

Directive 2009/12/EC of the European Parliament and of the Council
of 11 March 2009 on airport charges (Text with EEA relevance)

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PARLIAMENT AND OF THE COUNCIL

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

Having regard to the opinion of the Committee of the Regions⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽³⁾,

Whereas:

- (1) The main task and commercial activity of airports is to ensure the handling of aircraft, from landing to take-off, and of passengers and cargo, so as to enable air carriers to provide air transport services. For this purpose, airports offer a number of facilities and services related to the operation of aircraft and the processing of passengers and cargo, the cost of which they generally recover through airport charges. Airport managing bodies providing facilities and services for which airport charges are levied should endeavour to operate on a cost-efficient basis.
- (2) It is necessary to establish a common framework regulating the essential features of airport charges and the way they are set, as in the absence of such a framework, basic requirements in the relationship between airport managing bodies and airport users may not be met. Such a framework should be without prejudice to the possibility for a Member State to determine if and to what extent revenues from an airport's commercial activities may be taken into account in establishing airport charges.
- (3) This Directive should apply to airports located in the Community that are above a minimum size as the management and the funding of small airports do not call for the application of a Community framework.
- (4) In addition, in a Member State where no airport reaches the minimum size for the application of this Directive, the airport with the highest passenger movements enjoys such a privileged position as a point of entry to that Member State that it is necessary to apply this Directive to that airport in order to guarantee respect for certain basic principles in the relationship between the airport managing body and the airport users, in

particular with regard to transparency of charges and non-discrimination among airport users.

- (5) In order to promote territorial cohesion, Member States should have the possibility to apply a common charging system to cover an airport network. Economic transfers between airports in such networks should comply with Community law.
- (6) For reasons of traffic distribution Member States should be able to allow an airport managing body for airports serving the same city or conurbation to apply a common and transparent charging system. Economic transfers between these airports should comply with relevant Community law.
- (7) Incentives for starting up new routes, such as to promote, inter alia, the development of disadvantaged and outermost regions should only be granted in accordance with Community law.
- (8) The collection of charges with respect to the provision of air navigation services and groundhandling services has already been addressed by Commission Regulation (EC) No 1794/2006 of 6 December 2006 laying down a common charging scheme for air navigation services⁽⁴⁾ and Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports⁽⁵⁾ respectively. The charges levied for the funding of assistance to disabled passengers and passengers with reduced mobility are governed by Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air⁽⁶⁾.
- (9) The Council of the International Civil Aviation Organisation (the ICAO Council) in 2004 adopted policies on airport charges that included, inter alia, the principles of cost-relatedness, non-discrimination and an independent mechanism for economic regulation of airports.
- (10) The ICAO Council has considered that an airport charge is a levy that is designed and applied specifically to recover the cost of providing facilities and services for civil aviation, while a tax is a levy that is designed to raise national or local government revenues which are generally not applied to civil aviation in their entirety or on a cost-specific basis.
- (11) Airport charges should be non-discriminatory. A compulsory procedure for regular consultation between airport managing bodies and airport users should be put in place with the possibility for either party to have recourse to an independent supervisory authority whenever a decision on airport charges or the modification of the charging system is contested by airport users.
- (12) In order to ensure impartial decisions and the proper and effective application of this Directive, an independent supervisory authority should be established in every Member State. The authority should be in possession of all the necessary resources in terms of staffing, expertise, and financial means for the performance of its tasks.
- (13) It is vital for airport users to obtain from the airport managing body, on a regular basis, information on how and on what basis airport charges are calculated. Such transparency

would provide air carriers with an insight into the costs incurred by the airport and the productivity of an airport's investments. To allow an airport managing body to properly assess the requirements with regard to future investments, the airport users should be required to share all their operational forecasts, development projects and specific demands and suggestions with the airport managing body on a timely basis.

- (14) Airport managing bodies should inform airport users about major infrastructure projects as these have a significant impact on the system or the level of airport charges. Such information should be provided in order to make monitoring of infrastructure costs possible and with a view to providing suitable and cost-effective facilities at the airport concerned.
- (15) Airport managing bodies should be enabled to apply airport charges corresponding to the infrastructure and/or the level of service provided as air carriers have a legitimate interest to require services from an airport managing body that correspond to the price/quality ratio. However, access to a differentiated level of infrastructure or services should be open to all carriers that wish to avail of them on a non-discriminatory basis. If demand exceeds supply, access should be determined on the basis of objective and non-discriminatory criteria to be developed by an airport managing body. Any differentiation in airport charges should be transparent, objective and based on clear criteria.
- (16) Airport users and the airport managing body should be able to conclude a service level agreement with regard to the quality of service provided in return for airport charges. Negotiations on the quality of service provided in return for airport charges could take place as part of the regular consultation.
- (17) Different systems exist in different Member States concerning the pre-financing of airport investments. In Member States where pre-financing occurs, Member States or airport managing bodies should refer to ICAO policies and/or establish their own safeguards.
- (18) This Directive should be without prejudice to the Treaty, in particular Articles 81 to 89 thereof.
- (19) Since the objective of this Directive, namely to set common principles for the levying of airport charges at Community airports, cannot be sufficiently achieved by the Member States as systems of airport charges can not be put in place at national level in a uniform way throughout the Community and can therefore, by reason of its scale and effects, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS DIRECTIVE:

Status: This is the original version (as it was originally adopted).

- (1) [OJ C 10, 15.1.2008, p. 35.](#)
- (2) [OJ C 305, 15.12.2007, p. 11.](#)
- (3) Opinion of the European Parliament of 15 January 2008 (not yet published in the Official Journal), Council Common Position of 23 June 2008 ([OJ C 254 E, 7.10.2008, p. 18](#)) and Position of the European Parliament of 23 October 2008 (not yet published in the Official Journal). Council Decision of 19 February 2009.
- (4) [OJ L 341, 7.12.2006, p. 3.](#)
- (5) [OJ L 272, 25.10.1996, p. 36.](#)
- (6) [OJ L 204, 26.7.2006, p. 1.](#)