

Prague 19th November 2007
Ref: 770/2007-220-SP/8

Mr Mark Nicklas
DG TREN
European Commission
Brussels

Subject: Response of Ministry of Transport and Civil Aviation Authority, Czech Republic, to the Commission's Discussion Paper on the operation of Regulation (EC) 785/2004 on insurance requirements for air carriers and aircraft operators

Dear Mr Nicklas,

With reference to the letter of Mr Daniel Calleja under ref. TREN F1/MN/lg D (2007) 321545 of 17 September 2007 and launched open consultation on the operation of Regulation (EC) 785/2004 on insurance requirements for air carriers and aircraft operators (hereinafter as "Regulation") I would like to send you the common response of Ministry of Transport and Civil Aviation Authority, which both represent bodies responsible for civil aviation administration in the Czech Republic. Comments below do not contain any confidential elements and therefore can be published.

Our response is done on basis of Discussion Paper (numeration of question) which was sent to Ministry of Transport as an enclosure of the above mentioned letter. We note that Discussion Paper in question differs from the one available on DG TREN website.

Generally:

Since entry into force of the Regulation air carriers and aircraft operators have met requirements of the said Regulation and we can confirm fulfillment of the Regulation from aviation industry on the highest possible level.

Economic Impact of the Regulation on Air Carriers and Aircraft Operators

Q1:

The Regulation had a negative impact (on administrative level when concluding new agreements on insurance) on the insurance policy of air carriers in the beginning of its application. It was caused mainly due to expected instability of insurance market in 2005 (AICG, and new practices of European aviation insurers). However, at present we consider insurance market and relations between insurers and air carriers very transparent and without difficulties worth to mention.

Air carriers in the Czech Republic comply with the Regulation and insurance is typically on the minimum insurance requirements.



Q2:

Regulation has had a considerable negative economic impact on general aviation in the Czech Republic. Insurance requirements, significantly above the requirements set under the previous Czech national law, led to substantial cost burden for leisure aircraft operators (multiple increases in terms of insurance premium – more than 600 %).

Therefore we do believe that there should be a space for extension of exception to the Regulation for leisure aircraft operators (for example up to 2700 kg MTOM) not crossing borders of the respective Member States and not being involved in commercial operation. The risks of damage to third parties from this kind of operation have proven to be inconsiderable and lower than the risks of commercial aircraft.

Q3:

Although the question of reasonable cover for historic aircraft is not so sensitive in the Czech Republic, we are of the opinion that historic aircraft should be treated in independent regime. We agree that the risks of damage to third parties caused by historic aircraft might be significantly lower than the risks of commercial aircraft in the same weight category.

The Specific Issue of War-Risk Insurance**Q4:**

We do believe that there is no need for the requirement for aircraft operators to have insurance cover for damage to third parties due to risks of war or terrorism in respect of non-commercial operations.

Q5:

We are of the opinion that there is no need to introduce specific rules for the insurance requirements for damage caused by unlawful interference while the aircraft is still at the airport in order to allow insurers better control over possible liability exposure. Issue of such requirements should be handled via market based measured and on the operational level, i.e. under the commercial agreement between insurers and operator.

Implementation of the Regulation by Member States**Q6:**

Air carriers licensed in third countries and aircraft operators using aircraft registered outside the EU deposit an insurance certificate.

Q7:

Universal EU insurance certificate for air carriers and aircraft operators would help during administrative processing and treatment.

Q8 and Q9:

There have been few (up to 5) infringements of the Regulation by aircraft operators registered in the Czech Republic (in non-commercial sphere; operation for leisure and sport purposes). Ministry of Transport imposed respective sanctions according to Act on Civil Aviation and handled the infringements accordingly. Sanctions were effective, proportional and dissuasive.

There have not been any noted infringements of the Regulation by non-Community air carriers or aircraft operators using aircraft registered outside of the Community. However several cases appeared when non-Community air carriers submitted an insurance certificate with insufficient insurance cover. On notice of the Ministry of Transport the remedy was done immediately.

Q10:

Czech Republic requests evidence of valid insurance from air carriers and aircraft operators overflying its territory where permission for overflying is needed and issued e.g. charter flights with dangerous goods on board.

Q11:

Insurance requirements apply in the Czech Republic for the passenger liability in respect of non-commercial operations by aircraft with a MTOM of less than 2,700 kg is 100.000 SDR per passenger according to Act on Civil Aviation. Such different insurance requirements do not cause any problems.

Insurance and Liability**Q12:**

We have not noticed any problems with the application of Regulation 889/2002.

Q13:

As far as aircraft operators' liability for third parties is concerned the Czech Republic has ratified the Montreal Convention. Czech Republic is not a party to the Rome Convention.

Q14:

We do not see any imminent need or added value in harmonization third-party liability rules for Community air carriers for risks linked to war and terrorist acts on European level only.

Competition between Community air carriers and third-party air carriers**Q15:**

Ensurance of equal level playing field for Community and third-party air carriers is still needed not only in respect of this Regulation but in all new EC legislation in preparation and in all areas, including environmental issue and ETS discussion. Furthermore, we do not consider the context of Community aviation agreements with third countries as appropriate tool to solve this issue.

Insurance and Passenger Protection**Q16:**

Insurance market might be able to provide insurance coverage to air carriers in order to refund passengers for the sums paid and to cover the costs of repatriating passengers if the carrier is not able to operate the flight because of insolvency or revocation of its operating license.

Q17:

As far as the regulatory measures on European level are concerned, we believe that proper function of the national body responsible for issuance of operating license is sufficient in this case.

Simplification**Q18 and Q19:**

Yes, we do believe that there is a scope for simplification of the regulation as mentioned above. European Commission should initiate discussion on revision of Article 2 of the Regulation and

reassess further application of the Regulation on some aircraft operators involved in non-commercial operations (limited with specified MTOM) while not crossing national boards of State of registration.

We are looking forward to further discussion on this issue.

Yours sincerely,

Zdenek Jelinek
Deputy Director
Civil Aviation Department
Ministry of Transport, Czech Republic