Civil aviation: safety aspects of aerodromes, air traffic management and air navigation services

2008/0128(COD) - 21/10/2009 - Final act

PURPOSE: to increase the safety of aerodromes, air traffic management (AATM) and air navigation services (ANS).

LEGISLATIVE ACT: Regulation (EC) No 1108/2009 of the European Parliament and of the Council amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services and repealing Directive 2006/23/EC.

CONTENT: the Council adopted two regulations to improve the performance and safety of the European aviation system - the first strengthens the Single European Sky legislation, while the second extends the tasks of the European Aviation Safety Agency. Both regulations were adopted following a first-reading agreement reached with the European Parliament.

This Regulation amends Regulation (EC) 216/2008 in order to increase the safety of aerodromes and improve the safety of air traffic management and air navigation services. It extends the tasks of European Aviation Safety Agency (EASA) to cover the safety of aerodromes, air traffic management and air navigation services. EASA's new tasks will include, in particular, the regulation and inspection of certification. Furthermore, as far as air traffic management and air navigation services are concerned, it will be necessary to ensure the proper coordination of common safety rules with the new regulations regarding the Single European Sky and the respective implementing rules.

Scope: the regulation will apply to:

- the design, production, maintenance and operation of aeronautical products, parts and appliances, as well as personnel and organisations involved in the design, production and maintenance of such products, parts and appliances;
- personnel and organisations involved in the operation of aircraft;
- the design, maintenance and operation of aerodromes, as well as personnel and organisations involved therein and, without prejudice to Community and national legislation on environment and land-use planning, the safeguarding of surroundings of aerodromes;
- the design, production and maintenance of aerodrome equipment, as well as personnel and organisations involved therein;
- the design, production and maintenance of systems and constituents for air traffic management and air navigation services (ATM/ANS), as well as personnel and organisations involved therein;
- ATM/ANS, as well as personnel and organisations involved therein.

Member States shall, as far as practicable, ensure that any military facilities open to public use or services provided by military personnel to the public offer a level of safety that is at least as effective as that required by the essential requirements defined by the legislation.

Aerodromes: the definition of 'aerodromes' is clarified to mean "a defined area (including any buildings, installations and equipment) on land or water or on a fexed, fixed offshore or floating structure intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft".

The Regulation stipulates that aerodromes, including equipment, located in the territory subject to the provisions of the Treaty, open to public use and which serve commercial air transport and where

operations using instrument approach or departure procedures are provided and a) have a paved runway of 800 metres or above; or (b) exclusively serve helicopters shall comply with this Regulation. Personnel and organisations involved in the operation of these aerodromes shall also comply with this Regulation.

Exemption: by way of derogation, Member States may decide to exempt from the provisions of this Regulation an aerodrome which a) handles no more than 10 000 passengers per year, and b) handles no more than 850 movements related top cargo operations per year. If such exemption by a Member State does no comply with the general safety objectives of this Regulation, the Commission shall take a decision not to permit the exemption in question.

Certification: aerodrome infrastructure and operations should be certified by means of a single certificate. However, Member States may certify aerodrome infrastructure and operations separately. In that case, certificates should be delivered by the same authority. Operators of multiple aerodromes, having established appropriate central functions, may request a single certificate, covering operations and management at all aerodromes under their responsibility.

No aircraft shall be operated unless it has a valid certificate of airworthiness. A certificate shall be required in respect of each flight simulation training device used for the training of pilots.

Moreover, aeronautical products, parts and appliances, aerodromes and their equipment, operators involved in commercial air transport and in the operation of aerodromes, ATM/ANS systems and providers, as well as pilots and air traffic controllers, and persons, products and organisations involved in their training and medical assessment, should be certified or licensed once they have been found to comply with essential requirements to be laid down by the Community in line with the standards and recommended practices set by the Chicago Convention.

ATM/ANS systems and constituents: implementing rules relating to the certification of the design, manufacture and maintenance of ATM/ANS systems and constituents, as well as to organisations engaged in their design, manufacture and maintenance should only be laid down when related to safety-critical issues identified following a detailed impact assessment study.

The Commission intends to begin work, in due time, on an examination of the feasibility and the necessity of introducing accredited bodies for the certification of ATM/ANS systems and an evaluation of all possible options and impacts. The Commission could, if appropriate, make a proposal for further revision of this Regulation based on a full impact assessment.

Implementing rules: the implementing rules to be developed by the Agency in the domain of ATM/ANS should be developed in the context of a comprehensive review of the safety requirements in the single European sky legislation (Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004 and (EC) No 552/2004). In order to avoid duplication of safety requirements applicable to ATM/ANS services, on the one hand, and to avoid a legal void, on the other hand, the date of entry into force of the amendments to the single European sky legislation should be in line with those of the new safety measures made under Regulation (EC) No 216/2008.

Comitology: the Commission shall be empowered to adopt implementing rules for air traffic controller licensing and associated approvals, aerodromes and aerodrome operation, air traffic management and air navigation services, and associated certificates, oversight and enforcement, as well as to adopt a regulation on the fees and charges of the Agency. These measures will be adopted in accordance with the regulatory procedure with scrutiny.

Without prejudice to the competences of the Member States, the Commission, if necessary, can make recommendations to the Council to establish a framework of coordination between the Community and the International Civil Aviation Organisation (ICAO) on safety audits, with the aim of avoiding duplication and in the interest of the efficient use of resources.

Agency: the Agency should have sufficient resources for its new tasks and the timing of the allocation of these resources should be based on a defined need and schedule for the adoption and the respective applicability of the related implementing rules. When drafting safety rules, the Agency should ensure the involvement of all interest parties. Rule-making opinions should be based on a full-scale consultation of all stakeholders, including the smaller industry operators, as well as on a proper assessment of their potential impact ion the applicable fields.

ENTRY INTO FORCE: 14/12/2009.