

Civil aviation safety: investigation and prevention of accidents and incidents

2009/0170(COD) - 29/10/2009 - Legislative proposal

PURPOSE: to propose new rules on investigation and prevention of accidents and incidents in civil aviation and to strengthen the rights of the victims of such catastrophes and their families.

PROPOSED ACT: Regulation of the European Parliament and of the Council

BACKGROUND: civil aviation, although in existence for a relatively short period of time, has well established traditions in accident investigation. The obligation to investigate accidents in civil aviation is enshrined in the Convention on International Civil Aviation to which all Member States are Parties. In recognition of the importance of accident investigation, the European Community, already in 1980, adopted a Directive 80/1266/EEC on cooperation and mutual assistance between the Member States in the field of air accident investigation, later replaced by Directive 94/56/EC. In addition, Directive 2003/42/EC on occurrence reporting in civil aviation, was adopted in 2003. Directive 2003/42/EC, by supporting the establishment of safety occurrence reporting systems, significantly contributed to the promotion of "Just Culture" in European civil aviation.

However, the Community system for civil aviation accident investigation and occurrence reporting, as currently established, functions below optimum efficiency. The current regulatory framework dealing with accident investigation, which is already 15 years old, no longer meets the requirements of the Community and the Member States. More specifically, this is the case in regard to (i) the investigating capacity of the Member States compared with the situation in 1994, where there are considerable divergences between Member States; (ii) aircraft and their systems are becoming increasingly complex; (iii) the EU common aviation market has grown in size to 27 Member States and complexity; (iv) the increase in the size and complexity of the internal aviation market also requires the increased responsibility of the Community for aviation safety.

No improvements in transport safety are possible without the conduct of independent accident investigations. A change is therefore necessary to overcome the shortcomings of the current regulatory framework.

IMPACT ASSESSMENT: the Commission conducted an impact assessment which identified the following specific problem areas: (i) lack of a uniform investigating capacity in the EU; (ii) tensions between safety investigations and other proceedings; (iii) unclear role of the Community in safety investigations; (iv) weaknesses in the implementation of safety recommendations; and (v) lack of common standards concerning management of passenger manifests and support to the victims of air accidents and their families.

The Commission, therefore, analysed several scenarios:

- **Option 1:** the promotion of voluntary cooperation;
- **Option 2:** the creation of a European Network of Civil Aviation Safety Investigation Authorities;
- **Option 3:** the creation of a European Civil Aviation Safety Board.

All the options were compared against each other and measured against the "do nothing" option as the benchmark. The analysis clearly indicated that **support for voluntary cooperation, coupled with a number of important principles enshrined in a legally binding framework** would permit the

Community's objectives to be met in the most cost-efficient way and without going beyond what is strictly necessary from the proportionality point of view. These preferred policy options, while fully respecting the principle of independence of safety investigations, would permit, by supporting voluntary cooperation and without establishing new structures at the Community level, a significant enhancement of the overall efficiency of the current regulatory framework for civil aviation accident investigation and prevention in the EU.

CONTENT: the aim of the proposed Regulation is to improve the aviation safety by ensuring a high level of efficiency and quality of European civil aviation safety investigations, with the sole objective of preventing future accidents and incidents without apportioning blame or liability.

The proposal provides for the **support for voluntary cooperation, coupled with a number of important principles enshrined in a legally binding framework**. It builds on the resources already available in the Member States and experiences of the existing informal cooperation of the National Safety Investigation Authorities.

Under the proposed Regulation this informal cooperation will be transformed into a **European Network of Civil Aviation Safety Investigation Authorities**.

The network will contribute to **greater uniformity, better implementation and enforcement of the Community civil aviation accident investigation legislation**. It will also **strengthen the investigating capacity** of the EU and the preventive function of accident investigation by promoting a more structured cooperation between the national Safety Investigation Authorities, the Commission and the European Aviation Safety Agency, while fully retaining an independent status.

In order to avoid the creation of a new Community body, **the network will have no legal personality** and its mandate, which is clearly described in the proposed Regulation, will be limited to advisory and coordination tasks.

The proposed Regulation would supplement the voluntary cooperation with a number of obligations enshrined in law which will:

- strengthen the efficiency of safety investigations by implementing into the Community law the international standards and recommended practices related to protection of evidence and sensitive safety information, in accordance with Annex 13 to the Chicago Convention;
- establish common requirements in terms of organisation of national Safety Investigation Authorities and strengthen the independent status of safety investigations;
- **better coordinate the various inquiries into the causes of accidents and incidents**, notably by mandating the national Safety Investigation Authorities to conclude appropriate advance arrangements with other authorities (judicial, search and rescue) likely to be involved in accident investigation;
- **clarify the mutual rights and obligations of the European Aviation Safety Agency** and national Safety Investigation Authorities without compromising independence of safety investigations;
- specify the criteria on the basis of which Safety Investigation Authorities would appoint accredited representatives for the "State of Design";
- establish common requirements for Community airlines regarding **passenger lists and protection of the data** contained therein;
- **strengthen the rights of the victims** of air accidents and of their families;
- better protect anonymity of persons involved in accident;
- strengthen implementation of safety recommendations by: i) **establishing a central database of safety recommendations**; ii) establishing a legal requirement for every entity in the EU issuing a

safety recommendation or receiving it to have a process for recording the responses to the safety recommendation issued and monitoring the progress of the action taken in response to a safety recommendation;

BUDGETARY IMPLICATIONS: the European Network of Civil Aviation Safety Investigation Authorities will constitute a body pursuing an aim of general European interest, within the meaning of Article 108 (1)b of the Council Regulation (EC, Euratom) No 1605/2002 (the Financial Regulation), which will allow the Community to support its activities with **an annual grant of €600 000**, on the basis of an annually agreed work programme.