

AIR CARRIERS:

Compliance with rules to prevent noise disturbance (notably during night-time hours)

ACNUSA (French authority for airport nuisance control)

Air carriers operating at French airports are subject to rules in respect of noise generated by their aircrafts. Violation of these rules exposes carriers to a fine.

New restrictions were introduced in 2014 and the maximum fine that may be levied should said noise disturbance rules be violated has apparently been raised, particularly in respect of night flights.

The decisions made in past months by ACNUSA, the independent French authority for airport nuisance control clearly show that these new rules are now applied. This is reason enough to briefly outline the main aspect of potential sanctions against violations of air pollution rules.

1. Rules on air / sound pollution:

These rules have been codified in the transport act as well as local regulations specific to a given airport.

The transport act specifies a set of limitations, especially in respect of:

- the use of certain aircraft (depending on their emissions into the atmosphere, etc.),
- certain activities inducing environmental pollution,
- take-off and landing.

These rules must be read in conjunction with specific rules applicable only to certain airports. For instance: the local regulation ("*arrêté*") of September 20th 2011 with respect to Paris – Charles de Gaulle airport.

This regulation introduced a new limitation for **take-off and landing at night** with effect from March 30th 2014:

"No jet engined ACFT in compliance with standards as per annex 16 of the convention relative to international civil aviation of the 7th December 1944, volume 1, 2nd part, chapter 3 with an accumulated margin less than 10 EPNdB may:

- *land between 2200 and 0600 am. local time,*
- *leave the parking stand, for taking-off, between 2200 and 0600 am, local time."*

2. Fines:

Until 2014, an individual could face a fine of up to **€1,500**, while a maximum of €20,000 could be imposed on a legal entity per reported infringement.

There has since been a substantial increase in the latter amount to **€40,000** for violations committed by a legal entity from January 1st 2014 onwards, particularly in respect of night flights.

3. Prosecution following identification of violations:

The prosecution process is essentially divided into three steps:

It starts with an inspection by police officers or sworn agents of the government. If a violation is suspected, a **report** will be transmitted for **investigation** by the general directorate for civil air transport. On completion of the investigation, the case will be transferred over to ACNUSA, which will decide whether or not to impose a fine.

Should ACNUSA decide that a **fine** is warranted, the amount shall be payable to and collected by the French Treasury.

In **2014**, ACNUSA handed down a total of 290 decisions to impose fines for a total amount of €2,342,200. 97 infringements were not subject to a fine (flights for humanitarian NGOs, government flights, etc.). The decisions involved 140 air carriers.

While the average fine amounts are quite low (€8,076.55), higher amounts may be imposed. In its 2014 report, ACNUSA clearly states that the



infringements punished by the decisions handed down in 2014 were not subject to the €40,000 threshold as they pre-dated January 1st 2014. Furthermore, ACNUSA does not hesitate to impose much heavier amounts in cases of repeated violations.

Our law firm has extensive experience with ACNUSA cases and remains at your disposal to advise and assist your company if needed.

Authors:



Jörg Letschert, Partner
Attorney at law -
Avocat à la Cour (Paris)
/ Rechtsanwalt
(Munich)
jletschert@soffal.fr



Pierre-Yves Samson,
LL.M.
Attorney at law -
Avocat à la Cour (Paris)
pysamson@soffal

Société Juridique et Fiscale Franco-Allemande
Selas (SOFFAL)

153, boulevard Haussmann - F-75008 Paris

Tel: 0033 1 53 93 94 00 - Fax: 0033 1 40 74 04 06

www.soffal.fr / info@soffal.fr