack of appropriate social specific legislation applicable to highly mobile workers in the airline industry. Clarity on the role of competent authorities in the oversight of operational bases in Member States should, therefore, be addressed through a dedicated provision in the revised regulation obliging carriers to register an operational base at those competent authorities - forcing those authorities to acknowledge those operational bases under their supervision, which makes enforcement easier.

Ensure clear definition of operational base

Additionally, E4FC strongly advocates for a clear definition of operational base to be included in the revised Regulation. The definition should address that an air carrier's operational base is a set of airport infrastructures, from which a company carries out air transport activities on a stable, regular and continuous basis with employees who have the true centre of their professional activity there (the centre of an employee's professional activity is the place where he/she usually works or where he/she starts and ends his/her service).

Finally, E4FC believes that the European Labour Authority should include air transport among its priorities and be actively following up on control initiatives from individual Member States and coordinating with other Member States concerned. E4FC has established contact with the European Labour Authority to explore the possibility of organizing a dedicated aviation industry workshop in 2023 that would also address the above-mentioned issues.

¹ Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020 laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012