

A revision for a socially sustainable European aviation

The associations of the Nordic Pilot Symposium position on the revision of Regulation (EC) No 1008/2008 Air Services Regulation. Oslo, June 2025.

Our key proposals

The Nordic airline pilot associations call on the EU institutions and the national governments in the EU/EEA to move forward with a revision of the Regulation (EC) No 1008/2008 Air Services Regulation to develop and secure a socially sustainable European aviation. This can be achieved by ending the social abuses, creating a level playing field and strengthening the industry's resilience by achieving three key policy objectives:

1. Define the term Operational Base and mandate local labour law and oversight.
2. Introduce a Presumption of Employment to eliminate bogus self-employment.
3. Define the criteria for wet leasing for its intended use, no further liberalisation.

The need for a revision of the regulation (EC) No 1008/2008

In 2008 the Air Services Regulation, known as Regulation (EC) No 1008/2008, was adopted by the European Parliament and Council. It allowed any Community airline to establish operations in any Member State. Unfortunately, policy makers did not account for the social impacts of this decision. In a commoditised industry (ticket price as the value driver to consumer) where the cost of use of infrastructure is the same (airport use, aircraft lease), the cost of fuel is the same (oil) and the third-party costs of doing business are the same (maintenance and insurance), cost of labour has become the primary parameter airlines compete on. Consequently, the only way to gain market share is to minimise ticket costs, and the only way to minimise ticket costs is to minimise labour costs or subsidise tickets with cheap capital. This creates the conditions for social dumping and financial fragility, which actively undermines the social, financial and environmental sustainability of European aviation. The regulation has facilitated the free flow of working conditions and obscured authorities' ability to conduct labour oversight and enforcement. A decade and a half of a race to the bottom have ensued.

The results of these dynamics have not gone unnoticed. In 2015 the European Commission presented the European Aviation Strategy, which highlighted the need to reinforce the social agenda and to create high quality jobs in aviation.¹ It also identified the emergence of atypical employment models and the necessity of ensuring fair working conditions in the sector.

A ministerial statement in 2018 by Belgium, Denmark, France, Germany, Italy, Luxembourg, The Netherlands and Portugal under the name "The Social Agenda in Aviation – Towards Socially Responsible Connectivity" stated that addressing these issues are essential.² The post-pandemic ministerial declaration "COVID-19 Recovery: Towards Socially Responsible Connectivity", which saw Austria and Norway being added as signatories, reinforced the urgency of this work.³ The Norwegian Institute of Transport Economics' report "The organisation of the Norwegian aviation

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0598>

² <https://gouvernement.lu/dam-assets/documents/actualites/2018/10-octobre/02-transport-aviation/Declaration-conjointe-version-EN.pdf>

³ <https://www.consilium.europa.eu/media/47209/8-tte-socially-responsible-connectivity-rev3.pdf>

sector in a European context” of 2022, confirms the challenges SAMAK, the Co-operation Committee of the Nordic Social Democratic parties and trade union LOs, have pointed to in their report of 2017, “Future Aviation on Fair Terms”⁴ and the urgency to arrest the developments the ministerial declarations have addressed.⁵

For the past three years the Nordic airline pilot associations have, in close cooperation with our European umbrella, European Cockpit Association (ECA), been preparing for the upcoming revision. The common position of the 40.000 European pilots ECA represent, harmonises with our objectives and includes proposals for the amended articles of the regulation.

There is growing political momentum within the EU for a stronger focus on social sustainability, exemplified by the rising importance of the European Pillars of Social Rights and the recent introduction of the Directive (EU) 2019/1152 on transparent and predictable working conditions. With the revision of the regulation now on the table, this is the time to draw on that momentum and turn policy into law. Building a financially resilient and socially responsible aviation sector that ensures basic social protections, fair competition and secure, quality jobs is the most sustainable long-term solution to attracting and retaining talent to the industry and ensuring robust mobility and connectivity for Europeans.

Recommended changes to the regulation

The following policy recommendations reflect key issues that can be directly addressed in the revision of the Air Services Regulation. While some states have already addressed some issues, such as France in terms of Operational Base, and Norway in terms of presumption of employment, harmonising the rules on these key aspects across Europe is the only way to secure a level playing field.

We also want to draw your attention to the ongoing discussion of liberalising the ownership and control rules of the regulation. Liberalisation of foreign ownership and control of critical European transportation infrastructure would be a threat to Europe’s sovereignty and strategic autonomy in the current geopolitical security landscape.

1. Operational Base

The term relates to when an air operator from one Member State establishes an operation in another Member State. Although Operational Base is mentioned in the regulation already, the regulation fails to define it. In order to create legal certainty as to all stakeholders’ rights and obligations, Operational Base needs to be defined in the regulation. Airlines must also be mandated to inform local authorities when opening an Operational Base or initiating wet leasing operations in another country, to facilitate Member States’ enforcement of applicable labour, tax and social law.

Central to the discussion is France’s Decree 2006-1425 of 21. November 2006, which defines the term nationally. Consequently, it mandates that French labour law applies at an Operational Base. A recourse from Ryanair and EasyJet against the decree was dismissed by the Conseil

⁴ <https://samak.info/wp-content/uploads/2017/02/SAMAK-Nordic-Aviation-Policy.pdf>

⁵ <https://www.toi.no/getfile.php?mmfileid=73817>

d'Etat in 2007.⁶ Hence, the international labour cost arbitrage and social exploitation witnessed elsewhere in European aviation has been largely abolished in France. Further ongoing liberalisation, such as through Comprehensive Air Traffic Agreements, granting 5th Freedom of the Air rights to third-country carriers, make a further case for clearly defining and clarifying the rights and obligations in the case of Operational Bases of third-country airlines.

2. Bogus Self-Employment

An airline pilot cannot exercise the profession without being under the continuous supervision and monitoring by the operator, as required by EASA regulations. The pilot does not have control over cost and pricing, they cannot work for multiple airlines at will, they do not control their own working time, and they will not provide their own equipment (aircraft). Therefore, it is meaningless to assume pilots can be self-employed. It is still a widely used practice in European aviation, that goes unaddressed by the authorities.

Reversing the assumption, by introducing a 'presumption of direct employment' would require, as a rule, that airlines employ their aircrew directly, unless the airline can prove to the authority that the self-employment is genuine. The reversal of the burden of proof would end years of social abuses and together with the definition of Operational Base, re-establish a fair and functioning labour market in the European aviation sector.⁷ In addition, it would strengthen flight safety by ensuring the protections offered by direct employment, which are paramount to maintaining and promoting the critical self-reporting culture of aviation safety.

A presumption of employment has already been agreed on in Parliament and the Council of the EU in regards to the Platform Work Directive, highlighting its legitimate application as a central means to combatting bogus self-employment. Norway has already introduced it nationally, and it has been used to end bogus self-employment in Norwegian aviation.

3. Wet leasing

The term relates to the leasing of aircraft with a crew. The use of wet leasing used to be for extraordinary and short-term capacity challenges. It has since evolved as a broader tool for flexibility and outsourcing.⁸ The regulation currently states that the use of wet leasing shall be 'reasonable and proportionate and based on safety considerations', without defining these terms. The use of wet leasing increases operational complexity and reduces operational oversight. While reasonable and proportionate use of wet leasing with adequate safety considerations is legitimate, the prerequisites for their approval are unclear.

Permanent wet leasing covering large parts of an airline's operation is an increasing business practice, indicating that the provisions are not understood, nor applied. The provisions must be defined, for authorities and operators to have clarity on the scope of reasonable and proportionate use, and which safety considerations are appropriate.

We are also aware of initiatives to further liberalise the use of third-country wet leasing. If this is

⁶ <https://www.mondaq.com/france/transport/986874/aviation-regulation-comparative-guide>

⁷ <https://www.eurocockpit.be/positions-publications/bogus-self-employment-aviation-acp-eca-eurecca-common-views>

⁸ <https://www.eurocockpit.be/news/future-holds-more-wet-leasing>

widely authorised, it will lead to a situation of flags of convenience like the one in the maritime sector. Third-country labour standards would be brought into Europe, leading to the decimation of quality jobs in aviation, it would allow operators to effectively circumvent the rules on ownership and control and threaten Europe's strategic autonomy.

Conclusion

The revision of Regulation (EC) No 1008/2008, Air Services Regulation, is at a crucial juncture for the European aviation industry and its future. No action puts the industry and European jobs at risk; Action can turn the sector from a European story of social and financial despair to a story of a flourishing, resilient and responsible industry built on social, financial, and environmental sustainability.

Our three (3) proposals for the revision to end the social abuses, level the playing field and strengthen the industry's resilience are:

1. Define the term Operational Base and mandate local labour law and oversight.
2. Introduce a Presumption of Employment to eliminate bogus self-employment.
3. Define the criteria for wet leasing for its intended use, no further liberalisation.

