Civil aviation safety: investigation and prevention of accidents and incidents

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The Committee on Transport and Tourism adopted the report drawn up by Christine DE VEYRAC (EPP, FR) on the proposal for a regulation of the European Parliament and of the Council on investigation and prevention of accidents and incidents in civil aviation.

It recommended that the European Parliament's position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure) should amend the Commission proposal as follows:

Purpose: this Regulation aims – notably through the establishment of a Network of Civil Aviation Safety Investigation Authorities – to improve aviation safety by ensuring a high level of efficiency, expedition and quality of European civil aviation safety investigations, including the exchange of ideas, experiences and practices between members of the Network.

It also aims to establish rules on the availability of lists of all persons on board aircraft involved in accidents and to improve the assistance given to air accident victims and their families.

Definitions: Members propose replacing the term 'causes' with the term 'factors' to mean actions, omissions, events, conditions, or a combination thereof, which led to the accident or incident. They have also included the definitions of: 'deliberate act' which means an intentional act carried out with the aim of causing an aviation accident or serious incident; 'preliminary report' means the communication used for the prompt dissemination of data obtained during the early stages of the investigation; 'act of unlawful interference' shall mean an act or attempted act such as to jeopardise the safety of civil aviation and air transport, namely unlawful seizure of an aircraft in flight.

Obligation to conduct an investigation: the safety investigation authorities should be able to conduct their investigations free of any form of pressure and entirely independently of regulatory or judicial authorities and in the interest of public safety protection. They shall be independent of any judicial or administrative proceedings or financial interests to apportion blame or liability.

Safety investigation authority: each Member State shall ensure that safety investigations are conducted or supervised, without external interference, by a permanent civil aviation safety investigation authority capable of independently carrying out a full safety investigation. In order to inform the public of the general safety level, a safety review shall be published annually by the safety investigation authorities.

Cooperation between safety investigation authorities: these may be assisted by the Network. Specifically, the Network should supply to a safety investigation authority, at its request, a list of investigators and equipment available in the other Member States for potential use by the authority conducting an investigation.

European Network: the Network shall seek to improve the quality of investigations conducted by safety investigation authorities and to strengthen their independence. It should help to make air transport safer by setting high standards in relation to investigation methods and investigator training. In order to produce a real value added compared with the current situation, a series of amendments define the tasks and missions that the Network should accomplish. It shall have responsibility in particular for: (a) preparing recommendations and advising the European institutions on all aspects of developing and implementing

European policies and rules relating to civil aviation investigations and accident prevention and assistance to the victims of air accidents and their families; (b) developing the sharing of information ; (c) coordinating training and skills development programmes for the investigators; (d) establishing a register of good practice and developing a European safety investigation methodology; (e) strengthening the investigating capacities of the safety investigation authorities.

The Network shall publish an **annual report** on its activities and forward it to the European Parliament, the Council and the Commission for information. This report must set out the results of the implementation of the annual work programme and its impact on improving aviation safety in the European Union. It shall be made public.

Work organisation: the work of the Network shall be organised according to its rules of procedure. The Network shall be chaired by each of its members in turn under a rotating chairmanship that matches the presidency of the Council. The Network shall elect a coordinator for a renewable period of three years. The **coordinator** may be a member of the Network, an authority responsible for safety investigations in a Member State or a person with recognised experience in civil aviation safety investigation.

Participation of the European Aviation Safety Agency (EASA) and national civil aviation authorities in investigations:within the scope of their competence, EASA and the national civil aviation authorities shall be invited by the safety investigation authorities of the Member States to be represented and to participate in investigations. Members propose that the EASA be termed as an '**adviser'** as opposed to an 'expert' in any safety investigation carried out in a third country to which a safety investigation authority of a Member State is invited to designate an accredited representative. The term 'adviser' is the appropriate term, used in ICAO's Annex 13. EASA and the national civil aviation authorities may not make public, without the agreement of the safety investigation authority in charge of the investigation, information that they obtain in the course of the investigation, or use it for purposes other than improving aviation safety.

Accident investigators: Members consider it necessary that the investigator-in-charge should have **immediate** unrestricted and unhampered access to the site of the accident in order to gather and secure all evidence necessary to analyse and explain the factors related to the accident.

Coordination of investigations: Member States shall ensure good cooperation between the safety investigation authorities, on the one hand, and other authorities likely to be involved in the activities related to the safety investigation, such as the judicial, civil aviation, search and rescue and other authorities, on the basis of **advance arrangements**. Members state these arrangements must contain the relevant provisions laid down in this Regulation, in particular as regards the protection of information obtained in the course of the technical investigation.

Protection of sensitive data: Members state that it is essential that persons involved in an accident cooperate with the safety investigation in order to establish the causes of the accident. In this context sensitive safety information should not be used for purposes other than prevention of accidents and incidents. However, while some types of data need to be kept strictly confidential, it is important, both for the families of accident victims and for the smooth functioning of the justice system, that the courts should have access to certain data and facts which are useful for judicial inquiries. This must be done in accordance with the relevant instructions issued to protect the continued confidentiality of the information once the judicial authorities have completed their work.

The right balance among all interests including safety, justice and the protection of the victims and the persons involved is necessary to guarantee the overall public interest.

When safety data is used as evidence in criminal proceedings pursuant to paragraph 2a, the fundamental rights of the persons involved, notably the rights to privacy and to a fair trial, shall be respected. Only the

data strictly necessary for the criminal proceedings shall be disclosed, the rest being preserved by the investigation authority to the maximum extent possible.

The use of recordings: the amended text stipulates that cockpit voice and image recordings and their transcripts shall not be made available or used for purposes other than safety investigation unless the safety investigation authority establishes that the accident was caused by a deliberate act or an act of unlawful interference.

Information not relevant to the safety investigation, particularly information with a bearing on personal privacy, that is derived from cockpit voice and image recordings and their transcripts shall be subject to **full protection** and may not be forwarded or disclosed.

Member States shall ensure that the use in legal proceedings of recordings and safety data arising from accident investigation does not breach the right to privacy or the right to a fair trial. Under all circumstances, the right not to incriminate oneself shall be preserved.

Information to victims, their families or their associations: they should have priority access to information before it is made public, provided they have given contact details.

Occurrence reporting: Members consider that the question of occurrence reporting is important and must be paid particular attention. Currently, the data contained in ECCAIRS are not analysed at European level. Analysing those data could make it possible to detect trends and to take action to prevent an accident. The amended text stipulates that the EASA shall, in collaboration with the Member States, participate regularly in the exchange and analysis of information covered by Directive 2003/42/EC and shall have online access to all information contained in the central repository established under Regulation (EC) No 1321/2007.

Availability of passenger lists and contact with families: EU airlines and airlines **departing from or arriving at** an airport located in the territory of a Member State to which the Treaty applies shall implement procedures to produce a list of all the persons on board an aircraft, as soon as possible but at any rate **within two hours** of the notification of the occurrence of an accident to this aircraft, as well as a list of any dangerous goods on board which could constitute a threat to public health or to the environment.

In order to allow passengers' families to obtain information quickly concerning the presence of their relatives on board an aircraft involved in an accident, airlines and travel agencies shall offer travellers the opportunity to give the **name and contact details of a person to be contacted in the event of an accident**. This information may be used only in the event of an accident. It shall not be communicated to third parties and it may not be used for commercial purposes. The list of passengers shall not be publicly available before all families of the passengers have been informed by the relevant authorities and their agreement has been obtained.

Assistance to victims and their families: the Member States shall ensure that a civil aviation accident **emergency plan** is set up at national level. At the same time it must be governed by certain common principles in the Member States, thereby ensuring a more comprehensive and harmonised response to such occurrences at European level.

This emergency plan shall include in particular a plan for the assistance of the victims of civil aviation accidents and a plan for the rapid activation of airport emergency services in the event of an accident at take-off or landing in a Member State.

When an accident occurs, the airline is the first point of contact for passengers' families. Member States must therefore check that the airlines established on their territory also have an appropriate crisis-response plan. Third-country airlines, too, must have such a plan.

When an accident occurs, the Member State that is in charge of the investigation, or where the airline whose aircraft was involved in the accident is established, or that had a large number of nationals on board the aircraft involved in the accident, shall provide for the **appointment of a reference person** as a point of contact and information for the victims and their families.

European travellers must be protected by the Montreal Convention irrespective of the company they fly with.

Access to documents and the protection of personal data:Members consider that particular attention should be paid to the protection of personal data. The provisions of this Regulation shall apply in accordance with Directive 95/46/EC and Regulation (EC) No 45/2001 of the European Parliament and of the Council.

Adaptations to technical progress: the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the TFEU concerning adaptations to technical progress, in particular with regard to modifications in the context of Annex 13 to the ICAO Convention, of the definitions in Article 2 and the Annex to this Regulation. **Amendment of the Regulation**: Members call for this Regulation to be subject to a review no later than 4 years after its entry into force. To this effect, and based inter alia on a wide consultation of stakeholders and the Network, the Commission shall assess the implementation of this Regulation and present a written review report, no later than five years after its entry into force, including proposals for legislative changes where necessary.