

Brussels, 20 April 2010

Volcanic Ash Crisis: Frequently Asked Questions

The purpose of this memo is to respond to the most frequently asked questions concerning the current volcanic ash crisis, notably in relation to the Commission's role in opening up Europe's airspace, while fully respecting safety requirements, to passenger rights and to the economic response for sectors hit by the crisis.

While decisions on airspace management are a national competence, faced with a situation which had become unsustainable the Commission intervened to help facilitate European solutions – to maximise available airspace, within strict safety controls. The Commission has worked tirelessly since Friday, 16th April to work with all key actors to open up corridors of European airspace. Progressively opening up airspace holds the key to providing the most immediate relief to stranded passengers and hard hit economic sectors, while ensuring that safety concerns remain paramount.

SECTION 1: THE EUROPEAN COMMISSION'S ROLE IN FACILITATING A PROGRESSIVE RE-OPENING OF EUROPEAN AIRSPACE

The context:

This is an unprecedented crisis facing Europe. A unique combination of 3 factors coming together have resulted in an almost complete lock-down of European airspace:

We have seen:

1. Severe and prolonged volcanic disruption;
2. Weather conditions that mean the ash cloud has remained over Europe; and
3. A risk management model based on a strict precautionary principle

Treated separately, or even with two of these factors coinciding the crisis would have been much less severe.

Faced with this crisis, who is responsible for managing Europe's airspace?

1. The decision to open or shut airspace is entirely national. Only a Member State Authority can decide to open or close its national airspace.
2. Those national decisions on airspace are implemented by EuroControl (an independent agency in Brussels with 38 Member countries). EuroControl co-ordinates all the information and then approves flight plans for air companies across the different Member States, depending on the available airspace.
3. There is NO EU competence for air traffic management or in relation to decisions taken to open and close airspace i.e. the European Commission and European Parliament have NO role – it is for individual Member State Governments to decide.

So what happened when the volcano erupted? What procedures were followed?

Safety is the first priority of aviation policy. When the volcano erupted last Thursday, Member States (Civil Aviation Authorities with National Air Traffic Controllers) started to close airspace – based on the scientific advice from the Volcanic Ash Centre in London (linked to the London Met office) and applying the risk assessment models agreed by Member States under ICAO Guidelines for Europe (International Civil Aviation Organisation).

Member states were absolutely right to react as they did in applying the model and procedures agreed for the European area in line with International Civil Aviation organisation guidelines. Safety is the first priority of aviation policy and must remain so.

What was the Commission's intervention as the situation evolved?

From Thursday onwards large parts of the European Airspace were shut down by national authorities. From an average of 28,000 flights a day in Europe, by Friday less than half of Europe's airspace was in use. Thousands of air passengers were stranded, air companies and other economic sectors were very hard hit.

The cloud was not moving. And Europe was facing into another week of major traffic disruption. As the situation evolved, the model and risk management procedures were tested. It became clear to Member States, national safety authorities, national air traffic controllers, the industry and EuroControl that a more differentiated approach was needed. But no member state acting independently could take the first step to introduce change.

At the end of last week, the European Commission, working with the Spanish Presidency and Eurocontrol proposed a European Framework which could move the situation forwards.

What did the European Commission do?

The Commission worked intensively with Eurocontrol, with the Volcanic Ash Centre, with Scientists, with the National Authorities across the Member States as well as with the airlines and airport sectors.

The result was the following:

- 11.00 Monday 19 April: Extraordinary Meeting co-chaired by Euro-Control and the European Commission in Brussels (Euro-control building) to look at possible ways to increase European co-operation on air traffic management. The meeting brought together national civil aviation authorities, air navigation providers, representatives of the airline and airport industry as well as the Spanish Presidency.

The participants had been asked by European Commission Vice President Siim Kallas, responsible for Transport, to provide a technical recommendation or a series of recommendations to Ministers later that that day on how to move forwards.

The meeting agreed unanimously on one recommendation to put to Transport Ministers:

That option allowed for a more differentiated assessment of risk from the ash cloud, while still respecting safety concerns. As well as more harmonised /uniform implementation of the risk assessment. The new procedures are fully in line with the ICAO Guidelines for the European Area.

- At 16.00 Monday 19th, Vice President Kallas, presented the technical recommendation to an Extra-ordinary meeting of Transport Ministers, chaired by Spanish Minister José Blanco, and the recommendations were endorsed.

- The new measures came into force at 8.00 CET time Tuesday 20 April. The more differentiated risk assessment and more harmonized implantation of decisions across the Member States, has allowed for a progressive, opening of more airspace.

If it were NOT for European Commission intervention since the end of last week, large parts of Europe's skies would still be unnecessarily closed.

What has been the result?

We are pleased to see that today (Tuesday, 20 April) there are more flights taking place today.

Overall the forecasts for flights for today are 14,500 as compared with 9,000 yesterday, for example, limited operations out of Paris, Amsterdam, as well as in Frankfurt Airport and for Italian domestic travel.

This is substantially due to the new more **pragmatic approach** agreed by Transport ministers on the initiative taken by the Commission.

The Commission will continue to monitor the situation closely.

What happens next?

National Safety Authorities, national air traffic authorities, and Euro-Control will now continue to operate the revised procedures. The scientific assessments will be updated every six hours – with no-fly zones, a large buffer area, and an intermediary zone where Member States can allow flights but with additional restrictions and safety controls, and an area where there is no contamination.

Can you ensure the same safety levels are guaranteed as with today's model?

Yes, because before any piece of airspace is opened up, a thorough safety assessment is carried out. We are not taking any additional risks, merely determining more precisely where the risk that we want to avoid is located.

Why do we not go directly to the US model (Option 2) as they seem to have no problems even though airspace is kept open?

Firstly we want our model to be safer, by ensuring that the assessment is done by those with best information and least vested interest. Otherwise the aircraft operators might be putting intolerable pressure on pilots to fly even when it is not safe.

Secondly the European Union law requires that the decision to open airspace is done by the air navigation service providers through a pre-determined methodology approved by the National Supervisory Authorities.

Where is the Volcanic Ash Advisory Centre in all this? They are the real professionals of assessing volcanic ash risk.

The VAAC is indeed the body responsible for assessing where ash might be encountered. However the decision to open or close airspace is not theirs alone. That is why we called upon all the central players to develop this methodology and that involves obviously also the VAAC itself.

What about thirds countries? Opening European airspace alone is not enough.

They are brought on board by the Eurocontrol machinery as the ones closest to EU are also Eurocontrol members. That is why Eurocontrols role in this is so central.

SECTION 2: WHAT ABOUT PASSENGER RIGHTS?

The best way to bring immediate relief to passengers is to free up more airspace. The Commission has played a critical role in allowing more flights to get moving, and making most efficient use of airspace even in these very difficult circumstances.

Under EU law, European Citizens also have some of the toughest passenger rights in the world.

And in the light of the unprecedented shut down of large sections of European Airspace, millions of European air travellers have been asking what their rights are in these circumstances.

The answer is straight-forward:

1. You have the right to either reimbursement or re-routing
2. You have the right to information - there is an obligation for airlines to inform you about rights and flight schedules
3. You have the right to care- that means food, drinks, accommodation as appropriate

In other words, despite these exceptional circumstances air passengers are entitled to all their usual rights .except the additional financial compensation that would apply in more normal circumstances. (The Regulation on Air Passenger Rights (EC Regulation 261/2004)

If my flight is cancelled, does the airline have to offer me a CHOICE between reimbursement and re-routing?

YES. You as the consumer decide.

It is important to bear in mind that IF you chose reimbursement (i.e. to get the money for your ticket back) then your rights cease at that point. The air company is no longer required to provide you with refreshment, accommodation from that point on.

If I chose reimbursement does that mean I get the full price of my ticket back – including taxes and any charges?

YES, you should get back the money you paid for the ticket.

IF you chose re-routing

The airline can re-route you through other modes of transport – train, rail etc.

While you wait for re-routing, the airline has a duty of care – to provide refreshment as appropriate, depending on the length of the delay. And to provide accommodation of one or more nights if necessary.

Where to I apply for re-imbusement?

You apply to the airline company that you booked a ticket with.

What if they tell me I have no rights in these "exceptional circumstances"?

Under EU law your EU passenger rights do apply even in these exceptional circumstances. The only part that does NOT apply is the additional financial compensation (extra money to compensate you for your inconvenience.

What if airlines do not accept this, or if they will not apply the rights I have?

Complain. If you have problems claiming your passenger rights you need to complain – firstly to your national authority. They are best placed to help you and they are legally responsible under EU law to enforce the law.

It is a matter of subsidiarity – i.e. applying decisions at the local level.

Passengers are advised to contact their airlines, and in case of problems the national enforcement bodies (see list below)
http://ec.europa.eu/transport/passengers/air/doc/national_enforcement_bodies.pdf

What can the EU do if airlines don't comply with the law?

The European Commission is in daily contact with the network of national authorities in Member States who enforce these rights. We know there are problems with the application of rights, and in getting clear information to consumers – although in many cases airlines are applying the rights.

Our first feedback from authorities across Europe is that, faced with cancellation, many passengers across Europe are choosing NOT to wait for re-routing – they just want to get home and are trying to make their own way to their final destination. In these circumstances the obligations on the airlines for refreshment, accommodation obviously do not apply – but the consumers will normally claim the ticket price back from the airline.

How can the EU Package Travel Directive protect consumers who are stranded because of the cancelled flights?

If the cancelled flight has been purchased as part of a package holiday, consumers have more extended rights, including the right to obtain a refund for the entire package (including e.g. the flight and the hotel) and assistance on the spot if they are stranded.

Further information:

http://ec.europa.eu/consumers/citizen/my_holidays/index_en.htm

If you need more information on your EU rights and how to access them?

Travellers affected by the situation are advised to contact their airlines or travel agents first.

If you have problems or need more information or support to claim your rights can contact a European Consumer Centre in any country, a national consumer organisation or a national enforcement body. A European Consumer Centre (ECC) supported by the European Commission exists in every EU country as well as in Iceland and Norway.

The centres are there to help travellers who have been affected by the crisis and who are having difficulties in having their rights respected, such as the right to be reimbursed or re-routed to the final destination and right to obtain meals and accommodation. The network of ECCs is working together to ensure a co-ordinated response to the crisis. Full contact details for ECCs for all countries and links to national websites can be found at http://ec.europa.eu/consumers/ecc/index_en.htm

There is also a Europe Direct phone line – advertised on posters in many airports throughout Europe where you can also get more information on 00800 6 7 8 9 10 11

For more information on your rights see:

apr.europa.eu

SECTION 3: WHAT ABOUT THE ECONOMIC IMPACT ON THE INDUSTRY

The aviation sector as well as other economic sectors have been hit very hard by this crisis.

European Commission President Barroso decided to set up an ad-hoc group to assess the impact of the situation created by the volcanic ash cloud on the air travel industry and the economy in general.

The aim is to ensure that the EU has the right analysis to be able to respond appropriately, if needed, and that any measures taken across the EU to respond to economic consequences of this situation are properly coordinated.

President Barroso asked Vice-President Kallas, responsible for Transport, to lead this work, assisted by Vice President Almunia (Competition and State Aids) and Commissioner Rehn (Economic and Monetary Affairs).

That work is moving ahead quickly.

- The process of gathering the economic data on the effects of the crisis has begun this weekend.
- Vice President Kallas met with representatives of European airlines and airports on Monday this week to discuss the economic impact.
- Working and expert meetings within the European Commission have taken place to define how the process will move forwards.

Assessing the economic impact of this crisis will take time.

Representatives of the airline industry, when they spoke with Vice President Kallas on Monday said they simply cannot at this stage accurately estimate the impact on their sector. It will take time for the full impact to become clear.

Equally, the ad hoc group will look carefully at the broader economic impact on other sectors of industry which have also been hard hit.

Is it possible for Member States to grant state aid to compensate airlines for the consequences of the ash cloud according to EU rules?

The Treaty allows Member States to grant State aid to "make good the damage caused by "natural disasters and exceptional occurrences" (Art 107 2b).

No Member State has notified any state aid plans as of yet.

The Commission clarified in the aftermath of the September 11 terrorist attacks, how those rules applied to the airline sector with regard to that particular event. Similar compatibility criteria, as the ones fixed in 2001, could apply:

- compensation in a non-discriminatory way to all airline companies of a Member State;
- amount of the compensation limited to the real costs of the traffic interruption;
- no hidden aid for restructuring of companies.

VP Almunia, who is part of the ad-hoc group examining the economic impact of the problem, has said his services could rapidly update the guidance for Member States.

In the event Member States were to notify any aid, the Commission could rapidly assess such requests.

SECTION 4: OTHER ASPECTS OF THE CRISIS

WHAT ABOUT THE HEALTH RISKS?

Is there a health risk in the current situation?

According to the preliminary assessments made by the Member States, risks in relation to public health are generally limited. The cloud of ash moves at a high altitude and is spread over large areas, resulting in a decrease in the concentration of particles which could nevertheless lead to low exposure. The public health impact of such low exposure is difficult to estimate at present especially in the absence of the detailed composition of the cloud. The current situation is estimated to be similar to peaks of air pollution experienced in the Member States.

Any health effects are likely to be short term. Furthermore, as long as the ash remains in the upper stratosphere, there will not be an increased risk to health.

Nevertheless, there are some specific health issues which may demand attention, e.g. air rescue and continuation of healthcare of people stranded abroad because of the interruption of air traffic.

What's the Commission doing on this issue?

In order to discuss public health related impact of the interruption of air traffic and the volcanic ash clouds drifting across Europe, the European Commission's health services are in contact with several key health organisations, including the World Health Organization and the European Centre for Disease Prevention and Control, as well with Member States and Iceland. The potential impact on human health, as well as animal health, will be monitored in the coming weeks.

WHAT ABOUT VISA PROBLEMS?

Is the European Commission aware of the situation of third country nationals obliged to stay in the EU due to recent disruptions of the air travel and what action does it consider necessary?

The closure of the European airspace since 15 April 2010 has meant that travel of a number of third country nationals subject to the visa requirement for staying in or transiting through the territory of the Schengen States has been disrupted and urgent measures must be taken to overcome the different situations of distress occurring. The European Commission is recommending Member States to apply special derogations to certain categories of travellers and in particular to people holding a short stay visa that has expired on or after 15 April 2010 and to people who did not intend to enter into the territory of the Member States but are forced to do so.

How will the European Union deal with people holding a short stay visa that has expired on or after 15 April 2010?

Many people have not been able to leave the territory of the Member States before the expiry of their short stay Schengen visa. Given the extraordinary situation and the high numbers of persons concerned, the European Commission recommends a derogation from the general rules for persons whose visas have expired or will expire in the period from 15 April 2010 until the reopening of the European airspace. These people will be allowed to remain within the territory of the Schengen States until the normalisation of air traffic without having to apply for the extension of their visas. The passport of these persons should be stamped upon exit without considering these persons as having stayed beyond the authorised period.

What about those who did not intend to enter into the area of the Member States but are forced to do so?

Two categories of persons are considered: firstly, persons who cannot return to their country of residence by air and who wish to transit by land (e.g. a person holding a return ticket from London to Tirana, but who wishes to return by ferry and train). Secondly, persons who intended to transit via the international transit area of a Schengen airport but are forced to leave the airport to find accommodation until the onward journey can take place. The Commission recommends that these persons should be issued visas at the external borders in accordance with Article 35 of the Visa Code and the Handbook for the processing of visa applications and the modification of issued visas. Since the third country nationals concerned had no intention of entering into the territory of the Member States but are compelled to do so for reasons of "force majeure", the Commission recommends derogating from certain provisions and in particular to waive the visa fee and not to insist on the applicant being in possession of travel medical insurance.

What is the role of the EU's Civil Protection Mechanism in this crisis?

The Monitoring and Information Centre (MIC) is the central operational hub of the EU Civil Protection Mechanism, through which the European Commission can facilitate and support the deployment and coordination of civil protection assistance in the event of major emergencies. The current transport situation across Europe has not yet led to any calls for assistance but the MIC continues to coordinate and monitor the situation closely. This is important as the EU needs to be prepared for all possible scenarios, identify all possible effects and anticipate possible needs for support or cooperation.

What has the MIC done so far?

The MIC has been in close contact with Iceland's civil protection authorities since Thursday and has regularly briefed Member States on the situation both in Iceland and across Europe. It convened an urgent coordination meeting with the civil protection representatives of Member States and Iceland to take stock of the effects of the volcanic ash cloud to be in a position to anticipate possible needs for support and coordination at EU level. The MIC has created a platform to ensure exchange of information between Member States which aims at enabling a coordinated EU action. In practical terms this means that Member States will feed information into the system to create an overview of the situation in their countries. The MIC is also in the process of centralising key data from the Member States on the numbers of stranded passengers, both inside the EU and in third countries, in order to assess the scope of the problems. This means that the EU has the possibility -if the need arises- to facilitate repatriation by coordinating the efforts of the 27 Member States.

The MIC also works closely with DG SANCO, which is monitoring the possible health effects of the ash cloud moving over Europe.