

Civil aviation: common rules and creation of the European Aviation Safety Agency (EASA)

2005/0228(COD) - 15/10/2007 - Council position

The Council notes that the Commission's proposal has been drafted as a “modifying Regulation”, whereas the Council has drawn up its common position on the basis of a “consolidated version”.

The Council made the following principal changes to the Commission proposal:

- concerning essential requirements for **licensing, operations and third country aircraft**, changes have been made to the operative part of the Regulation and in the recitals in order to assuage concerns from Member States about the following: the safety impact of the proposed essential requirements with particular reference to the leisure pilot licence; the content of rules to be applied to non-commercial operations in the Community by third country operators; and the circumstances under which general practitioners may act as aero-medical examiners in accordance with national regulations;

- **assessment bodies** were to be granted privileges for the issuing of various Community-recognised approvals, particularly in the area of licensing. After much discussion, this provision has been deleted from the proposal, on the understanding that this deletion does

not prevent those Member States who so wish to grant these privileges to bodies based within their jurisdiction;

- the Council has reduced the number of **new certification tasks** given to the Agency in Articles 21 and 22. Whilst accepting that the nature of airworthiness certification means that the benefits of EASA certification are obvious, there was no such agreement on the desirability of giving new certification tasks in the field of operations and licensing to the Agency. Therefore, the new certification tasks are limited largely to the certification of third country operators flying to and from the Community and to approvals of organisations based outside the territory of the Member States;

- the **Agency's rulemaking tasks are extended** to cover the new competences in the field of air operations, licensing and third country aircraft covered by the Commission's proposal. With respect to the scope of the rulemaking for third country operators, a new Article 9 has been inserted in order to clarify the requirements that shall be imposed upon third country operators using Community airports;

- the Commission proposed a number of **changes to the governance arrangements for EASA**, notably the composition of the Management Board, where it was proposed to increase the weighting of votes to be given to the Commission and to give to the Council the power to designate the Member States' representatives. In addition, an Executive Board was proposed which was to act as a preparatory group for the Management Board proper. The Council rejects these changes on the grounds that they would interfere with the proper system of accountability in the Community agencies. However, the Council has maintained the Commission's proposal to include interested parties as observers in the Management Board and has provided for special Management Board working bodies to assist the Board proper in carrying out its functions;

- the **annexes to the proposal**, which set out the essential requirements to be applied in the area of air operations and licensing, **have been refined** and minor changes have been made to Annex III with regard

to practical skills requirements for pilots (to reflect the latest ICAO developments) and language skills. However, the Council fully agrees with the broad outlines of the essential requirements, and the technical proposal as contained in the Agency's Opinion has been fully respected.

With respect to the amendments proposed by the European Parliament, the Council was able to **accept 8 amendments**. The Council states that it was unable to accept a number of others, which were rejected either because they were not entirely clear or they conflicted with other parts of the common position. In some cases they were already taken up elsewhere in the common position.

A second set of amendments could not be accepted because, in the Council's view, they seriously compromise the safety objectives of the Regulation, and the Council had doubts about the legality of some amendments. A number of amendments relating to the budget and governance of the Agency were not accepted. The Council is firmly of the opinion that it is for Member States alone to nominate their respective members of the Agency's Management Board and the Council does not foresee any role for Community institutions in this process. In addition, certain amendments would cause significant operational difficulties for the Agency by restricting its capacity to raise the necessary revenue to fund its activities.

The Council concludes that the text of its common position is appropriate and balanced. It is of the opinion that the common position reflects the aims behind a large number of the Parliament's amendments. The Council notes the extensive contacts which have already taken place with the Parliament and trusts that these may soon bear fruit in the shape of early adoption of the legislation.