

## NOTICES FROM MEMBER STATES

**Greek national procedure for the allocation of limited air traffic rights**

(2007/C 278/03)

In accordance with Article 6 of Regulation (EC) No 847/2004 of the European Parliament and of the Council on the negotiation and implementation of air service agreements between Member States and third countries, the European Commission publishes the following national procedure for the distribution among eligible Community carriers of air traffic rights where they are limited under air service agreements with third countries.

**'Ministry for Transport and Communications Civil Aviation Service — Directorate-General for Air Transport — Directorate for Air Operations — Section B — Bilateral Air Services Agreements — Reference No d1/b/28178/2647**

Athens, 19 July 2007

Subject: Approval of the Regulation on the designation of a Community air carrier established in Greece for the operation of scheduled services between Greece and countries outside the European Union.

DECISION

**The Governor**

Having regard to:

- (1) The provisions of the Convention on International Civil Aviation of 7 December 1944 and Act 211/1947 on International Civil Aviation.
- (2) The Treaty on European Union, and in particular Article 43 thereof.
- (3) The Agreement on the European Economic Area, signed at Porto on 2 May 1992, and the Adjusting Protocol, signed at Brussels on 17 March 1993.
- (4) The Agreement between the European Community and the Swiss Confederation on Air Transport, signed at Luxembourg on 21 June 1999.
- (5) The provisions of Regulations (EEC) No 2407/92 on licensing of air carriers and (EEC) No 2408/92 on access for Community air carriers to intra-Community air routes.
- (6) The provisions of Regulation (EC) No 847/2004 of 29 April 2004 on the negotiation and implementation of air service agreements between Member States and third countries, and in particular Articles 5 and 6 thereof.
- (7) The Declaration on the right of establishment adopted by the Council of Transport Ministers of the European Union on 5 June 2003.

- (8) The provisions of Article 24 of Legislative Decree 714/70 on the establishment of the Air Transport Directorate and the organisation of the Civil Aviation Authority, as replaced by Article 13(3) of Act 3082/02 (Government Gazette, Series I, No 316 A).
- (9) The provisions of Act 1815/1988 on the Air Navigation Code, as currently in force.
- (10) The provisions of Article 29A of Act 1558/1985 on Government and Government Bodies (Government Gazette, Series I, No 137 A), as amended by Article 27 of Act 2081/1992 (Government Gazette, Series I, No 154 A) and replaced by Article 1(2)(a) of Act 2469/1997 (Government Gazette, Series I, No 38 A).
- (11) The fact that this Regulation entails no expenditure under the national budget,

HAS DECIDED AS FOLLOWS:

The Regulation on the designation of a Community air carrier established in Greece for the operation of scheduled services between Greece and countries outside the European Union, as set out below, is hereby approved:

“Regulation on the designation of a Community air carrier established in Greece for the operation of scheduled services between Greece and countries outside the European Union”

## Article 1

**Purpose of the Regulation**

The purpose of this Regulation is to lay down the procedure and the criteria for the designation of Community air carriers which have an establishment in Greece for the operation of scheduled services between Greece and countries outside the European Union which are not covered by Regulation (EEC) No 2408/92 on the basis of the relevant bilateral air service agreements.

## Article 2

**Definitions**

For the purpose of this Regulation the following definitions shall apply:

- (a) Designation: means the award to one or more interested Community air carriers of the right to operate scheduled air services between Greece and a third country agreed in the corresponding bilateral air service agreement, the third country concerned being notified thereof through diplomatic channels (except where the bilateral air service agreement provides otherwise).
- (b) Community Carrier: means an air carrier with a valid operating licence in accordance with the provisions of the relevant Community legislation.

## Article 3

**Procedure**

(a) The procedure for the designation of a Community air carrier for the operation of scheduled air services between Greece and a country outside the EU not covered by Regulation (EEC) No 2408/92 is initiated either on the initiative of the Civil Aviation Authority (CAA) or following an application from a Community air carrier established in Greece in accordance with the provisions of the relevant Community legislation, and is as follows:

- (i) Invitation from the CAA to Community air carriers established in Greece in accordance with the Community legislation in force to express interest in the designation of one or more air carriers (in accordance with the provisions of the relevant bilateral air service agreement) for the operation of scheduled air services to/from an EU country not covered by Regulation (EEC) No 2408/92 in accordance with the provisions of the relevant bilateral air service agreement. The invitation shall take the form of a notice from the CAA Directorate for Air Operations (D1) addressed to Community air carriers established in Greece or to associations thereof. The notice shall include any application for designation which has already been submitted for the route in question. The notice shall also be published on the CAA's website ([www.hcaa.gr](http://www.hcaa.gr)).
- (ii) The deadline for submission of an expression of interest shall be twenty calendar days from the date of publication of the notice.

## Article 4

**Supporting documents required**

(a) A Community air carrier which expresses interest in being designated for the operation of an extra-EU scheduled air service not covered by Regulation (EEC) No 2408/92 shall submit to the CAA Directorate for Air Operations an application accompanied by an assessment file, which shall contain the following supporting documents:

- (i) its operating licence and air operator's certificate together with the accompanying special conditions;
  - (ii) data showing the carrier has an authorised representative (establishment) in Greece;
  - (iii) a flight plan, which shall contain a detailed list of services with the number, type and capacity of the main and auxiliary aircraft which the air carrier intends to use for the operation of the said services, the frequencies and the proposed date of commencement and duration of services, and data showing whether the aircraft are owned or chartered;
  - (iv) a detailed three-year forecast of the financial results for the route in question, including data allowing the viability of the route to be assessed (expected market share on the route, fuel prices, salaries, maintenance, insurance premiums, taxes, groundhandling, catering, expected revenue, expenses, etc.);
  - (v) the tariffs/fares which will apply to the route;
  - (vi) any commercial practices (code-sharing, alliances) which will apply to the route;
  - (vii) data demonstrating the air carrier's operational and financial capacity to operate the route in accordance with Article 5 of Regulation (EEC) No 2407/92.
- (b) Only applications accompanied by a complete file will be examined.
- (c) The application and the supporting documents shall be in Greek. The application shall state the address in Greece to which the CAA is to address correspondence.
- (d) Where it deems necessary, the Civil Aviation Authority may request the submission of additional information, which the air carrier shall be obliged to submit within fifteen calendar days.

## Article 5

**Designation criteria**

(a) The criteria for selecting a Community air carrier which has submitted an application for designation to operate an extra-EU route not covered by Regulation (EEC) No 2408/92, including those provided for in the relevant bilateral air services agreement, shall be as follows:

- (i) provision of sufficient and satisfactory services, with particular reference to:
  - the satisfaction of demand for air travel,

- the nature of the services, in terms of direct flights or flights with stopovers, and the increase in the range of services available to the travelling public,
  - the frequency of the services,
  - the capacity provided,
  - the fares policy (e.g. proposed fares and fare structure, different fares expected to be offered),
  - the date of commencement of services,
  - the period during which the services will be provided and the scope for the continuous provision of such services in the form of scheduled services, on the basis above all of the expected viability of the route,
  - the reliability of the air carrier, if it has previously been designated to operate an external route, as regards compliance with its obligations as set out in Article 7 hereof;
- (ii) the quality of the services provided, with particular reference to:
- the type and number of the main and auxiliary aircraft which will be used to operate the route,
  - the existence of a sales network for the convenience of the travelling public;
- (iii) the market situation, with particular reference to:
- the impact of the air carrier's designation on competition on the specific market and on the increase in the market share of Community air carriers on the route in question,
  - the contribution to the promotion of the development of tourism and/or economic and/or regional development in Greece;
- (iv) account shall also be taken of the following criteria:
- basic knowledge of the Greek language on the part of passenger cabin crew and sales staff,
  - In the event of more than one application receiving equal ranking on the basis of the above criteria, priority shall be given to the first application for designation for the route in question submitted with the necessary supporting documents, provided that application was submitted for the first time after the corresponding invitation to express interest was published by the CAA.

#### Article 6

#### Procedure for the assessment and selection of the air carrier

- (a) The Directorate of the CAA responsible for examining applications (Directorate for Air Operations/Bilateral Air Services Agreements Section) shall examine the air carriers' files on the basis of the provisions of Articles 4 and 5 hereof. Within two months of the date of receipt of the last application and/or supporting document, or otherwise within two months of the start of the examination of the applications, the competent

Directorate shall draft a reasoned designation proposal and submit it to the Governor of the CAA.

(b) The Community air carrier(s) to be designated shall be selected by act of the Governor of the CAA on the basis of the abovementioned proposal within thirty days of its submission.

(c) The said act shall contain the operating conditions of the route in question (e.g. frequency of services, capacity and any other conditions, in accordance with the provisions of the relevant bilateral air services agreement). Where appropriate, rejection of an application shall be decided by a similar act. The abovementioned decisions shall be communicated to all air carriers which have expressed interest in being designated and shall be published on the CAA's official website.

(d) Appeals against the decisions referred to at point b above may be submitted to the Minister for Transport and Communications.

(e) Designation of the selected air carrier to the authorities of the foreign State shall be done on the basis of the provisions of the relevant bilateral air services agreement.

(f) Where an air carrier submits an application for an increase in the frequency of services on the route for which it has been designated, it shall submit a file including the information referred to in Article 4(a)(iii), (iv) and (v) hereof and listing any amendments/changes/additions to the data referred to in Article 4(a)(i) and (ii). Within two months of the date of submission of the application the competent Directorate shall draft a reasoned proposal for the amendment of the designation act in line with the application submitted and shall submit it to the Governor of the CAA.

#### Article 7

#### Obligations of the designated air carrier

(a) The designated air carrier must take all due preparatory action for the operation of the route for which it has been designated such that services commence no later than six months after the date of its designation and without exceptions from the flight plan which it submitted, except in the event of exceptional circumstances.

(b) The designated air carrier must inform the competent Directorate of the CAA of any change in its flight plan on the route for which it has been designated.

(c) When providing services on the routes for which it has been designated, the designated air carrier must comply faithfully with the provisions of national and international legislation on the operation of international air transport services and with the procedures and guidelines laid down by the aviation authority of the country in which it has been designated, in accordance with the provisions of the relevant bilateral air services agreement.

(d) The transfer of the rights in question to another air carrier is not permitted.

*Article 8***Reassessment of the designated air carrier and revocation of designation**

(a) In the event of a substantial change in the operational, commercial, financial or other information on the basis of which the air carrier(s) was/were designated in accordance with this Regulation, and/or failure on the part of the air carrier(s) to comply with the provisions hereof, the CAA may at any time reassess the air carrier(s) in accordance with the provisions hereof, with respect either to the renewal of the designation act or to the revocation of its designation and, where deemed appropriate, issue an invitation to express interest to air carriers.

(b) In particular, failure in part or in whole to use the rights for a period exceeding six months, in accordance with the provisions of Article 7(a) above, partial or total interruption by the

air carrier of the operation of the services for a period exceeding six months, and/or submission by the air carrier of a written application for the suspension of the operation of the services in question, shall constitute sufficient reason to revoke the designation; the CAA may, where it deems appropriate, issue a new invitation to express interest to air carriers.

**Entry into force**

This Regulation shall enter into force on the date of its publication in the Government Gazette.

This Regulation shall be published in the Government Gazette.

*The Governor*

Ioannis ANDRIANOPOULOS'

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