

Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) (Text with EEA relevance)

CHAPTER I

**GENERAL PROVISIONS**

*Article 1*

**Subject matter**

1 This Regulation regulates the licensing of Community air carriers, the right of Community air carriers to operate intra-Community air services and the pricing of intra-Community air services.

2 The application of Chapter III of this Regulation to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.

*Article 2*

**Definitions**

For the purposes of this Regulation:

1. 'operating licence' means an authorisation granted by the competent licensing authority to an undertaking, permitting it to provide air services as stated in the operating licence;
2. 'competent licensing authority' means an authority of a Member State entitled to grant, refuse, revoke or suspend an operating licence in accordance with Chapter II;
3. 'undertaking' means any natural or legal person, whether profit-making or not, or any official body whether having its own legal personality or not;
4. 'air service' means a flight or a series of flights carrying passengers, cargo and/or mail for remuneration and/or hire;
5. 'flight' means a departure from a specified airport towards a specified destination airport;
6. 'local flight' means a flight not involving carriage of passengers, mail and/or cargo between different airports or other authorised landing points;
7. 'airport' means any area in a Member State especially adapted for air services;
8. 'air operator certificate (AOC)' means a certificate delivered to an undertaking confirming that the operator has the professional ability and organisation to ensure the safety of operations specified in the certificate, as provided in the relevant provisions of Community or national law, as applicable;

9. ‘effective control’ means a relationship constituted by rights, contracts or any other means which, either separately or jointly and having regard to the considerations of fact or law involved, confer the possibility of directly or indirectly exercising a decisive influence on an undertaking, in particular by:
- (a) the right to use all or part of the assets of an undertaking;
  - (b) rights or contracts which confer a decisive influence on the composition, voting or decisions of the bodies of an undertaking or otherwise confer a decisive influence on the running of the business of the undertaking;
10. ‘air carrier’ means an undertaking with a valid operating licence or equivalent;
11. ‘Community air carrier’ means an air carrier with a valid operating licence granted by a competent licensing authority in accordance with Chapter II;
12. ‘business plan’ means a detailed description of the air carrier's intended commercial activities for the period in question, in particular in relation to the expected market development and the investments to be carried out, including the financial and economic implications of these activities;
13. ‘intra-Community air service’ means an air service operated within the Community;
14. ‘traffic right’ means the right to operate an air service between two Community airports;
15. ‘seat-only sales’ means the sale of seats, without any other service bundled, such as accommodation, directly to the public by the air carrier or its authorised agent or a charterer;
16. ‘scheduled air service’ means a series of flights possessing all the following characteristics:
- (a) on each flight seats and/or capacity to transport cargo and/or mail are available for individual purchase by the public (either directly from the air carrier or from its authorised agents);
  - (b) it is operated so as to serve traffic between the same two or more airports, either:
    - according to a published timetable, or
    - with flights so regular or frequent that they constitute a recognisably systematic series;
17. ‘capacity’ means the number of seats or the payload offered to the general public on a scheduled air service over a given period;
18. ‘air fares’ means the prices expressed in euro or in local currency to be paid to air carriers or their agents or other ticket sellers for the carriage of passengers on air services and any conditions under which those prices apply, including remuneration and conditions offered to agency and other auxiliary services;
19. ‘air rates’ means the prices expressed in euro or in local currency to be paid for the carriage of cargo and the conditions under which those prices apply, including remuneration and conditions offered to agency and other auxiliary services;
20. ‘Member State(s) concerned’ means the Member State(s) between or within which an air service is operated;

21. 'Member State(s) involved' means the Member State(s) concerned and the Member State(s) where the air carrier(s) operating the air service is (are) licensed;
22. 'conurbation' means an urban area comprising a number of cities or towns which, through population growth and expansion, have physically merged to form one continuous built up area;
23. 'management account' means a detailed statement of income and costs of an air carrier for the period in question including a breakdown between air-transport-related and other activities as well as between pecuniary and non-pecuniary elements;
24. 'dry lease agreement' means an agreement between undertakings pursuant to which the aircraft is operated under the AOC of the lessee;
25. 'wet lease agreement' means an agreement between air carriers pursuant to which the aircraft is operated under the AOC of the lessor;
26. 'principal place of business' means the head office or registered office of a Community air carrier in the Member State within which the principal financial functions and operational control, including continued airworthiness management, of the Community air carrier are exercised.