Basic information

2005/0228(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Civil aviation: common rules and creation of the European Aviation Safety Agency (EASA) Repealing Regulation (EC) No 1592/2002 2000/0246(COD) Repealing Directive 2004/36/EC 2002/0014(COD) Repealed by 2015/0277(COD) Amended by 2008/0128(COD) **Subject** 3.20.01 Air transport and air freight 3.20.01.01 Air safety 8.40.08 Agencies and bodies of the EU	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
TRAN Transport and Tourism	LEICHTFRIED Jörg (PSE)	22/10/2007

Former committee responsible	Former rapporteur	Appointed
TRAN Transport and Tourism	LEICHTFRIED Jörg (PSE)	07/02/2006

Former committee for opinion	Former rapporteur for opinion	Appointed
BUDG Budgets	HAUG Jutta (PSE)	20/09/2004
ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
ITRE Industry, Research and Energy	The committee decided not to give an opinion.	
LIBE Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2823	2007-10-15

	Transport, Telecommunications and Energy	2735	2006-06-08
	Transport, Telecommunications and Energy	2772	2006-12-11
	Transport, Telecommunications and Energy	2805	2007-06-06

European Commission	Commission DG	Commissioner
	Energy and Transport	BARROT Jacques

Key events

Date	Event	Reference	Summary
15/11/2005	Legislative proposal published	COM(2005)0579	Summary
13/12/2005	Committee referral announced in Parliament, 1st reading		
08/06/2006	Debate in Council		
11/12/2006	Debate in Council		Summary
23/01/2007	Vote in committee, 1st reading		Summary
01/02/2007	Committee report tabled for plenary, 1st reading	A6-0023/2007	
13/03/2007	Debate in Parliament		
14/03/2007	Decision by Parliament, 1st reading	T6-0067/2007	Summary
14/03/2007	Results of vote in Parliament		
15/10/2007	Council position published	10537/3/2007	Summary
25/10/2007	Committee referral announced in Parliament, 2nd reading		
27/11/2007	Vote in committee, 2nd reading		Summary
28/11/2007	Committee recommendation tabled for plenary, 2nd reading	A6-0482/2007	
11/12/2007	Debate in Parliament		
12/12/2007	Decision by Parliament, 2nd reading	T6-0607/2007	Summary
12/12/2007	Results of vote in Parliament		
30/01/2008	Act approved by Council, 2nd reading		
20/02/2008	Final act signed		
20/02/2008	End of procedure in Parliament		
19/03/2008	Final act published in Official Journal		

Technical information

Procedure reference	2005/0228(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)

Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealing Regulation (EC) No 1592/2002 2000/0246(COD) Repealing Directive 2004/36/EC 2002/0014(COD) Repealed by 2015/0277(COD) Amended by 2008/0128(COD)
Legal basis	EC Treaty (after Amsterdam) EC 080-p2
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/6/55096

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE374.105	22/09/2006	
Committee opinion	BUDG	PE367.892	27/09/2006	
Amendments tabled in committee		PE380.672	08/11/2006	
Committee report tabled for plenary, 1st reading/single reading		A6-0023/2007	01/02/2007	
Text adopted by Parliament, 1st reading/single reading		T6-0067/2007	14/03/2007	Summary
Committee draft report		PE396.590	13/11/2007	
Committee recommendation tabled for plenary, 2nd reading		A6-0482/2007	28/11/2007	
Text adopted by Parliament, 2nd reading		T6-0607/2007	12/12/2007	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	10537/3/2007	15/10/2007	Summary
Draft final act	03697/2007/LEX	20/02/2008	

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	COM(2005)0578	15/11/2005	Summary
Legislative proposal	COM(2005)0579	15/11/2005	Summary
Commission communication on Council's position	COM(2007)0631	18/10/2007	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2007)0864	19/12/2007	Summary
Follow-up document	C(2009)3220	05/05/2009	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0600/2006	21/04/2006	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2008/0216
OJ L 079 19.03.2008, p. 0001 Summary

Civil aviation: common rules and creation of the European Aviation Safety Agency (EASA)

2005/0228(COD) - 11/12/2006

Pending the European Parliament's first-reading opinion, the Council reached agreement on a general approach on a proposal for a regulation amending regulation 1592/2002/EC on common rules in the field of civil aviation and establishing a European Aviation Safety Agency.

The working party agreed on several modifications to the Commission proposal, which concern in particular the following issues:

– **essential requirements for licensing, operations and third country aircraft**: changes have been made to the operative part of the Regulation and to recitals in order to assuage concerns from Member States about the safety impact of the proposed essential requirements with regard in particular to the proposed leisure pilot licence; the content of rules to be applied to non-commercial operations in the Community by third country operators; and the circumstances under which general practitioners may act as aero medical examiners in accordance with national regulations;

– **assessment bodies**: provision in the Commission proposal granting privileges to assessment bodies for the issuing of various Community-recognised approvals, particularly in the area of licensing has been deleted from the proposal, on the understanding that this deletion does not prevent those Member States who so wish to grant these privileges to bodies based within their jurisdiction;

– **new certification tasks for the agency**: the number of new certification tasks accorded to the Agency has been reduced, compared to the Commission' s proposal. The new certification tasks are limited largely to the certification of third country operators flying to and from the Community and to approvals of organisations based outside the territory of the Member States.

– **rulemaking**: with respect to the scope of the rulemaking for third country operators, a new provision clarifies the requirements that shall be imposed upon third country operators using Community airports;

– **governance**: changes proposed by the Commission to the governance arrangements for EASA have been rejected on the grounds that they would interfere with the proper system of accountability in the Community agencies. However, the working party has maintained the Commission's proposal to include interested parties as observers in the Management Board and has provided for special Management Board working bodies to assist the Board proper in carrying out its functions.

– **annexes**: the annexes to the proposal, which set out the essential requirements to be applied in the area of air operations and licensing, have been refined. The European Parliament's first-reading opinion is expected for February 2007.

Civil aviation: common rules and creation of the European Aviation Safety Agency (EASA)

2005/0228(COD) - 12/12/2007 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution based on the report drafted by Jörg **LEICHTFRIED** (PES, AT). In the second reading of the co-decision procedure, it made some amendments to the Council's common position for adopting a regulation on common rules in the field of civil aviation and establishing a European Aviation Safety Agency. The text adopted in plenary was the result of an agreement negotiated with the Council, with the help of the Commission.

The main points of the compromise text were as follows:

Definition of "complex motor-powered aircraft": this now includes an aeroplane certificated for a maximum passenger seating configuration of more than nineteen, a helicopter certificated for a maximum take-off mass exceeding 3 175 kg or for a maximum passenger seating configuration of more than 9 or for operation with a minimum crew of at least 2 pilots.

Fines and periodic penalty payments: at the Agency's request, the Commission may: a) impose on the persons and the undertakings to which the Agency has issued a certificate, fines, where intentionally or negligently, the provisions of this Regulation and its implementing rules have been breached; b) impose periodic penalty payments, calculated from the date set in the decision, in order to compel those persons and undertakings to comply with the provisions of this Regulation and its implementing rules. The amount of the fines must not exceed 4 % of the annual income or turnover of the certificate holder. The amount of the periodic penalty must not exceed 2.5 % of the average daily income or turnover of the certificate holder.

The Commission shall adopt the detailed rules for the implementation of this Article. In doing so, it shall specify in particular: a) detailed criteria for establishing the amount of the fine or periodic penalty payment; and b) procedures for enquiries, associated measures and reporting, as well as rules of procedure for decision-making, including provisions on rights of defence, access to file, legal representation, confidentiality and temporal provisions and the quantification and collection of fines and periodic penalty payments.

The Court of Justice shall have unlimited jurisdiction to review decisions whereby the Commission has fixed a fine or periodic penalty payment. It may cancel, reduce or increase the fine or periodic penalty payment imposed. Decisions taken pursuant to these provisions will not be of a criminal law nature.

Flight time limitations and possible derogations: in the event of unforeseen urgent operational circumstances or operational needs of limited duration and non repetitive nature, derogations to certification specifications may apply provisionally until the Agency expresses its opinion. A further amendment stipulates that the Agency shall, within one month of notification, assess an individual scheme on the basis of a scientific and medical evaluation. Thereafter the Member State concerned may grant the approval as notified, unless the Agency has discussed the scheme with that Member State and proposed changes. Should the Member State agree with these changes, it may grant the approval accordingly

Cabin crew: the regulatory procedure with scrutiny will apply to conditions for issuing, maintaining, amending, limiting, suspending or revoking the cabin crew attestation.

Management Board: Members shall be selected on the basis of their recognised experience and commitment in the field of civil aviation, their managerial capabilities and their expertise, which are to be used to further the objectives of the Regulation. The competent committee of the European Parliament shall be fully informed accordingly. Each Member State shall appoint a member of the Management Board as well as an alternate who will represent the member in his/her absence. The Commission shall also designate its representative and alternate.

Budget: regulatory budgets and the fees set and collected for certification activities shall be dealt with separately in the Agency's budget.

Independence and impartiality of the Agency: Parliament stated that any financial contribution received by the Agency from Member States, third countries or other entities should not compromise its independence and impartiality.

Civil aviation: common rules and creation of the European Aviation Safety Agency (EASA)

2005/0228(COD) - 15/11/2005 - Document attached to the procedure

Thanks to the creation of a single European sky air traffic in Europe is growing rapidly. Over the past fifteen years it has more than doubled. The establishment of the internal market in air transport has contributed in large part to the speeding up of this trend and helps account for the 12% of intra-Community traffic in low-cost airlines. Whilst flying remains one of the safest means of transport thanks to the constant efforts of the aviation industry, it is essential that these standards are maintained and even improved upon. It is now time to put an end to an anomaly whereby aircraft can enjoy complete freedom within a unified market in spite of safety standards varying between the Member States. The purpose of this Report is to address this anomaly. It acts as an accompanying paper to the Commission's proposal to broaden the scope of the European Aviation Safety Agency (EASA).

The EASA was set up in 2002 by Regulation 1592/02. At the time of its adoption, the EU was granted exclusive responsibility for the airworthiness and environmental compatibility of aeronautical products but it was clearly understood that optimum and uniform safety standards and the establishment of fair competition for air operators could only be achieved by extending the scope of the text to include air operations and flight crews licensing. Indeed, the Council, the European Parliament and the Regulation itself gave the Commission the mandate to examine ways in which to extend this mandate and to prepare, if necessary, a proposal to that effect. That is the purpose of the proposed Regulation forwarded to the European Parliament and the Council together with this communication. In essence the proposal states that the common rules applicable to air traffic and hence the tasks of the

Agency should be extended to include air operations, pilots' licenses and, within the limits of the Chicago Convention, the safety of third-country aircraft. As a result, from 2007 onwards, virtually all the rules drawn up at present by the JAA should be incorporated into Community law and implemented uniformly throughout the Community.

The need for extending the Agency's scope has to be examined within the context of the current methods for establishing safety standards. At present standards are prepared and developed by inter-governmental organisations. The aviation rules and standards prepared are non-binding and have no regulatory powers. In widening the Agency's scope the EU will be able to access regulatory control over safety standards and thereby ensure their synchronisation and implementation in a harmonised manner.

To guarantee European citizens a high and uniform level of protection in civil aviation and the environmental compatibility of aeronautical products, facilitate the free movement of persons, services and goods and improve upon the efficiency of the rules, the entire European aviation system should ultimately be covered by common rules implemented uniformly. In this context, the EASA which will prepare, implement and monitor the application of these rules, is set to become by 2010 the European authority with extended powers covering all aspects of civil aviation safety. The European Commission has launched an impact study to examine the case for regulatory work in the field of air traffic management, the provision of air navigation services and the safety of airport operations. The conclusion of the study will form the basis for a proposal for a Regulation to be forwarded to the European Parliament and the Council before the end of 2006.

In conclusion, the Report argues that to maintain and, if possible reinforce the pan-European consistency of the civil aviation safety rules, the EASA system will be extended to cover all European third countries through specific agreements concluded between the Community and the Countries concerned. Extending the responsibility of the Agency, achieving the single sky and concluding air service agreements with third countries, will guarantee that European aviation policy has a coherent framework comparable to that of the United States.

Civil aviation: common rules and creation of the European Aviation Safety Agency (EASA)

2005/0228(COD) - 06/06/2007

The Council reached a political agreement on a proposal for a Regulation amending Regulation (EC) No 1592/2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency. The Council will adopt its common position at one of its forthcoming meetings after finalisation of the text and will forward it to the European Parliament for a second reading in the framework of the codecision procedure.

Compared to the text of the general approach concluded in December 2006, the text agreed by the Council takes account of the new comitology rules adopted in July 2006 and it also includes some of the European Parliament's first-reading amendments acceptable in full to the Council.

The text agreed by the Council modified the Commission's proposal concerning in particular the following issues: essential requirements for licensing, operations and third-country aircraft; assessment bodies; new certification tasks for the agency; rulemaking and governance.

Civil aviation: common rules and creation of the European Aviation Safety Agency (EASA)

2005/0228(COD) - 14/03/2007 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Jörg **LEICHTFRIED** (PES, AT) and amended the Commission's proposal. (For details of the main amendments, please refer to the summary of 23/01/2007)

Civil aviation: common rules and creation of the European Aviation Safety Agency (EASA)

2005/0228(COD) - 20/02/2008 - Final act

PURPOSE: the setting of common rules in the field of civil aviation and the establishment of a European Aviation Safety Agency.

LEGISLATIVE ACT: Regulation (EC) No 216/2008 of the European Parliament and of the Council on common rules in the field of aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36 /EC.

CONTENT: the purpose of this Regulation is to establish and maintain a high uniform level of civil aviation safety in Europe. This objective is to be realised through:

- the preparation, adoption and uniform application of all necessary acts;
- the recognition, without additional requirements, of certificates, licences, approvals or other documents granted to products, personnel and organisations in accordance with the Regulation;
- the establishment of the European Aviation Safety Agency; and
- the uniform implementation of all necessary acts by the national aviation authorities and the Agency.

The Regulation applies to the design, production, maintenance and operation of aeronautical products, parts and appliances. It also applies to the personnel involved in the design/production of these products - including the personnel involved in the operation of aircraft. The Regulation does not apply to products or personnel that are engaged in military, customs or police activities.

A set of specific and substantive provisions are established by the Regulation that include: basic principles and applicability; airworthiness; essential requirements for environmental protection; pilots; air operations; aircraft used by third-country operator into, within or out of the Community; oversight and enforcement; the recognition of certificates; acceptance of third-country certification; qualified entities; information network; and the protection of source information. The actual essential requirements for airworthiness; aircraft; pilot licenses; and air operations are specified in Annex to the Regulation.

In addition, the Regulation sets out the rules governing the establishment of the European Aviation Safety Agency. This includes a list of its functions; the measures it may adopt including the certification of an aircraft's airworthiness; its environmental status, pilot certification and air operation certification. Its roles and responsibility vis-à-vis third country operators and fines and periodic penalty payments are also specified.

On a final point the Regulation sets out the form and procedures for, (amongst others): inspections of the Member States and investigation into undertakings. The Member States will be responsible for laying down the penalties for the infringement of the Regulation – they must be effective, proportionate and dissuasive.

ENTRY INTO FORCE: 8 April 2008.

Civil aviation: common rules and creation of the European Aviation Safety Agency (EASA)

2005/0228(COD) - 19/12/2007 - Commission opinion on Parliament's position at 2nd reading

The Commission can accept the 20 amendments adopted by the European Parliament at second reading as they are the result of the compromise reached between the three institutions.

The main changes concern the amendment of the definition of complex aeroplane, the ex ante notification of flight time limitation schemes, the establishment of a system of fines and the selection of members of the Management Board on the basis of their experience and commitment to act in the interest of the Agency.

As part of the compromise solution, the Commission has found it necessary to make three statements:

- **Fees and charges:** the Commission states that, when amending Commission Regulation (EC) 593/2007 on the fees and charges levied by the European Aviation Safety Agency, it will pay due attention to the specific situation of SMEs, and, in particular, to the impact that the level of the fees and charges may have on their economic viability, whilst continuing to ensure both compliance with the principle of non-discrimination and that the revenue from the certification activity of the Agency remains sufficient to cover the full cost of the services delivered.
- **Complex motor-powered aircraft:** as regards the definition of complex motor-powered aircraft, the Commission will assess the economic impact on markets of the inclusion of aeroplanes equipped with turbojet engines or more than one turboprop engine in such a definition and will request the European Aviation Safety Agency to monitor their safety performance.
- **Annex II point e (ultra light aircraft): t**he Commission will request the European Aviation Safety Agency to conduct formal consultations of all stakeholders and to submit a reasoned opinion for a change to Annex II, point e, aimed at including in it ultra light aircraft of less than 600 kg, if necessary.

As a result, the Commission has amended its proposal in accordance with the above.

Civil aviation: common rules and creation of the European Aviation Safety Agency (EASA)

2005/0228(COD) - 18/10/2007 - Commission communication on Council's position

The Commission states that the essential provisions of the Commission proposal are contained in the text of the common position. The Commission accepted totally or in part 14 of the 31 amendments proposed by the European Parliament at first reading. Of these 31 amendments, the Council included 8 verbatim in its common position.

Amendments concerning penalties for non-compliance with the common rules have even been strengthened as a result of the discussions. In terms of its form, however, the Commission text has been substantially modified as Member States wish to deal with third-country carriers in separate articles. The Commission points out that most of the proposals for improvements to the governance of the EASA have been rejected by the Council. Furthermore, the Council has preferred to restrict the certification powers entrusted to the Agency to what is strictly necessary. Given the Agency's limited resources, the Commission has accepted this restriction.

The following amendments were the key ones accepted by the Commission and incorporated in full or in part in the common position:

- Article 8(4) states that cabin crew engaged in commercial operations must hold a certificate as initially described in the Annex to Regulation

(EC) No 1899/2006 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation (EU OPS). At the discretion of the Member State concerned, such a certificate may be issued by approved operators or training bodies;

- one amendment introduces into Article 11(2) and 11(3) corrective and safeguard measures to be applied by the Commission in the event of the non-conformity or non-operative conformity of a certificate issued in accordance with the Regulation;

- Article 32(2)(b) provides that the Management Board shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedure. The amendment states this shall be done in particular as regards any information concerning the effects or consequences of changes made to the missions entrusted to the Agency;

- the idea of setting up an Executive Board within the Agency's Management Board was not adopted;

- Article 55 provides that the Agency's annual work programme must clearly state the Agency's mandates and missions which have been added, changed or abolished as compared with the previous year;

- Article 56 provides that the Agency's general report shall clearly state the effects or consequences of any changes to the missions entrusted to the Agency;

- one amendment specifies that the implementation rules must be based on a risk assessment and be proportional to the scale and scope of the operation. Parliament had proposed including these provisions in Annex IV, while the Council, as suggested by the Commission, considered it more advisable to include them at the heart of the Regulation in Article 8(6).

The common position also contains the provision that fees are assigned revenue. This provision is very important in order to be able to ensure some stability for the Agency's budget as regards certification activity. The Council also consolidated the recitals.

The Council rejected six amendments, in full or in part, which had been accepted by the Commission. The main ones are:

- a recital regarding the need for the Agency to provide information which would be useful for drawing up a "black list" (Regulation (EC) No 2111/2005);

- a reference to the need to take account of scientific and technical progress when drawing up the rules for implementing Article 7(7) (pilots);

- the text of the common position includes neither the Commission's proposal nor Parliament's amendments regarding the weighting of the Commission representatives votes' on the Agency's Management Board;

- the Council did not accept Parliament's proposals to amend the definition of a "qualified entity". However, Parliament's definition was not very different.

- one amendment which contains provisions to protect information sources, has been incorporated in the text of the common position, the only difference being as regards Parliament's proposed use of the term "penal law" as compared to "criminal law".

The Commission states that, except for the issue of the weighting of the Commission representatives votes' on the Agency's Management Board, the other amendments set out above did not give rise to any real problems on the part of the Member States, the only changes being minor editorial amendments but not changes to the substance.

17 amendments were rejected by the Commission and not incorporated in the common position, inter alia:

- the proposal to extend the remit of the EASA to air security. The Commission considers that this cannot be part of the Agency's responsibility as its technical expertise is strictly concerned with safety;

- the amendments intended to exclude certain types of aeroplane and helicopter for commercial reasons. The Commission believes that this would run counter to the purpose of ensuring an adequate level of safety inspections and therefore has not adopted Parliament's proposals;

- two amendments have been rejected by the Commission as their effect would be to prevent certification procedures from being imposed on non-commercial operators operating complex, powerful aeroplanes;

- the amendment concerning the introduction of mutual recognition of cabin crews has been rejected as it duplicates Article 11(mutual recognition).

- one amendment concerns a provision enabling the Agency to impose financial penalties on those for whom it is responsible in cases of minor infringements for which the withdrawal of a certificate would be disproportionate. It cannot be accepted as it stands as it raises legal, institutional and practical issues which require detailed consideration ;

- the Commission considers that the members of the Agency's Management Board must be appointed by the Member States and not Parliament as the Agency is called upon to perform tasks on behalf of the Member States ;

- on the matter of the fees charged by the Agency for its certification activities, Parliament calls for two separate decisions: the first concerning the budget for

certification fees and the second for other resources. Parliament also asks to have part of the European subsidy assigned to certification activity. The Commission does not accept these amendments as the first undermines the principle of unity of the budget and the second would have the effect of depriving the Agency of about 40% of the financial resources allocated to the development of safety regulations, compliance checks by the Member States and accident analysis. This would benefit certain industrial groups which would no longer have to pay for certain activities in connection with ensuring that their products are maintained at the requisite safety level.

The Commission concludes that the common position detracts neither from the essential aims nor the spirit of the proposal and is therefore able to accept it.

Civil aviation: common rules and creation of the European Aviation Safety Agency (EASA)

2005/0228(COD) - 15/10/2007 - Council position

The Council notes that the Commission's proposal has been drafted as a “modifying Regulation”, whereas the Council has drawn up its common position on the basis of a “consolidated version”.

The Council made the following principal changes to the Commission proposal:

- concerning essential requirements for **licensing, operations and third country aircraft**, changes have been made to the operative part of the Regulation and in the recitals in order to assuage concerns from Member States about the following: the safety impact of the proposed essential requirements with particular reference to the leisure pilot licence; the content of rules to be applied to non-commercial operations in the Community by third country operators; and the circumstances under which general practitioners may act as aero-medical examiners in accordance with national regulations;

- **assessment bodies** were to be granted privileges for the issuing of various Community-recognised approvals, particularly in the area of licensing. After much discussion, this provision has been deleted from the proposal, on the understanding that this deletion does

not prevent those Member States who so wish to grant these privileges to bodies based within their jurisdiction;

- the Council has reduced the number of **new certification tasks** given to the Agency in Articles 21 and 22. Whilst accepting that the nature of airworthiness certification means that the benefits of EASA certification are obvious, there was no such agreement on the desirability of giving new certification tasks in the field of operations and licensing to the Agency. Therefore, the new certification tasks are limited largely to the certification of third country operators flying to and from the Community and to approvals of organisations based outside the territory of the Member States;

- the **Agency’s rulemaking tasks are extended** to cover the new competences in the field of air operations, licensing and third country aircraft covered by the Commission’s proposal. With respect to the scope of the rulemaking for third country operators, a new Article 9 has been inserted in order to clarify the requirements that shall be imposed upon third country operators using Community airports;

- the Commission proposed a number of **changes to the governance arrangements for EASA**, notably the composition of the Management Board, where it was proposed to increase the weighting of votes to be given to the Commission and to give to the Council the power to designate the Member States’ representatives. In addition, an Executive Board was proposed which was to act as a preparatory group for the Management Board proper. The Council rejects these changes on the grounds that they would interfere with the proper system of accountability in the Community agencies. However, the Council has maintained the Commission’s proposal to include interested parties as observers in the Management Board and has provided for special Management Board working bodies to assist the Board proper in carrying out its functions;

- the **annexes to the proposal**, which set out the essential requirements to be applied in the area of air operations and licensing, **have been refined** and minor changes have been made to Annex III with regard to practical skills requirements for pilots (to reflect the latest ICAO developments) and language skills. However, the Council fully agrees with the broad outlines of the essential requirements, and the technical proposal as contained in the Agency’s Opinion has been fully respected.

With respect to the amendments proposed by the European Parliament, the Council was able to **accept 8 amendments**. The Council states that it was unable to accept a number of others, which were rejected either because they were not entirely clear or they conflicted with other parts of the common position. In some cases they were already taken up elsewhere in the common position.

A second set of amendments could not be accepted because, in the Council’s view, they seriously compromise the safety objectives of the Regulation, and the Council had doubts about the legality of some amendments. A number of amendments relating to the budget and governance of the Agency were not accepted. The Council is firmly of the opinion that it is for Member States alone to nominate their respective members of the Agency’s Management Board and the Council does not foresee any role for Community institutions in this process. In addition, certain amendments would cause significant operational difficulties for the Agency by restricting its capacity to raise the necessary revenue to fund its activities.

The Council concludes that the text of its common position is appropriate and balanced. It is of the opinion that the common position reflects the aims behind a large number of the Parliament’s amendments. The Council notes the extensive contacts which have already taken place with the Parliament and trusts that these may soon bear fruit in the shape of early adoption of the legislation.

Civil aviation: common rules and creation of the European Aviation Safety Agency (EASA)

2005/0228(COD) - 15/11/2005 - Legislative proposal

PURPOSE: to broaden the European Aviation Safety Agency’s scope by extending its remit to air operations, pilot licensing and third country aircraft and to amend Regulation 1592/2002 accordingly.

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

CONTENT: this proposal seeks to address a long-standing anomaly in the EU: while aircraft now enjoy complete freedom within a unified market, safety standards continue to vary between the Member States. This, in spite of rapid growth in air traffic and the phenomenal success of low-cost airlines which now account for 12% of intra-Community traffic. Currently, responsibility for regulating air traffic standards in Europe falls on a number of bodies including the European Civil Aviation Conference (ECAC) and the Joint Aviation Authority. In addition there is the International Civil Aviation Organisation (ICAO). A further organisation, Eurocontrol, brings together 35 European States. It is responsible for developing, co-ordinating and planning pan-European air navigation strategies. These organisations, however, are inter-governmental in nature and the rules decided are only applied if the States concerned wish to apply them. They do not have any binding regulatory powers. The differences in standards can be considerable. Sometimes the highest standards are not applied. To give an example, there are six different successive versions of the operational rules applicable to air transport by aeroplane established by the JAA, known as JAR-OPS 1. It is being implemented by twenty-five Member States but already eight of them have amended the version to fit in with their national rules. There are even greater differences on rules relating to the licensing of pilots carrying out commercial transport operations by aeroplane. In some Member States, the criteria relating to licences for private leisure pilots do not even meet the minimum requirements set by the ICAO.

Regulation 1592/02 goes someway in addressing the issue of standards in that it awards the EU exclusive responsibility for the airworthiness and environmental compatibility of aeronautical products, parts and appliances. The European Aviation Safety Agency was set up by the Regulation to assist the Commission in this task. The scope of the Regulation is quite specific in that it limits the Regulation's span to aeronautical products. Upon adoption of the Regulation in 2002, however, there was even then a recognition that the Regulation's range may at some future point need to be extended. Given that the main objective of the Regulation is to guarantee a high, uniform level of safety and provide a level playing field for Community air operators there has always been the need to widen the scope of the Regulation. Indeed, both the legislator and the Council gave the Commission an explicit mandate to submit a proposal to this end and to reconsider the question of third country aircraft.

This present proposal responds to this mandate. In presenting this proposal the Commission is hoping to extend the scope of the Regulation so that, in future, its provisions will encompass not just aeronautical products but will extend to air operations, pilot licensing and third-country aircraft. In doing so the EASA will be able to produce standards that can be uniformly applied throughout the EU.

The Commission points out that the scope of the Regulation will include all aircraft used, for whatever purpose in the Community, including ultra-light aircraft. Concerning cabin crew, the Commission proposes that cabin crew should hold an attestation, which shows that they have met the specific requirements laid down in a new Annex IV to Regulation 1592/02. With regard to air operations, pilot licensing and third-country aircraft the following provisions are being proposed:

- Common rules should be extended to all air operations and the certification requirement to all commercial operators. Certificates would be issued by the Member States or the EASA.

- Most pilots operating in the EU would be required to hold a licence issued on the basis of common requirements regarding their theoretical and practical knowledge and physical aptitude. Further, those assessing the pilots would also need to be certified on the basis of common rules. The provisions allow for some adaptation, depending on the complexity of the aircraft concerned.

- The Regulation also proposes imposing common rules on third-country aircraft operating in the Community. Thus for third-country operators engaged in commercial operations in the EU, compliance with the common rules would have to be attested by a certificate.

The other amendments being proposed relate to:

- Qualified entities conducting certification tasks on behalf of the Agency should be accredited by the EASA, which would be able to ascertain their capability.

- A simplified method for derogation management.

- Changes to the composition of the Management Board.

- The establishment of an effective mechanism for checking all aircraft operating in the Community to ensure that the common safety rules are being complied with.

In conjunction with the presentation of this proposal the Commission has prepared an accompanying Communication, in which the EU's policies on air traffic are outlined in greater detail.

For more details concerning the financial implications of this proposal, please refer to the financial statement.