

Civil aviation safety: investigation and prevention of accidents and incidents

2009/0170(COD) - 21/09/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 604 votes to 11, with 26 abstentions, a legislative resolution 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.

The Parliament adopted its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure). The amendments adopted in plenary are the result of a compromise reached between the European Parliament and the Council. They amend the Commission's position as follows:

Purpose of the Regulation: this Regulation aims to improve aviation safety by ensuring a high level of efficiency, expediency, and quality of European civil aviation safety investigations, the sole objective of which is the prevention of future accidents and incidents without apportioning blame or liability, including through the establishment of a **European Network of Civil Aviation Safety Investigation Authorities**.

The Regulation also provides rules concerning the timely availability of information relating to all persons and dangerous goods on board an aircraft involved in an accident. It also aims to improve the assistance to the victims of air accidents and their relatives (i.a. the immediate family and/or next of kin and/or other person closely connected with the victim of an accident, as defined under the national law of the victim).

Scope: this Regulation shall apply to safety investigations into accidents and serious incidents which have occurred in the territories of the Member States to which the Treaties apply. It shall not apply to safety investigations into accidents and serious incidents which involve aircraft engaged in military, customs, police or similar services, except when the Member State concerned so determines, in accordance with this Regulation and national legislation.

Civil Aviation Safety Investigation Authority: the amended text stipulates that each Member State shall ensure that safety investigations are conducted or supervised, without external interference, by a permanent national civil aviation safety investigation authority capable of independently conducting a full safety investigation, either on its own or through agreements with other safety investigation authorities. In order to inform the public of the general aviation safety level, a safety review shall be published annually at national level. In this analysis, the sources of confidential information shall not be revealed.

Obligation to investigate: every accident or serious incident involving aircraft other than specified in Annex II to Regulation (EC) No 216/2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency shall be the subject of a safety investigation in the Member State in the territory of which the accident or serious incident occurred.

When an aircraft, other than specified in Annex II to Regulation (EC) No 216/2008, registered in a Member State is involved in an accident or serious incident the location of which cannot be definitely established as being in the territory of any State, a safety investigation shall be conducted by the safety investigation authority of the Member State of registration.

Safety investigations shall be **independent** of, separate from and without prejudice to any judicial or administrative proceedings to apportion blame or liability.

Cooperation between safety investigation authorities: when, following a request, a safety investigation authority agrees to provide assistance, such assistance shall, as far as possible, be provided free of charge.

European Network of Civil Aviation Safety Investigation Authorities: Member States shall ensure that their safety investigation authorities establish between them a European Network of Civil Aviation Safety Investigation Authorities ("the Network"), composed of the heads of the safety investigation authorities in each of the Member States and/or, in the case of a multimodal authority, the head of its aviation branch, or their representatives, including a chairman chosen among these for a period of three years. In close consultation with the members of the Network, the chairman shall draw up the annual work programme of the Network. The Commission shall transmit the work programme to the European Parliament and the Council. The chairman shall also draw up the agenda for the meetings of the Network.

The Network shall seek to further improve the quality of investigations conducted by safety investigation authorities and to strengthen their independence. In particular, it shall encourage high standards in investigation methods and investigator training.

In order to bring a genuine added value compared to the current situation, a series of amendments defines the tasks and missions which the Network should be responsible for. The Network should in particular: (a) prepare suggestions and advise Union institutions on all aspects of development and implementation of Union policies and rules relating to safety investigations and the prevention of accidents and incidents; (b) promote the sharing of information useful for the improvement of aviation safety and actively promote structured cooperation between safety investigation authorities, the Commission, EASA and national civil aviation authorities; (c) coordinate and organise, where appropriate, "peer reviews", relevant training activities and skills development programmes for investigators; (d) promoting best safety investigation practices with a view to developing a common Union safety investigation methodology; (e) strengthen the investigating capacities of the safety investigation authorities.

The Commission shall inform the European Parliament and the Council of the activities of the Network on a regular basis. The European Parliament shall also be informed whenever the Council or the Commission submits requests to the Network.

The members of the Network shall neither seek nor accept instructions from any body which could affect the independent status of safety investigations.

Participation of EASA and national civil aviation authorities in safety investigations: safety investigation authorities shall, provided that the requirement of no conflict of interest is satisfied, invite EASA and national civil aviation authorities of the Member States concerned, within the scope of their respective competence, to appoint a representative to participate in investigations. EASA and the national civil aviation authorities shall support the investigation in which they participate by supplying the requested information, advisers and equipment to the safety investigation authority in charge.

Obligation to notify accidents and serious incidents: the Regulation states that any person involved who has knowledge of the occurrence of an accident or serious incident shall notify without delay the competent safety investigation authority of the State of Occurrence thereof. The safety investigation authority shall notify without delay the Commission, EASA, the International Civil Aviation Organisation (ICAO), the Member States and third countries concerned in accordance with the international standards and recommended practices of the occurrence of all accidents and serious incidents of which it has been notified.

Participation of the Member States in safety investigations: upon receipt of the notification of the occurrence of an accident or serious incident from another Member State or third country, the Member States which are the State of Registry, the State of the Operator, the State of Design and the State of Manufacture shall, as soon as possible, inform the Member State or third country in the territory of which

the accident or serious incident occurred whether they intend to appoint an accredited representative in accordance with the international standards and recommended practices.

Status of the safety investigators: notwithstanding any confidentiality obligations under the legal acts of the Union or national law, the investigator-in-charge shall in particular be entitled to: (a) **have immediate unrestricted and unhampered access to the site** of the accident or incident as well as to the aircraft, its contents or its wreckage; (b) request the medical examination of the people involved in the operation of the aircraft or request tests to be carried out on samples taken from such people and to have immediate access to the results of such examinations or tests.

Any person participating in safety investigations shall perform his or her duties independently and shall neither seek, nor accept instructions from anybody, other than the investigator-in-charge or the accredited representative.

Coordination of investigations: when a judicial investigation is also instituted, the investigator-in-charge shall be notified thereof. In such a case, the investigator-in-charge shall ensure traceability and retain custody of flight recorders and any material evidence.

Member States shall ensure that 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 authorities, on the other hand, cooperate with each other through advance arrangements.

Those arrangements shall respect the independence of the safety investigation authority and allow the technical investigation to be conducted diligently and efficiently. Among others, the **advance arrangements** shall cover the following subjects: (a) access to the site of the accident; (b) preservation of and access to evidence; (c) initial and ongoing debriefings of the status of each process; (d) exchange of information; (e) appropriate use of safety information; (f) resolution of conflicts.

Member States shall communicate to the Commission those arrangements, which shall transmit them to the chairman of the Network, the European Parliament and the Council for information.

Preservation of evidence: the Member State in the territory of which the accident or serious incident occurred shall be responsible for ensuring safe treatment of all evidence and for taking all reasonable measures to protect such evidence and for maintaining safe custody of the aircraft, its contents and its wreckage for such period as may be necessary for the purpose of a safety investigation.

Protection of sensitive safety information: the amended text states that the cockpit voice and image recordings and their transcripts, as well as voice recordings inside air traffic control units, ensuring also that information not relevant to the safety investigation, particularly information with a bearing on personal privacy, shall be appropriately protected.

Flight data recorder recordings shall not be made available or used for purposes other than those of the safety investigation, airworthiness or maintenance purposes, except when such records are de-identified or disclosed under secure procedures.

The communication of records to another Member State for purposes other than safety investigation and for purposes other than those aiming at the improvement of aviation safety may be granted insofar as the national law of the communicating Member State permits.

Communication of information: the safety investigation authority in charge shall be authorised to inform victims and their relatives or their associations or make public any information on the factual

observations, the proceedings of the safety investigation, possibly preliminary reports or conclusions and /or safety recommendations, provided that it does not compromise the objectives of the safety investigation and fully complies with applicable legislation on the protection of personal data.

Occurrence reporting: the amended text stipulates that the competent authorities of the Member States shall in collaboration participate regularly in the exchange and analysis of information covered by Directive 2003/42/EC and shall have access by designated persons to information contained in the central repository established under Regulation (EC) No 1321/2007.

Information on persons and dangerous goods on board: Union airlines operating flights arriving to or departing from, and third country airlines operating flights departing from an airport located in the territories of the Member States to which the Treaties apply, shall implement procedures which allow for the production: (a) as soon as possible, and at the latest within two hours of the notification of the occurrence of an accident to the aircraft, of a validated list, based on the best available information, of all the persons on board; and (b) **immediately** after the notification of the occurrence of an accident to the aircraft, of the list of the dangerous goods on board.

In order to allow passengers' relatives to obtain information quickly concerning the presence of their relatives on board an aircraft involved in an accident, airlines 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 by the airlines only in the event of an accident and shall not be communicated to third parties or used for commercial purposes.

The name of a person on board shall not be made publicly available before the relatives of that person have been informed by the relevant authorities. The lists referred to in the Regulation shall be kept confidential in accordance with the legal acts of the Union and national law and the name of each person appearing in these lists shall, subject thereto, only be made publicly available in so far as the relatives of the respective persons on board have not objected.

Assistance to the victims of air accidents and their relatives: each Member State shall establish a civil aviation accident emergency plan at national level. Such an emergency plan shall also cover assistance to the victims of civil aviation accidents and their relatives.

Member States shall ensure that all airlines established in their territory have a plan for the assistance to the victims of civil aviation accidents and their relatives. Those plans must take particular account of psychological support for victims of civil aviation accidents and their relatives and allow the airline to react to a major accident. The Member States shall audit the assistance plans of the airlines established in their territory. Member States shall also encourage third-country airlines which operate in the Union to similarly adopt a plan for the assistance of victims of civil aviation accidents and their relatives.

When an accident occurs, the Member State in charge of the investigation, the Member State in which the airline, the aircraft of which was involved in the accident is established, or the Member State which had a large number of its 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 relatives.

Amendment of this Regulation: this Regulation shall be subject to a review no later than four years following its entry into force. Where the Commission considers that this Regulation should be amended, it shall request the Network to issue a preliminary opinion, which shall also be forwarded to the European Parliament, the Council, the Member States and EASA.