



September 2017
AK Position Paper

Aviation: Open and Connected Europe Regulation on safeguarding competition in air transport (Recast)

About us

The Austrian Federal Chamber of Labour is by law representing the interests of about 3.6 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore the Austrian Federal Chamber of Labour is a part of the Austrian social partnership. The Austrian Federal Chamber of Labour is registered at the EU Transparency Register under the number 23869471911-54.

The AK EUROPA office in Brussels was established in 1991 to bring forward the interests of all its members directly vis-à-vis the European Institutions.

Organisation and Tasks of the Austrian Federal Chamber of Labour

The Austrian Federal Chamber of Labour is the umbrella organisation of the nine regional Chambers of Labour in Austria, which have together the statutory mandate to represent the interests of their members.

The Chambers of Labour provide their members a broad range of services, including for instance advice on matters of labour law, consumer rights, social insurance and educational matters.

More than three quarters of the 2 million member-consultations carried out each year concern labour-, social insurance- and insolvency law. Furthermore the Austrian Federal Chamber of Labour makes use of its vested right to state its opinion in the legislation process of the European Union and in Austria in order to shape the interests of the employees and consumers towards the legislator.

All Austrian employees are subject to compulsory membership. The member fee is determined by law and is amounting to 0.5% of the members' gross wages or salaries (up to the social security payroll tax cap maximum). 816.000 - amongst others unemployed, persons on maternity (paternity) leave, community and military service - of the 3.6 million members are exempt from subscription payment, but are entitled to all services provided by the Austrian Federal Chambers of Labour.

Rudi Kaske
President

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Director

The AK's position in detail

A recast of Regulation (EC) 868/2004 of the European Parliament and of the Council of 21 April 2004, regarding improved protection of Community air carriers against subsidisation and unfair pricing practices by air services from countries that are not members of the European Community, is especially welcome in view of the intense competition in the airline sector. The Commission is thereby taking measures to regulate the liberal and globalised market, which is leading to anti-competitive practices. However, in the view of the Austrian Federal Chamber of Labour (BAK), this draft Regulation falls short in two aspects before it can guarantee fair competition between airlines in Europe.

(1) Firstly, the intense competition between airlines does not only lead to unwanted practices in the case of third countries, but also within the EU, because competition is carried out at the expense of workers (wage and social dumping). Therefore it would be just as desirable and important to extend the Regulation or to add a supplementary regulation to ensure fair competitive practices for intra-European airlines.

(2) Secondly, the draft Regulation of the Commission does not take the social agenda into consideration when evaluating the effects of anti-competitive practices. This draft only considers the interests of air carriers (above all with regard to frequency of services, capacity utilisation, network effects, turnover, market share, profits, profitability, investments and employment), as well as the markets of the airlines concerned

(above all with regard to pricing levels, capacity and frequency of services or network load). However, since anti-competitive practices not only mean negative consequences for companies, but also for employees in the sector, BAK requests that the following additions be included in this draft in order to ensure that the Regulation is effective:

Art. 1 – Subject matter – in combination with Art. 3 (1a), Art. 4 (2a), Art. 9 (3a), Art. 10 (2a), (3) and (5):

A precondition for Regulation 868/2004 is that both anti-competitive practices of an air carrier from a third country, as well as a violation of current international obligations and practices, must be given.

In order to avoid violation of international obligations with regard to European and international standards of labour and social law, as well as to avoid wage and social dumping, the EU should commit in future only to conclude air conventions under the condition that European standards of labour and social law are complied with, and wage and social dumping is prohibited. It would also be conceivable that the ratification, implementation and application of all eight fundamental ILO conventions and compliance with the up-to-date conventions and recommendations should be a precondition for concluding an agreement.

Art. 2 – Definitions (f):

The definition of “practices affecting competition” must be supplemented with wage and social dumping; the passage would then read “practices affecting competition’ means discrimination and subsidies as well as wage and social dumping”.

Art. 11 – Determination of Injury

Article 11 (1):

When determining whether injury has been suffered, the effects on employees must be evaluated, in addition to the effects on the company. Hence this paragraph must be supplemented with subclause (c): “the situation with regard to employees in the EU, above all with regard to labour and social law protection and the effects on the labour market”.

Article 11 (2):

The finding of a threat of injury must include the effects on employees in addition to the effects on the company. Hence paragraph 2 must be supplemented with subclause (c): “the foreseeable evolution of the general situation of employees in the EU, above all with regard to labour and social law protection and the effects on the labour market”.

Communication of the European Commission “Aviation: Open and Connected Europe”

In conclusion, BAK would like to point out that this draft Regulation was submitted as a result of the so-called connected aviation package. Consequently a communication from the Commission was published (COM (2017) 286 final) which advocates far-reaching intervention in the organisation of employees and trade unions. However, as a representative body of workers, and viewed from a modern and liberal legal

understanding, any restriction on hitherto legitimate actions of trade unions in labour disputes is completely unacceptable for the BAK. Consequently, BAK strongly protests against the demand directed at Member States in the Commission’s communication to require early notification of strikes by trade unions at a national level and to require the registration of participation of workers in industrial action, as well as to introduce further measures to restrict the rights of employees intended to maintain business units or to cover peak periods (traffic peaks). BAK calls on the Commission to reconsider its published position.

Should you have any further questions
please do not hesitate to contact

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