



EUROPEAN COMMISSION

MEMO

EU Air Safety List: Questions and answers on air carriers that are restricted from operating within the European Union.

What is the EU Air Safety List?

The EU Air Safety List (ASL – formerly referred to as the "EU blacklist") is a list of air carriers from non-EU countries which do not fulfil the necessary international safety standards. The carriers on the ASL are banned from operating to, in and from the EU. Also, carriers which do not operate to the EU can be put on the ASL, in order to warn the public travelling outside of the EU about their unsafe status. If the safety authorities of a third country are not able to fulfil their international safety oversight obligations, all the carriers of such country can be put on the ASL.

The EU Air Safety List, while evidently not popular with the countries affected, has developed into a very powerful, and internationally recognised tool to help improve the safety of international aviation, both for flights to the EU, but also for aviation outside of the EU. The ASL is also seen as a strong preventive tool, because countries which are under scrutiny tend to improve their safety oversight to prevent seeing their air carriers on the list.

Which carriers are currently on the EU Air Safety List?

After the update of April 2019, the 33rd update, 120 air carriers are on the ASL:

- 114 airlines certified in 16 states¹, due to a lack of safety oversight by the aviation authorities from these states;
- Six individual airlines, based on safety concerns with regard to these airlines themselves: Avior Airlines (Venezuela), Iran Aseman Airlines (Iran), Iraqi Airways (Iraq), Blue Wing Airlines (Suriname), Med-View Airlines (Nigeria) and Air Zimbabwe (Zimbabwe).

An additional four airlines are subject to operational restrictions and can only fly to the EU with specific aircraft types: Afrijet (Gabon), Air Koryo (Democratic People's Republic of Korea), Air Service Comores (the Comoros) and Iran Air (Iran).

Who is responsible for the updates to the EU Air Safety List?

For the purpose of updating the list, the Commission is assisted by the EU Air Safety Committee (ASC) which is composed of aviation safety experts from all the EU Member States and chaired by the Commission. Acting on a proposal by the Commission, the Air

¹ Afghanistan, Angola (with the exception of 2 airlines), Republic of the Congo, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Eritrea, Gabon (with the exception of 1 airlines which operate under restrictions and conditions), the Kyrgyz Republic, Liberia, Libya, Republic of Moldova (with the exception of 3 airlines), Nepal, São Tomé and Príncipe, Sierra Leone and Sudan.

Safety Committee adopts its opinion by qualified majority, which is then submitted to the European Parliament before final adoption by the Commission and subsequent publication in the Official Journal. To date, all decisions taken by the Commission to impose or to lift restrictions have always been reached with the unanimous support of the ASC. Equally, every update of the ASL met with the unanimous support of the European Parliament's Transport Committee.

What is the procedure for updates to the EU Air Safety List?

All Member States and the European Aviation Safety Agency (EASA) have the obligation to communicate to the Commission information which may be relevant to updating the list. The European Commission and the Air Safety Committee use a variety of sources of information when assessing whether or not international safety standards are respected. These sources include ICAO, FAA, EASA, SAFA² and TCO³ reports, as well as information gathered by individual Member States and the Commission itself. It is important to note that this assessment is made against international safety standards (and not the EU safety standards, which are sometimes more stringent), and notably the standards promulgated by the International Civil Aviation Organisation (ICAO).

To whom does it apply?

The rules establishing the list of banned carriers apply to all air carriers irrespective of their nationality – EU and non-EU ones. The rules apply only to commercial air transport, i.e. to air transport of passengers and cargo for remuneration or hire. The rules do not apply to private and non-commercial flights.

How often is the list updated and what is the timeframe for this? Is there not a risk that it will quickly become obsolete?

The Air Safety List may be updated whenever the Commission deems it is necessary, or upon request of an EU Member State. The ASC meets normally two or three times every year, as necessary. In cases of emergency, a specific procedure is foreseen.

How can an airline be cleared and taken off the list?

It is possible for states and air carriers to be removed from the air safety list. If an airline considers that it should be taken off the list because it complies with the relevant safety standards, it can address a request to the Commission or a Member State, either directly or through its civil aviation authority. To enable a ban to be lifted, sufficient evidence needs to be provided to the EU to prove that the capacity of the airline and of its oversight authority to implement international safety standards is of a sufficient level. The Air Safety Committee will then assess the evidence presented by the airline and/or its oversight authority to substantiate its request for being withdrawn from the air safety list and formulate its opinion to the Commission. As a consequence, if an air carrier is on the air

² The SAFA (Safety Assessment of Foreign Aircraft) programme conducts inspections of aircraft landing at EU airports for compliance with ICAO Standards. The results are analysed by the European Aviation Safety Agency, and the data is used to assist in determining the safety performance of third country air carriers.

³ The TCO (Third Country Operator) programme is run by EASA and obliges every air carrier from outside of the EU to obtain a safety authorisation from EASA before it can operate to the EU.

safety list because the compliance with ICAO standards by its safety oversight authorities is very poor, it will require the state to address the significant non-compliances before that air carrier can be removed from the list.

In practical terms, this involves the air carrier and its state providing written information, attending meetings with the Commission and Member States, sometimes being subject to an on-site visit led by the Commission, and hearings in front of the Air Safety Committee.

How is an airline added to the list?

The procedure is the same as the one for updating the list. If the Commission or a Member State acquires evidence indicating serious safety deficiencies on the part of an airline or its oversight authority anywhere in the world, the list will be updated to include such airline or all the airline of such country.

Does the inclusion of an airline in the air safety list always mean that it is no longer allowed to fly in Europe?

YES. As long as the air carrier is subject to a total ban, it cannot operate with its aircraft and personnel in the EC. The airline is placed on Annex A to the regulation whereby the air safety list is updated. Equally, as long as an air carrier is subject to a partial ban it can operate only with the aircraft stipulated in the Regulation and cannot expand its network. The airline is placed on Annex B to the regulation whereby the Air Safety List is updated.

Also, banned airlines can use the aircraft and personnel of other airlines which are not on the ASL, on the basis of contracts called "wet-lease agreements". In this way, passengers and cargo can still be transported but only by airlines which fully comply with the safety rules. Furthermore, aircraft which are used for government or state purposes (e.g. transport of the heads of state and/or government), do not fall under the safety requirements of ICAO. Such aircraft are considered to be operating "state flights" and they can fly into the EU even if they are banned from operating commercial flights to the EU. However, such flights do need a special authorisation from all the Member States which the state aircraft overflies, as well as from the state of destination.

Finally, banned airlines cannot enter the airspace of any Member State and fly over their territory while they are banned (totally or partially).

Does the list prevent EU Member States from taking individual safety measures at a national level?

NO. The general principle is that whatever measure is considered at national level must be also examined at Union level. When an air carrier is considered unsafe and therefore banned in one Member State, there is an obligation to examine this measure at EU level with a view to applying it throughout the European Union. Nevertheless, even where a ban is not extended to the EU, there is scope for Member States to continue to act at national level in certain exceptional cases, particularly in emergencies or in response to a safety issue specifically affecting them.

What are airlines' "rights of defence"?

Airlines which have been banned, or which are being investigated in view of a potential ban, have the right to express their points of view, submit any documents which they

consider appropriate for their defence, and make oral and written presentations to the Air Safety Committee and the Commission. This means that they can submit comments in writing, add new items to their file, and ask to be heard by the Commission or to attend a hearing before the Aviation Safety Committee, which then formulates its opinion based on these proceedings and the materials submitted prior to or during the hearing.

Is there not a risk of retaliation by affected countries?

The Commission's sole aim is to improve aviation safety, which is in everyone's interest, and in no way to affect a country's economic or social development. Countries affected can put in place technical assistance measures to help airlines achieve a satisfactory level of aviation safety. While in the past the focus has been to put countries and carriers on the ASL, the Commission is now also focusing on working with affected states to help them improve their safety situation, in order to allow them to be released from the EU Air Safety List once the necessary safety levels have been reached.

How is the public informed about the EU Air Safety List?

The latest version of the list is made available to the public online at https://ec.europa.eu/transport/modes/air/safety/air-ban_en. The Commission also liaises closely with European and international travel agent associations each time that any changes are made to the list in order that they may be in the best possible position to aid their clients – the passengers – in making informed decisions when making their travel arrangements. Moreover, the "Air Safety List" regulation also obliges national civil aviation authorities, EASA and airports in the territory of the Member States to bring the ASL to the attention of passengers, both via their websites and, where relevant, in their premises.

In what way does the EU Air Safety List provide rights to European travellers?

The Air Safety List Regulation establishes the right of any passenger to know the identity of every airline they fly with throughout their trip. To this effect, the contracting carrier is required to inform passengers of the identity of the operating air carrier or carriers when making a reservation, whatever the means used to make the booking. The passenger must also be kept informed of any change of operating carrier, either at check-in or, at the latest, when boarding. The Regulation also gives passengers the right to reimbursement or re-routing if a carrier with which a booking has been made is subsequently added to the Air Safety List, resulting in cancellation of the flight concerned.

In what way does the publication of the EU Air Safety List help European citizens travelling beyond EU territory?

The ASL does not only ban unsafe airlines from operating to, from and into the EU. The publication of the list also provides useful information to people wishing to travel outside the European Union, in order for them to avoid flying with these airlines when travelling outside of the EU. The list also safeguards the rights of consumers who have bought a trip at a travel agent which includes a flight operated by an airline on the ASL.