

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

2005/0228(COD) - 12/12/2007 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution based on the report drafted by Jörg **LEICHTFRIED** (PES, AT). In the second reading of the co-decision procedure, it made some amendments to the Council's common position for adopting a regulation on common rules in the field of civil aviation and establishing a European Aviation Safety Agency. The text adopted in plenary was the result of an agreement negotiated with the Council, with the help of the Commission.

The main points of the compromise text were as follows:

Definition of "complex motor-powered aircraft": this now includes an aeroplane certificated for a maximum passenger seating configuration of more than nineteen, a helicopter certificated for a maximum take-off mass exceeding 3 175 kg or for a maximum passenger seating configuration of more than 9 or for operation with a minimum crew of at least 2 pilots.

Fines and periodic penalty payments: at the Agency's request, the Commission may: a) impose on the persons and the undertakings to which the Agency has issued a certificate, fines, where intentionally or negligently, the provisions of this Regulation and its implementing rules have been breached; b) impose periodic penalty payments, calculated from the date set in the decision, in order to compel those persons and undertakings to comply with the provisions of this Regulation and its implementing rules. The amount of the fines must not exceed 4 % of the annual income or turnover of the certificate holder. The amount of the periodic penalty must not exceed 2.5 % of the average daily income or turnover of the certificate holder.

The Commission shall adopt the detailed rules for the implementation of this Article. In doing so, it shall specify in particular: a) detailed criteria for establishing the amount of the fine or periodic penalty payment; and b) procedures for enquiries, associated measures and reporting, as well as rules of procedure for decision-making, including provisions on rights of defence, access to file, legal representation, confidentiality and temporal provisions and the quantification and collection of fines and periodic penalty payments.

The Court of Justice shall have unlimited jurisdiction to review decisions whereby the Commission has fixed a fine or periodic penalty payment. It may cancel, reduce or increase the fine or periodic penalty payment imposed. Decisions taken pursuant to these provisions will not be of a criminal law nature.

Flight time limitations and possible derogations: in the event of unforeseen urgent operational circumstances or operational needs of limited duration and non repetitive nature, derogations to certification specifications may apply provisionally until the Agency expresses its opinion. A further amendment stipulates that the Agency shall, within one month of notification, assess an individual scheme on the basis of a scientific and medical evaluation. Thereafter the Member State concerned may grant the approval as notified, unless the Agency has discussed the scheme with that Member State and proposed changes. Should the Member State agree with these changes, it may grant the approval accordingly

Cabin crew: the regulatory procedure with scrutiny will apply to conditions for issuing, maintaining, amending, limiting, suspending or revoking the cabin crew attestation.

Management Board: Members shall be selected on the basis of their recognised experience and commitment in the field of civil aviation, their managerial capabilities and their expertise, which are to be used to further the objectives of the Regulation. The competent committee of the European Parliament shall be fully informed accordingly. Each Member State shall appoint a member of the Management Board as well as an alternate who will represent the member in his/her absence. The Commission shall also designate its representative and alternate.

Budget: regulatory budgets and the fees set and collected for certification activities shall be dealt with separately in the Agency's budget.

Independence and impartiality of the Agency: Parliament stated that any financial contribution received by the Agency from Member States, third countries or other entities should not compromise its independence and impartiality.