



**Commissioner Adina-Ioana Vălean**

**Meeting with the Airlines International Representation in Europe (AIRE)**

04/02/2020

Commissioner Office

Brussels

Member of Cabinet responsible: [REDACTED]

Member accompanying:

DG participant(s): (including contact number):

### **Scene Setter**

AIRE members are AirExplore (SK), AlbaStar (ES), EuroAtlantic Airways, LOT, Evelop!, Neos, Transavia (NL), Novair (SE), Wamos Air (ES) and Turkish Airlines (TK), and associated members – Boeing, Embraer, Goldair Handling, Leading Edge, RDC Aviation, Spot Reisen, Swissport. You will meet with:

### **Airline Members**

[REDACTED]

### **AIRE Secretariat**

[REDACTED]

They would like to discuss the following issues (and have the following positions):

**Air Passenger Rights** - AIRE believes the current proposal is still fit for purpose and remedies the lack of clarity of the current Regulation,

**Environment** - AIRE supports the use of sustainable alternative fuels and will probably express concerns related to the legislative context on ETS/CORSIA, where AIRE supports a global solution and fear an excessive burden on airline in view of the ETS revision,

**Slots** - AIRE do not see the necessity to revise it,

**SES/SES2+** - AIRE would like to know more about the procedure, timing and content of SES reform. Airlines are generally supportive of SES reform, in particular, increasing powers of the network manager and strengthening the economic regulation of air navigation service providers,

**Airports** - AIRE seeks for an efficient economic regulation of airports and a genuine and transparent consultation process for charge-setting,

**International Agreements** - AIRE supports negotiations and implementation of the EU comprehensive air transport agreements with third countries.

*[See more on AIRE position in annex 1].*

**Objectives / Key messages to pass:**

- **Air Passenger rights:** Aire supports the Commission => Inform them on the latest state-of-play (fact finding study just concluded) and ask for support on the revision for which HR Presidency aims to reach a General Approach in the June Council.
- **ETS revision:** will probably express concerns related to the legislative context on ETS/CORSIA, where AIRE supports a global solution and fear an excessive burden on airline in view of the ETS revision => Confirm that the EC will propose to reduce free ETS allowances to airlines. This question will be duly looked into as part of our CORSIA implementation analysis to be completed in 2020 with a report from COM to EP and Council. It is still early to clearly discuss about it. The EU remains committed to implement Corsia from the start of its off-setting phase in 2021.
- **Sustainable Aviation Fuels:** Aire supports the use of SAF => confirm that we are looking into how best to foster the use of biofuels. A technical roundtable is foreseen on 4 March and we hope that Aire will participate.
- **Slot Regulation: Aire does not support the 2011 Commission's proposal and considers that European rules should be kept aligned with the rest of the world=>** Inform that we are assessing whether the EC 2011 proposal is still adequate. A study is underway and should be ready by April 2020.
- **SES2+:** Aire supports the reform=> Thank Aire for their support and confirm that the EC intends to present an amended proposal of SES in spring. You therefore count on their support.
- **Airport Charges directive:** Aire in favour of an economic regulation putting also in place a European economic regulator=> the EC is currently working on an impact assessment to assess the situation and we thank Aire for its involvement in this file. The outcome is expected second half of 2020.
- **Air services agreement:** AIRE supports negotiations and implementation of the EU comprehensive air transport agreements with third countries=> thank them for their support, inform about the state-of-play and ask them which third countries should be given priority for future negotiating mandates from their perspective.

## **Speaking Points**

### **Air Passenger Rights**

- Current rules need to be revised. Work has restarted in Council. Objective is General Approach in the June Council.
- We are aiming at a balanced system of simple and clear rules, which can be easily applied and effectively enforced.
- The fact-finding study on current level of protection of air passengers in the EU launched in December 2018 has been concluded. I thank you for your valuable participation in the study.

### **Environment**

- The European Green Deal is first priority of this Commission. For Transport and Mobility, we will adopt a strategy in 2020.
- In aviation we need a basket of measures:
  - Cleaner aircraft;
  - More efficient airspace: complete the Single European Sky
  - Global market Based measures (ETS/CORSIA)
  - Increase the uptake of alternative fuels.
- On sustainable aviation fuels, we will launch a study supporting an impact assessment. We will then consider various options including a blending mandate. We are also planning a technical roundtable on 4 March to which we hope you will participate.

### **CORSIA/ETS**

- Next year, the Commission will propose to reduce free ETS allowances to airlines. The modalities are not know yet, but we are closely working with DG CLIMA on it.
- The EU remains committed to implement CORSIA from the start of its off-setting phase in 2021. In the course of 2020, the Commission should report to the EP and Council on the best way to implement CORSIA.

### **Slots**

- Significant market developments in recent years. Stakeholder practice on slot allocation has developed and we expect further increase in traffic in the years and decades to come.
- We are assessing whether our 2011 proposal is still adequate. A study is underway, and should be ready by April 2020.
- Our aim is that slot rules ensure stable access by airline networks to congested airports and promote competition, ensure that available capacity is used efficiently and promotes connectivity.

### **Single European Sky (SES)**

- Essential to increase capacity in Europe and improve efficiency. As you know, SES part of the European Green Deal.

- Momentum for SES reform following the work of last year on the airspace architecture study and the Wise Persons Group Report, culminating in the joint declaration on the future of SES at September's high-level conference on a Digital European Sky, to which your association was a signatory.
- The Commission intends to present an amended proposal of SES in spring.
- I count on your support to your members to ensure their understanding of this process and the continued need for SES reform.

### **Airports**

- The 2019 evaluation of the Airport Charges Directive recognised that while the rules have brought many benefits, they sometimes lack sufficient detail and could be more efficient and better targeted to the airport's degree of market power. The evaluation identified situations where it is likely that the airlines – and not the airports - have significant “buyer power”.
- Commission is currently working on an impact assessment (IA), which looks in detail at various policy options. Along this exercise, all key stakeholders have been extensively consulted and we are very grateful for the airlines community's (including AIRE) constant and substantive involvement on this file. The outcome of this IA is expected in the second half of this year.

### **Air services agreements**

- Thank you for support in developing ambitious EU external aviation policy through the negotiation and implementation of comprehensive air transport agreements with key partners.
- Following Brexit, I hope that we will soon be able to sign the aviation agreements with Ukraine, Tunisia, Armenia and Qatar, which have been blocked by the Gibraltar issue. We also hope to finalise negotiations soon with ASEAN, Oman and Azerbaijan.
- As for the negotiations with Turkey, they have been suspended by the Council.
- We will soon start negotiations also with the UK, which will become our largest external aviation partner.
- As the existing negotiation mandates are gradually being fulfilled, I believe it also now time to start reflecting on possible future new negotiations with key partner countries. I would be interested to hear if you have any suggestions in this respect as to which third countries should be given priority?

### **Defensive Points**

***Airlines in Europe compete fiercely, while airports do not and the best proof is that many small airlines were forced to exit the market, while there is no case of airport bankruptcy. Why does COM see that airlines can have countervailing power, which they use in the relationship with airports?***

- The main issue that the Directive tries to address is indeed to prevent the risk of airports possessing significant market power to misuse such power and we are fully aware of airlines' strong views on this.

- However, the evaluation highlighted the risk that in certain cases the airport charges setting process might impose additional barriers to entry for airlines wishing to launch new services at an airport. An airline with significant buyer power could try to influence the airport charges setting process at the airport in a way which benefits them but is not in the interests of air passengers and cargo customers in general. For example, incumbent airlines could seek to oppose expansion at their hub airport(s). This might be the case even where that expansion would be in the overall interest of airlines and of air passengers and cargo customers in general.

***How will the study feed in the discussion of the Council on the revision of the Regulation on passenger rights?***

- Its purpose was to update the information supporting the Commission proposal of 2013 by assessing the current level of protection of air passenger rights and their environment. The study shows that the need for reform has become even more urgent since 2013. For passengers it is still rather difficult to enforce their rights, and for airlines the burden has increased.

***President von der Leyen declared that she favours reducing the amount of free allowances available to airlines. How do you intend to proceed? How does that fit with CORSIA implementation?***

- The President made it clear that the aviation sector will have to accelerate its efforts towards more sustainability, notably via a reduction of free ETS allowances for airlines. This question will be duly looked into as part of our CORSIA implementation analysis to be completed in 2020 with a report from COM to EP and Council. It is still early to clearly discuss about it.

***What could COM propose on SAF at EU level? Is COM considering a blending obligation for SAF?***

- COM is currently reflecting on how to launch the SAF market both on the supply and demand sides in the coming years. Options such as a SAF blending obligation could be considered. Of course, keeping in mind that it should be realistic, gradual and balanced. And we should further incentivising the use of only those SAFs which comply with strict and robust sustainability criteria.

**Background Notes**

**1. The Airport Charges Directive**

Directive 2009/12/EC establishes a common framework for regulating essential features of a set of charges that are paid by airlines to airports. These charges concern landing, take-off, lighting and parking of aircraft, and processing of passengers and freight. The Directive applies to all airports in the EU28 (plus EEA and Switzerland) which handle at least five million passengers per year or, for those Member States with no airport reaching this threshold, to the largest airport in terms of passenger movements in that Member State. 89 airports (out

of which 83 are located in the EU28) are covered by the Directive, capturing 85% of the passenger and 84% of the freight traffic in Europe.

Airport charges are a highly contentious matter between airports and airlines. Airlines unanimously call for a strengthening of the Directive, arguing that the Directive is neither correctly applied in the Member States, nor is it adequate or effective as it only deals with procedural aspects. It does not protect airlines and their passengers from airports abusing their market power and the framework functions well only in Member States where truly independent supervisory authorities put in place adequate economic regulation. Airports' position is that the Directive works well and therefore there is no need to revise it, pointing notably to the growing competition among European airports and among European and non-European airport hubs and to European airlines' consolidation which has increased airlines' buyer power. Airports argue that too stringent intervention would hamper much needed, but very costly investment in airport infrastructure and take the view that any form of supervision has to be tailored to national circumstances.

## **2. Passenger rights**

The revision of the Air Passenger Rights (APR) Regulation 261/2004 was tabled in 2013; it has been blocked in Council for nearly four years. The Commission still stands by its proposal, a revised Regulation being the best way to provide the legal certainty that both passengers and the industry are expecting. The dossier is now expected to move forward in the Council, with the support of the Croatian presidency, which has held two meetings on the topic in the Council in January).

AIRE has welcomed the European Commission's legislative proposal from 2013 as it presents a balanced concept with a well-designed trigger point structure for delay compensation and furthermore includes the principle of a list of extraordinary circumstances and limits the obligation on carriers to provide care and assistance.

This proposal is still fit for purpose and remedies the lack of clarity of the current Regulation.

the Commission launched a fact finding study on the current level of protection of air passengers in the EU (December 2018), which aims to identify the recent developments on the market. The final report has been published in January. AIRE participated in the study as well as to the presentation to stakeholders which took place on 30 January 2020 in Brussels.

## **3. Single European Sky (SES)**

The Single European Sky (SES) initiative was launched in 2004 with the goal of improving the performance of the European ATM system in terms of safety, capacity, cost-efficiency and environment. The SES initiative has delivered improvements in all of these areas and much has been achieved, especially in the field of technological innovation through the SESAR (SES ATM Research) modernisation project. Naturally, the landscape of European aviation has also

evolved considerably and new challenges are on the horizon. It is clear that the ATM system in Europe as it operates today has reached its capacity limits. Recent growth in air traffic is resulting in air traffic delays of a magnitude not seen for more than a decade, to the detriment of the environment and major inconvenience of air passengers.

- Delays in 2018 and 2019 were double those of 2017.
- Every fourth passenger now faces a delay of 15 minutes due to air traffic flow management.
- In addition, more flights are cancelled and connections are missed. Passenger compensation claims have soared. The overall economic cost of the delays was estimated by the European Network Manager at 17.9bn euro in 2018.
- The serious congestion situation would have produced an estimated additional 5-6 million tonnes of avoidable CO2 emissions in 2019, which have been partly mitigated by the re-routing measures taken by the Network Manager and a number of air navigation service providers.

#### **4. Slots**

The revision of the Slot Regulation 95/93 was tabled in 2011; it has been blocked in Council for nearly nine years. The Commission still stands by its proposal, introducing amendments needed due to changes in the market since then. Meanwhile and to support this endeavour, the Commission launched a fact finding study which aims to identify the recent developments on the market. The final report will be finalised by April 2020.

#### **5. Ground Handling**

The essence of Regulation (EU) 2018/1139 is not so much about extending the current scope than reinforcing the current system and closing gaps and inconsistencies. This has been done by adding new technical areas, such as ground handling.

This is therefore a new competence for EASA. The scope covers only safety relevant ground-handling services, with essential requirements addressed directly to service providers. There is no intent to develop certification requirement, and operators will instead be required to declare capability to discharge their responsibilities to the national authorities. Oversight will be based on common requirements and Acceptable Means of Compliance (AMC) and Guidance Material (GM) developed by EASA taking into account the existing industry standards.

The objective for 2021, is to publish an EASA Opinion for Ground Handling safety, i.e. to amend 'Aerodromes' Regulation No 139/2014 so as to incorporate safety standards for ground handlers

#### **6. Flight and Duty Time Limitations (FTL)**



The issue of Flight and Duty Time Limitations (FTL) is a long-standing one where airlines and aircrew positions differ. Common FTL rules were initially put forward in 2006 with the adoption of 'EU-OPS' Regulation No 1899/2006. It since been incorporated in Basic Regulation implementing regulation 965/2012 on 'Air Operations'.

EASA have conducted a first phase review of the effectiveness of the provisions concerning flight and duty time limitations and rest requirements. This report gives an overview of the work performed, results and recommendations, and critical assessment of the review of the effectiveness of the EU requirements concerning flight and duty time limitations and rest requirements.

EASA will launch a second phase of research on the effectiveness of FTL. The second phase of research shall build on the lessons learned from the first phase. The research project shall start at the beginning of 2020 and shall run over 3 years. EASA shall continue engaging Member States and industry stakeholders to support the second phase of the FTL research.

A Best Intervention Strategy from EASA on Aircrew fatigue has been launched by end of 2019 to address risks of fatigue based on the findings of the first phase study results conducted by EASA.

FTL is a highly sensitive and a hot topic for aircrews who exert consistent pressure in wanting to re-open the FTL regulatory provisions for revision. Airlines, including AIRE membership, do not share this ambition.

## **7. International agreements: State of play in on-going EU negotiations:**

### ASEAN:

- Negotiations practically completed in November 2018
- Awaiting Malaysia's agreement

### Azerbaijan:

- Few outstanding issues but slow progress and disappointing engagement on the Azerbaijani side probably as a result of negative lobbying by the national airline AZAL

### Turkey:

- 5th round of negotiations on 13-14 March 2019 was broken off early as unacceptable conditions for signature of the agreement tabled by Turkey for the EU-Turkey Association Council
- On 15 July the Council decided to suspend the aviation negotiations as a sanction against Turkish drilling exploration in Cypriot waters

### Oman:

- Good progress – main issue open is traffic rights
- Fourth – and possibly final - round planned in Spring 2020 in Brussels

## **Signed EU air transport agreements:**

- Switzerland (signed June 1999)
- ECAA (Western Balkans) (signed May 2006)
- Morocco (signed December 2006)
- Georgia (signed December 2010)
- Jordan (signed December 2010)
- Moldova (signed June 2012)
- Israel (signed June 2013)

**Initialled EU air transport agreements (negotiations finalised – signature pending):**

- Ukraine (negotiations finalised in 2013 - initialled)
- Armenia (negotiations finalised in 2017 – initialled)
- Tunisia (negotiations finalised in 2017 – initialled)
- Qatar (negotiations finalised in 2019 – initialled)

**Contacts:**



## Annex 1

### AIRE priorities for the new European Commission , May 27, 2019 |

#### Position papers

##### 1. Environment

- **A unique worldwide off-setting scheme to address airlines' CO<sub>2</sub> emissions**  
The airline sector is the only industry having volunteered to set up a very ambitious scheme tackling its CO<sub>2</sub> emissions. The agreement within ICAO to set up CORSIA represents an unprecedented decision with respect to a worldwide mitigation of an entire sector's CO<sub>2</sub> emissions. The agreed Global Market-Based Measure takes into account that CO<sub>2</sub> emissions have a global impact.  
Moreover, it is part of a basket of tangible measures adding improvements in technology, operations and infrastructure.  
AIRE acknowledges the instrumental role played by the European Union in the design of CORSIA.  
AIRE is confident that the European Commission recognises the high level of ambition of CORSIA and that it backs the idea that CORSIA will replace the EU-ETS for aviation.  
AIRE also considers that any national "green" tax on aviation CO<sub>2</sub> emissions or such tax at EU level would create a dangerous precedent for a patchwork of systems and potentially negatively affect the competitiveness of European airlines on a global level.
- **An accelerated defragmentation of the European Single Sky and a solution to the current inefficiencies**  
In addition to the current ETS and the future CORSIA replacing it, airlines are fully financing the aviation infrastructure through user charges (airports, air traffic control). These costs, including the costs of inefficiencies, should not be ignored as they are adding to the costs of off-setting.  
The lack of ATC capacity and continuing fragmentation of airspace is responsible for flight inefficiencies and unnecessary and unacceptable fuel burn and CO<sub>2</sub> emissions.

##### 2. SES2+

#### Press releases of Sep 11, 2019 EU Aviation stakeholders sign joint declaration on the future of the single European sky

- ***The signatories call on the EU Institutions and Members States to take the necessary steps to implement the joint declaration adopted today, outlining their shared commitment to improving Europe's airspace.***
- ***At the "Digital European Sky" conference, organised today under the Finnish Presidency of the EU, representatives of 21 EU aviation and workers associations will sign a joint declaration committing to a set of concrete actions to finally and fully implement the vision of a Single European Sky (SES).***

- *The joint declaration that will be signed today by A6 Alliance, A4 Airline Grouping, A4E, █████ ACI EUROPE, ASD, ATCEUC, Borealis Alliance, B4, CANSO, COOPANS, Drone Alliance Europe, EBAA, EHA, ERA, Gate One, IATA, IFATCA, IFATSEA and IAOPA sends a strong signal that the SES vision can only be achieved through the collaborative and coordinated efforts of all stakeholders, including Member States and the European Institutions.*
  - *Global passenger traffic is expected to double by 2037 – accommodating this growth while at the same time addressing its environmental and social impacts is key. The Single European Sky is an effective way to address European aviation environmental challenges by delivering an efficient and integrated air traffic management system. It will require the introduction of new technologies, interoperability of systems, harmonized regulation and adequate infrastructure.*
  - *Europe and its citizens deserve an efficient and sustainable airspace, and we hope that the full implementation of the SES vision will lead to these much-needed improvements.*
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- **A coherent, convergent and simplified regulatory framework**
  - **An empowered Network Manager**  
AIRE supports the Network Manager to expand its role to manage the Airspace, the Capacity and the Infrastructure subject to a new regulatory framework providing for:
    - An adequate industry governance of the functions with a prominent role for airlines and devoid of conflict of interests
    - A genuine performance scheme driving the right behavior and delivering the capacity required at an agreed cost, with penalties for the non-performers.
  - **An accelerated implementation of new airspace design and new technology.**  
There should a full convergence between the ATM Master Plan, the Airspace Architecture Study and the Network Strategy Plan. This convergence must be translated right away in a concrete action plan with measurable deliverables including quick wins.  
Airspace Usage Requirements must be based on a positive Cost Benefit Analysis, the technical requirements and exemption criteria need to be clear and timely available. The poor experience with the Data Link Services and Surveillance Performance and Interoperability (ADS-B) should not be duplicated.
  - **The utmost scrutiny in monitoring Member States performance plans.**  
ATM charges constitute a very significant cost to airlines. The inefficiencies of the European ATM system, both cost-wise and operations-wise, have been established, evidenced and quantified by the Performance Review Body (PRB). AIRE relies on the Commission and the PRB to reject Performance plans that would not be fully consistent with the letter and the spirit of the newly adopted Performance and Charging Regulation.

### 3. Airports

- **An economic regulation at European level on airports having Significant Market Power (SMP)**

Airport charges represent a very significant percentage of an airline's operating costs. These charges are constantly increasing throughout Europe.

The aviation sector is still missing a proper legal framework that would address the significant market power that airports have due to the inherent lack of competition in this sub-sector.

AIRE has been advocating for years that the only effective legal tool would be the robust economic regulation of airports meeting a number of defined criteria evidencing their market power (airports implementing Dual Till, congested airports, network airports, hub airports).

This regulation and its economic regulator must be established at the European level to ensure a harmonized system and a genuinely independent economic oversight.

### 4. Slots

- **A worldwide slots distribution system providing legal certainty**

Airport slot allocation is governed globally by the IATA Worldwide Slot Guidelines which are reflected in the currently applicable EU slot Regulation. AIRE does not support the 2011 Commission's proposal to revise the EU slot Regulation by introducing deep changes in the current system that conflict with globally set standards.

AIRE considers that European rules on slot allocation must be kept aligned with the rest of world as to provide legal certainty for airlines that rely on stable and globally agreed slot rules for their investments in aircraft and routes.

### 5. Digitalisation: A more seamless customer experience at borders for passengers

Innovation and digitalisation will continue to be a key tool in supporting the growth of the industry over the coming years, by delivering a more seamless customer experience and enhancing organisational efficiency. AIRE advocates for greater clarity and legal certainty, particularly in addressing concerns related to privacy and data protection, as well as security and immigration controls when looking at digital developments. In particular the EU should implement an encompassing iAPI solution for border control, which reduces administrative burden on airlines and provides clarity to passengers. Support of investments in safety and security technology and innovation are also vital in this respect.

### 6. Passengers rights

- **A balanced system and legal certainty**

Clear rules on air passenger rights would benefit airlines as well as their passengers. A lack of clarity in the current provisions results in unnecessary tensions between passengers and staff at the airports when irregularities occur, as well as in contacts afterwards between passengers and airlines' customer service departments.

AIRE has always stated that EU Regulation 261/2004 is an inadequate piece of legislation in its current state. The fact that the European Court of Justice was called upon at numerous occasions to provide interpretation on key design elements of EU Regulation 261/2004 is the best evidence that the law was written imprecisely.

AIRE believes that:

- It is high time for the European decision-makers to bring forward clear rules which cannot be misinterpreted.
- As passenger rights rules usually relate to incidents which result in discomfort for travelers, passengers should have access to easy-to-understand information about their applicable rights. This can only be ensured when robust rules are established which, after their publication, cannot be interpreted in ways which diverge from what they were intended for.
- Air passenger rights rules should be balanced in taking into account the interests of both the passengers and airlines.

AIRE has welcomed the European Commission's legislative proposal from 2013 as it presents a balanced concept with a well-designed trigger point structure for delay compensation and furthermore includes the principle of a list of extraordinary circumstances and limits the obligation on carriers to provide care and assistance.

This proposal is still fit for purpose and remedies the lack of clarity of the current Regulation.

## **7. Safety**

- **An improved standardisation at national aviation authorities**  
The differences in implementation by Member States and the lack of standardisation create an unnecessary burden for organisations operating in different Member States, but also difficulties to obtain the necessary approvals from the competent authority.
- **An improved cooperative support between national aviation authorities**  
The common-sense proposal to remove the prior approval for intra-EU leasing can be addressed by a better cooperative oversight between NAAs.
- **An extended application of EU safety regulations relating to Ground Handling**  
Ground Handling service providers are the only major safety-critical stakeholders that are not directly subject to EU aviation safety regulations. In addition, smaller and seasonal airports are prone to be exempted by the Member States from the EASA New Basic Regulation. Common EU training standards could reduce costs and number of safety audits. There is merit for EASA to harmonise the variety of airline operational procedures, both on safety and costs.

## **8. International liberalisation of Air Service Agreements**

- **More connectivity and choices for passengers**

The EU should continue to pursue liberal aviation agreements for the benefit of a wider and well-connected European market. When the UK departs, the Commission should ensure that an ambitious aviation agreement between the EU and this crucial third country is concluded at the earliest possible moment, thereby ensuring the mutual protection of investments in the aviation sector and continued reciprocal access to airspace.