

EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION

EUROCONTROL

- Decision of the enlarged Commission -

DECISION No. 19/160

relating to the conclusion of a bilateral agreement with France relating to the suspension of the provision of air navigation services in the airspace of France for default in the payment of EUROCONTROL route charges

THE ENLARGED COMMISSION:

Having regard to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation, as amended by the Protocol signed at Brussels on 12 February 1981, and in particular Article 5 thereof;

Having regard to Article 2.1 (q) of the consolidated version of the Convention annexed to the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation as variously amended, which was opened for signature on 27 June 1997, as early implemented by Permanent Commission Decision No. 71 of 9 December 1997;

Having regard to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation, as amended by the Protocol signed at Brussels on 12 February 1981, and in particular Articles 7.2 and 11 thereof;

Having regard to the Multilateral Agreement relating to route charges of 12 February 1981 and in particular Articles 11 and 12 thereof;

Considering the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960 as variously amended, which was opened for signature on 27 June 1997, and in particular Article 6.2 of Annex IV to the consolidated version annexed to the said Protocol;

On the proposal of the enlarged Committee and the Agency;

HEREBY TAKES THE FOLLOWING DECISION:

Sole Article

The Agency is authorised to conclude a bilateral agreement with France relating to the suspension of the provision of air navigation services in the airspace of France for default in the payment of EUROCONTROL route charges, on the basis of an Agreement, copy of which is at Appendix.

Done at Brussels, on 21.10.2019

Tatevik Revazyan
President of the Commission



Agreement between EUROCONTROL and the Ministry of Ecological and Inclusive Transition of the French Republic relating to the suspension of the provision of air navigation services in the airspace of France in the event of default in the payment of EUROCONTROL route charges

EUROCONTROL¹, represented by its Director General, Mr Eamonn Brennan,

and

the Minister for Ecological and Inclusive Transition of the French Republic, Directorate General of Civil Aviation (DGAC), represented by Mr Patrick Gandil, Director General, hereinafter referred to as the “DGAC”,

Hereinafter collectively referred to as “the Parties”,

Taking into consideration the following:

- Having regard to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation, as amended by the Protocol signed at Brussels on 12 February 1981, and in particular Article 5 thereof;
- Having regard to Article 2.1 (q) of the consolidated version of the Convention annexed to the Protocol, which was opened for signature on 27 June 1997, consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation as variously amended and as implemented early by Permanent Commission Decision No 71 of 9 December 1997;
- Having regard to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation, as amended by the Protocol signed at Brussels on 12 February 1981, and in particular Articles 7.2 and 11 thereof;
- Having regard to the Multilateral Agreement relating to Route Charges of 12 February 1981, and in particular Articles 11 and 12 thereof, which stipulates that measures may be taken to enforce recovery where a debtor has not paid the amount due in respect of route charges;
- Considering the Protocol consolidating the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960 as variously amended, which was opened for signature on 27 June 1997, and in particular Article 6.2 of Annex IV to the consolidated version annexed to the said Protocol, by virtue of which these measures may also include, at EUROCONTROL’s request, a revision by a Contracting Party or any competent body of the administrative authorisations connected with air transport or air traffic management issued to a person liable to pay the charge, if the relevant legislation so provides;
- Having regard to the Civil Aviation Code, in particular Article R. 134-7 thereof;

¹ The European Organisation for the Safety of Air Navigation

- Having regard to Decision No [...], taken by the enlarged Commission on [...] 2019, authorising the Agency to conclude a bilateral agreement with the DGAC relating to the suspension of the provision of air navigation services in the airspace of France in the event of default in the payment of EUROCONTROL route charges;

The parties have agreed as follows:

Article 1 – Route charges in arrears

- 1.1. EUROCONTROL may ask the DGAC in writing to suspend the provision of air navigation services to a user in arrears in order to recover unpaid route charges, provided that part of the route charges due is intended for the DGAC.
- 1.2. The DGAC shall be under no obligation to suspend the provision of air navigation services.
- 1.3. Details relating to the procedure to be followed shall be included in a document entitled “Working Procedures” validated by the Parties. The working procedures may be amended and approved by written agreement between the DGAC service responsible for air navigation charges and the EUROCONTROL service responsible for recovering those charges.

Article 2 – Indemnification and hold harmless agreement

- 2.1. EUROCONTROL shall indemnify the DGAC and its staff and hold them harmless in respect of:
 - a) any liability actions in the event of loss, damage or injury to an aircraft (including loss of use thereof) or to persons (including injury resulting in death) arising directly from the suspension of the provision of air navigation services in the airspace of France as a result of default in the payment of EUROCONTROL route charges, following a request from EUROCONTROL;
 - b) the costs borne by the DGAC following the suspension of the provision of air navigation services. These costs include parking costs and other costs which may be incurred as a result of an aircraft being unable to leave France;
 - c) reasonable legal fees incurred by the DGAC in defending its interests against any claim, legal action or judicial proceedings resulting directly from the suspension of the provision of air navigation services following a request from EUROCONTROL.
- 2.2. The cover provided for in 2.1 shall not apply if the loss, damage or injury to an aircraft and/or persons is the result of gross negligence or wilful misconduct on the part of the DGAC or its staff.

Article 3 – Cooperation between the Parties

- 3.1. The Parties shall fully cooperate and assist each other in connection with any claim, legal action or judicial proceedings resulting directly from the suspension of the provision of air navigation services following a request from EUROCONTROL.

- 3.2. If the DGAC becomes aware of an actual or potential claim, legal action or judicial proceedings against it, EUROCONTROL or any other third party resulting from the suspension of air navigation service following a request from EUROCONTROL, the DGAC shall duly inform EUROCONTROL in writing.
- 3.3. The DGAC shall consult with EUROCONTROL on how to respond to any claim, legal action or judicial proceedings against the DGAC arising from the suspension of the provision of air navigation services following a request from EUROCONTROL.

Article 4 – Costs

- 4.1. The costs payable by EUROCONTROL on the basis of Article 2.1(b) incurred by an airport operator and/or a supplier of ground handling services and charged to the DGAC must be reimbursed to the DGAC within 30 days of EUROCONTROL receiving the request for payment from the DGAC. Such a request shall be sent to EUROCONTROL once the suspension of the provision of air navigation services has been lifted.
- 4.2. Where the provision of air navigation services is suspended by the DGAC as a result of both default in the payment of EUROCONTROL route charges and default in the payment of charges other than route charges, the costs referred to in Article 2.1 shall be borne, in proportion to the amount of the unpaid charges, by EUROCONTROL in respect of route charges and by the DGAC in respect of charges other than route charges.

Article 5 – Applicable law and competent jurisdiction

- 5.1. This Agreement shall be governed by the provisions of French law.
- 5.2. The Parties hereby agree that any dispute which arises in connection with this Agreement and which cannot be resolved by direct negotiation shall be brought before the competent French court.

Article 6 – Amendments

This Agreement may be amended only by an instrument in writing of equal formality, signed by the duly authorised representatives of the Parties.

Article 7 – Confidentiality

Unless required by law or regulation, this Agreement and any working procedures agreed by the Parties shall remain confidential and their content may only be disclosed to third parties on a need-to-know basis. Any disclosure to a third party must be on the same basis of strict confidentiality.

Article 8 – Entry into force

This Agreement shall enter into force on the day of its signature by both Contracting Parties.

In witness whereof, the undersigned, having been duly authorised, sign this Agreement.

Done in two original copies in the French and English language. In the event of any inconsistency between the two versions, the text in the French language shall prevail.

For the DGAC



Patrick Gandil
Director General

Signed on

For EUROCONTROL



Eamonn Brennan
Director General

Signed on

14 NOV. 2019

