



National
Transport
Authority

Directorate for Air Transport

Budapest, 16th November 2007

**European Commission
Directorate General for
Energy and Transport
Internal Market,
Aviation Agreements
& Multilateral Relations**

**Subject: reply to letter TREN
F1/MN/lg D (2007) 321545
(Discussion Paper)
Reference number: IG 159/1/07**

Daniel Calleja
Director

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Dear Mr. Calleja,

After studying your letter on Discussion Paper (ref. number: reply to letter TREN F1/MN/lg D (2007) 321545) on the operation of Regulation (EC) 785/2004 on insurance requirements for air carriers and aircraft operators, the Directorate for Air Transport of the National Transport Authority (DAT) informs you as follows.

The DAT distributed the document to the main interested parties: the two Hungarian air carriers, the largest association of the Hungarian aircraft operators and two insurance companies. They shared their views and experiences on the application of the Regulation with us on the basis of which the DAT together with its considerations compiled this responding document.

A) General considerations.

1. The Regulation caused problems mainly related to the general aviation (leisure aircraft/small aircraft). According to us, Article 2 (2) item g) of the Regulation is not clear enough. The DAT interprets this item as all the requirements of the Regulation (including passengers, baggage, cargo and third parties) except those concerning to the risks of war and terrorism has to be applied to the „aircraft, including gliders, with a MTOM of less than 500 kg, and microlights, which are used for non-commercial purposes, or are used for local flight instruction which does not entail the crossing of international borders”. This means that the minimum insurance cover compared to the former Hungarian regulation increased to a large extent in this category and this caused increase of insurance charges as well.

2. Leisure aircraft usually fly from spring to autumn and the operators do not want to be insured in winter time. To reduce insurance costs they sign the insurance for half year periods, or for 1 year period defining those periods in which the insurance company covers only loss arising from ground operation.

3. We have some problems with the definitions of the Regulation in Article 3. Definition of „passenger” and „commercial operation” are not clear for us. According to our interpretation passenger is a person who is on a flight with a IATA-format ticket. The definition is not clear enough, so in Hungary the insurance liability requirements for passengers are also used in other categories like aerial work (sight seeing, flight training in leisure aviation (small aircraft etc). The problem is similar with the definition of „commercial operation”. Due to the large scope of the definition, in Hungary it is also used for the above mentioned categories. We would appreciate a clear definition for these expressions.

4. An other problem at the application of the Regulation is insurance in respect of liability for passengers. The Regulation does not clarify whether maximum number of transportable passengers or only the actual number of passengers of an aircraft have to be covered by insurance. According to us, the Regulation should clearly require maximum number, in that way operators should insure the maximum number, which is the only way to avoid carrying possible uninsured passengers.

5. Concerning the Regulation we may call your attention to the fact that in the near future EASA plans to introduce new aircraft classification which will effect the categories listed in Article 7. of the Regulation. In this case harmonization of the two regulation will be necessary.

B) Detailed answers.

Q1: Hungarian air carriers usually lease their aircraft. Operators that lease aircraft must follow the insurance requirements defined by lessors, and it is usually above the minimum legal requirements.

Q2: The number of operated aircraft decreased with 15-20% at aero clubs. The insurance period decreased to half year periods at most of the aircraft. Number of take-offs and flight hours decreased significantly.

Q3: The insurance charges of the aircraft in old timer category (civil historic aircraft) are relatively high considering the fact that these are operated during limited hours. Old timer gliders fly basically in the area of an aerodrome so they do not have high risks. Historic state aircraft are not operated currently in Hungary.

Q4: According to the interested parties (insurance companies, flying clubs) this requirement is unnecessary in case of non-commercial operations.

Q5: According to us definition of 'flight' in Article 3 item d) covers these cases. In Hungary it is possible also for airports to sign insurance which covers these cases.

Q6: According to the Hungarian AIP air carriers need flight permission from the DAT to land (except non-traffic stops). Application shall contain evidence of insurance for liabilities as carrier of passengers and freight, as well as data of valid insurance covering damage liability to third parties on the ground.

Q7: We consider that a unified EU insurance certificate would be a good tool and could reduce the time spent on reviewing/inspecting these certificates.

Q11(8): According to the Hungarian regulation the minimum insurance cover for aircraft with a MTOM of less than 2700 kg in respect of non-commercial operation is 100 000 SDR in all aircraft categories.

Q12 (9): Neither DAT nor consumer protecting bodies are responsible for enforcement of Regulation 889/2002. However, DAT gets complaints from passengers from time to time, DAT gives only general information on the Regulation. The only legal way to enforce the Regulation is the judicial procedure initiated by the passenger.

Q14 (10): Yes, and we think that a harmonized definition for risks of war and terrorism would be useful.

Q15 (11): Yes, according to us this issue should be regulated at EC Regulation level.

Q16 (12): We think it would be a good tool to introduce harmonized rules in this area to protect passengers.

Q17 (13): See previous question.

Q18 (14): See next question.

Q19 (15): Non-commercial non-international operations should be regulated at national level.

Yours faithfully,

Zsolt Csaba HORVÁTH