

On 14 July 2021, as part of the Fit for 55 package of legislative proposals, the European Commission presented proposals for amending existing legislation and 4 new proposals, three of which will be processed in accordance with the ordinary legislative procedure, while the Energy Taxation Directive will be subject to a special legislative procedure requiring unanimity in the Council, taking into account the opinion of the European Parliament.

This document is an analysis of the effects of the package implementation proposal for air transport. As part of the ongoing consultation, AIRE assessed the impact of the package on the aviation sector.

AIRE comments on two documents which have a significant impact on the future functioning of aviation. These are:

1. Regulation on ensuring a level playing field for sustainable air transport (RefuelEU Aviation)
2. Energy Taxation Directive (Revision)

At the very beginning, we would like to emphasize that the aviation sector is responsible for approximately 2% of global CO<sub>2</sub> emissions and the growth of the emissions by this sector is closely related to global economic growth. However, the rule applies not only to air carriers from EU countries but also to dynamically developing air operators based in non-EU countries, mainly in the Middle East, Asia or South America. One should bear in mind that ambitious plans to reduce greenhouse gases emissions will, directly and indirectly, affect the functioning of European societies, which in turn will affect all sectors of the EU economy. Consequently, the policy impact assessment should reflect not only the technical capabilities of individual Member States but also their actual position in achieving the goals imposed by Fit for 55.

In the social aspect, the proposed regulations may have a significant impact on reducing the number of jobs in the aviation sector in the European Union (air carriers, airports, air navigation service providers). Air carriers will be forced to invest in replacing their aircraft fleet with a more efficient and low-emission one. Airports will have to invest in infrastructure, which will undoubtedly require additional capital outlays, a significant part of which will be passed on to air carriers.

In summary, the implementation of the entire package in the form proposed by the European Commission will limit the mobility of European Union societies due to increased financial exclusion compared to the residents of non-EU countries due to the increase in the cost of air operations incurred by the carriers from EU countries and an increase in the cost of flight tickets. The negative consequences of limiting mobility will also be felt by other sectors related to transport, such as, for example, tourism.

## **2. Regulation on ensuring a level playing field for sustainable air transport (RefuelEU Aviation)**

The targets included in the ReFuelEU Aviation proposal should be adapted to the market condition. The proposed provisions do not take into account different economic circumstances, the current

state of development of alternative fuels infrastructure and the demand for alternative fuels, which differ in individual Member States.

**The indicated implementation period for changes in the production requirement of 2% Sustainable Alternative Fuels (SAF) from 2025 by aviation fuel manufacturers is too short.** It is impossible to reach 5% in 2030 from the point of view of the complex manufacturing process of SAF, in particular by aviation fuel manufacturers, who have not yet taken any action to ensure that this product is available on the market. **That period should be extended as follows:**

**2% from 2030**

**5% from 2035**

As far as synthetic fuels are concerned, we believe that the Member States should have full freedom, not the obligation, concerning their production and use. We propose that the rate of 0.7% to be applied in 2030 is not obligatory but optional. If the above level is impossible to achieve due to technical and operations reasons, it is advisable to transfer the requirement to the production of other SAF fuels, e.g. biofuels (see: Paragraph 3 in Article 4).

To increase the SAF production capacity, we propose to expand the list of raw materials from which SAF can be produced during the transitional period and allow the Member States to use biofuels used in road transport, such as vegetable or rapeseed oils, for the production of SAF.

Thus, we propose to change the definition contained in Article 3 concerning Sustainable Aviation Fuels (SAF) and define them as "drop-in" fuels, synthetic aviation biofuels as defined in Article 2, second paragraph, and replacing Point 34 with Point 40 of Directive (EU) 2018/2001 respectively.

The argument for the above-mentioned solution is the fact that there is no efficient technology for producing sustainable synthetic SAF aviation fuels, mainly due to the limited availability of raw material. Achieving the proposed rate of synthetic fuels will require high capital expenditure. For the Member States with no raw material or technology at their disposal, it will be necessary to import 100% synthetic fuels from countries that will have access to cheap raw materials and developed infrastructure for the production of fuels using cheap energy from renewable sources.

Additionally, it should be emphasized that the minimum SAF share of 2% at the initial stage, should be set for the entire EU, without the possibility for the individual Member States to apply higher rates at the national level. In our opinion, more ambitious policies implemented by selected countries may lead to a reduction in the availability of raw materials used in the production of SAF and hamper implementation of the ReFuel EU regulations.

To sum up, the gradual increase in the use of SAF in the fuel mix is related to the increase in the operating costs of air carriers, which significantly reduces the competitiveness of European aviation and the tourism industry. Without parallel investment, as well as research and development, these regulations may harm the reconstruction of aviation in Europe after the pandemic, and also contribute to the development of transfer ports outside the territory of the European Union, in locations where the provisions of the regulation will not apply. The implementation of ReFuel EU will also force changes at airports like the implementation of additional infrastructure solutions, which

will undoubtedly require financial outlays. It is expected that a significant part of these costs will be passed on to air carriers.

The potential increase in flight ticket prices caused by the increase in the cost of aviation fuel may cause an uncontrolled decline in interest in flying, consequently, a reduction in the number of passengers served at European airports.

At the same time, we would like to draw attention to the lack of precise provisions defining the concept of refuelling and describing its reporting process. **We suggest complete rejection of the proposed amendment in terms of reducing the use of refuelling and the obligation to fuel at least 90% of the 'required' fuel from the designated port.** Proposals for amendments do not take into account the use of operational refuelling. The European Commission does not indicate any cases in which the carrier would be exempted from this obligation. In our assessment, emergency situations have not been taken into account, such as the reduction of the network of connections or the change of aircraft from larger to smaller operating on a given route. Nor has it been defined what penalties would be imposed on carriers not complying with this requirement.

The document as a whole **lacks precise analyses and clear arguments about reducing the use of refuelling.** In its impact assessment, the European Commission refers to the document of 21 July 2019. We believe that a new analysis should be carried out on the basis of the current level of air operations in Europe.

In addition, the proposed amendments must not deprive the carrier of the possibility of refuelling more fuel at the airport of departure, including from outside the EU, in particular where the availability of fuel meeting the quality standards at the destination airport is limited or even does not exist. The air carrier must have the right to refill an additional amount of fuel for the reasons specified above, as well as for safety reasons such as changing weather conditions. An important element is also the economic aspect (the price of aviation fuel at a given airport), which directly affects the profitability of the routes operated.

### **3. Energy Taxation Directive (Revision)**

The widening of the tax gap between fossil fuels and low or zero carbon fuels should be closely related to the real possibilities of switching to alternatives. Currently, there is insufficient availability of sustainable aviation fuels, especially for synthetic fuels.

We reject the proposal for aviation fuel tax and the ticket tax proposal in its entirety. We believe that it would not only undermine the competitiveness of European carriers on the global market, but more importantly, it would slow down the development of the aviation sector in the EU.

In the light of "Fit for 55": ReFuel EU and EU ETS do not need to implement additional measures in the form of aviation fuel tax. The document does not specify how the funds would be allocated by the Member States to the environmental objectives indicated.

The increase in fuel costs on the part of the air carrier resulting from fuel taxation will have a significant impact on the increase in air ticket prices. Consequently, this phenomenon will contribute to reduction of the demand for air travels among passengers, which may have a negative impact on the functioning and development of the tourism sector and, in particular, European air carriers.

In a situation where fuel is taxed only for intra-EU flights, recreational journeys outside the Community may prove to be more financially advantageous for passengers, leading to carbon leakage to third countries. This would not be in line with the CBAM Regulation.

We also draw attention to the fact that the planned amendments to the directive appear to be questionable from the point of view of compliance with the international rules applicable to the Member States. Article 24 of the Convention on International Civil Aviation signed in Chicago on 7 December 1944 – The Chicago Convention provides for exemption from customs duties, inspection costs and other similar fees and state or local charges, among others, fuel. Moreover, ICAO Policy on Taxation of International Air Transport, to which ICAO States apply, was adopted on the basis of this policy. Exemptions from fuel charges were also provided for under bilateral air agreements. The planned amendments to the Directive may undermine these obligations and aggravate the already unfavourable competitive situation of EU carriers vis-à-vis third-country carriers.