

Civil aviation security

2005/0191(COD) - 22/09/2005 - Legislative proposal

PURPOSE: to replace Regulation 2320/2002/EC in order to clarify, simplify and harmonise the rules on civil aviation security.

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

CONTENT: Regulation 2320/2002/EC has been in force since January 2003. Experience over time has shown that the regulation is too detailed and is in need of simplification. Having such a high degree of detail in framework legislation adopted by codecision makes legal revision to take into account technical or operational developments impractical. This is an over-prescriptive approach in a framework legislation, which should be replaced by general principles with details added, when necessary, in the implementing legislation.

It is, therefore, appropriate to replace this Regulation. The new framework regulation will solely lay down the basic principles of what has to be done in order to safeguard civil aviation against acts of unlawful interference, whereas implementing acts will lay down the technical and procedural decisions on how this is to be achieved.

Increased harmonisation is also an integral element of 'one-stop security' - the concept whereby transfer and transit passengers, bags and cargo need not be re-screened since there is confidence that baseline levels of security were met at the original departing airport. Again, this is an element that is of benefit to operators acting in a highly competitive market.

A further issue of concern is that the current regulation is in the public domain. Consequently, any amendments made to it will also be in the public domain. In the view of the Commission it is not desirable to have detailed security measures and procedures placed in the public domain, as potential terrorists could use the information to seek out weaknesses in aviation security in order to perpetrate unlawful acts. Similarly, it is also not in the public interest to publicise new developments in security. By placing operational details in implementing legislation this issue can be addressed.

The only additional competence sought relates to rules for in-flight security measures. It covers such diverse topics as access to the cockpit, unruly passengers and in-flight security officers ('sky marshals'). There currently does not exist Community legislation covering inflight security measures. In the view of the Commission harmonised rules would be best addressed as an element of aviation security legislation, by means of implementing legislation. However, the Commission stresses that such implementing legislation will be developed only as and when such rules are deemed necessary at the Community level. Also, it should be noted that the Commission has no intention of compelling any Member State to accept in-flight security officers on board aircraft and the proposal in no way seeks to change existing sovereignty on this matter.

The following points should be noted:

-The proposal permits Member States to apply more stringent security measures. The principle is unchanged from Regulation 2320/2002/EC. However, the new proposal requires that Member States shall both undertake a risk assessment and that they shall be able to justify such action, in general terms, if requested to do so by the Commission. Actions by Member States in response to specific threat information should not be prejudiced by this legislation and so heightened security requirements for individual flights would fall outside the requirements of this article.

-A new Article addresses the situation whereby a third country requires different security measures on flights from Community airports than those laid down by Community legislation.

Lastly, the proposal does not address the issue of financing security. A later Communication will deal with this matter.