Basic information

2012/0361(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Civil aviation: reporting, analysis and follow-up of occurrences Repealing Directive 2003/42/EC 2000/0343(COD) Amending Regulation (EU) No 996/2010 2009/0170(COD) Amended by 2015/0277(COD) **Subject** 3.20.01.01 Air safety	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
TRAN Transport and Tourism	DE VEYRAC Christine (PPE)	21/01/2013
	Shadow rapporteur LEICHTFRIED Jörg (S&D) KACIN Jelko (ALDE) LICHTENBERGER Eva (Verts/ALE) FOSTER Jacqueline (ECR)	

Council of the European Union

Council configuration	Meetings	Date
Transport, Telecommunications and Energy	3229	2013-03-11
Transport, Telecommunications and Energy	3303	2014-03-14
Transport, Telecommunications and Energy	3243	2013-06-06

European Commission

Commission DG	Commissioner
Mobility and Transport	KALLAS Siim

European Economic and Social Committee

European Committee of the Regions

Key events

Date	Event	Reference	Summary

18/12/2012	Legislative proposal published	COM(2012)0776	Summary
17/01/2013	Committee referral announced in Parliament, 1st reading		
11/03/2013	Debate in Council		Summary
06/06/2013	Debate in Council		
17/09/2013	Vote in committee, 1st reading		
02/10/2013	Committee report tabled for plenary, 1st reading	A7-0317/2013	Summary
25/02/2014	Debate in Parliament		
26/02/2014	Decision by Parliament, 1st reading	T7-0153/2014	Summary
26/02/2014	Results of vote in Parliament		
14/03/2014	Act adopted by Council after Parliament's 1st reading		
03/04/2014	Final act signed		
03/04/2014	End of procedure in Parliament		
24/04/2014	Final act published in Official Journal		

Technical information

Procedure reference	2012/0361(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealing Directive 2003/42/EC 2000/0343(COD) Amending Regulation (EU) No 996/2010 2009/0170(COD) Amended by 2015/0277(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 100-p2
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/7/11565

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE510.864	18/06/2013	
Amendments tabled in committee		PE514.864	15/07/2013	
Committee report tabled for plenary, 1st reading/single reading		A7-0317/2013	02/10/2013	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0153/2014	26/02/2014	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00138/2013/LEX	03/04/2014	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2012)0776	18/12/2012	Summary
Document attached to the procedure	SWD(2012)0441	18/12/2012	
Document attached to the procedure	SWD(2012)0442	18/12/2012	
Commission response to text adopted in plenary	SP(2014)446	20/05/2014	
Commission document (COM)	COM(2015)0599	07/12/2015	
Follow-up document	COM(2019)0465	15/10/2019	Summary
Follow-up document	COM(2020)0733	16/11/2020	
For information	COM(2022)0529	17/10/2022	
Follow-up document	COM(2023)0444	14/07/2023	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2012)0776	08/03/2013	
Contribution	BE_CHAMBER	COM(2012)0776	12/03/2013	
Contribution	ES_PARLIAMENT	COM(2012)0776	16/01/2014	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EDPS	Document attached to the procedure	N7-0045/2014 OJ C 358 07.12.2013, p. 0019	10/04/2013	Summary
EESC	Economic and Social Committee: opinion, report	CES0926/2013	17/04/2013	

Additional information		
Source	**Document**	**Date**
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act	
Regulation 2014/0376 OJ L 122 24.04.2014, p. 0018	Summary

Delegated acts	
Reference	**Subject**
2020/2817(DEA)	Examination of delegated act

Civil aviation: reporting, analysis and follow-up of occurrences

2012/0361(COD) - 15/10/2019 - Follow-up document

The Commission presented a report on the delegation of power provided for in Regulation (EU) No 376/2014 of the European Parliament and of the Council on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council.

The objective of Regulation (EU) No 376/2014 is to improve aviation safety by ensuring that relevant safety information relating to civil aviation is reported, collected, stored, protected, exchanged, disseminated and analysed. The sole objective of occurrence reporting is the prevention of accidents and incidents.

Common European Risk Classification Mechanism (ERCS)

Under Article 7(6) of the Regulation, the Commission is empowered to adopt delegated acts to define the European risk classification scheme (ERCS). ERCS, as defined in a delegated act, must be implemented in accordance with the modalities established by means of an implementing act.

The ERCS development was concluded on 15 May 2017. Works for the subsequent adoption of the delegated act, defining the ERCS, have been commenced, but have so far not been concluded. It appeared to the Commission that it would be preferable with a view to achieving a consistent set of rules, in the interest of successful implementation of the scheme, to prepare the delegated act in parallel to the implementing act(s) and to adopt them at the same time.

Amendments to the Annexes

Article 17 of the Regulation says that the Commission shall be empowered to adopt delegated acts in order to:

(a) update the list of mandatory data fields in occurrence reports laid down in Annex I where, in the light of experience gained in the application of this Regulation, changes prove necessary in order to improve aviation safety;

(b) update the request for European Central Repository information form provided in Annex III, to take account of experience gained and of new developments;

(c) align any of the Annexes with the ECCAIRS software and the ADREP taxonomy, as well as with legal acts adopted by the Union and with international agreements.

The Commission has noted that, so far the content of the Annexes, as they stand today, is still fit for purpose. Consequently, the empowerment to adopt delegated acts, for the purposes of amending the Annexes, has so far not been exercised

The Commission has so far not exercised its powers to adopt delegated acts as provided for in the aforementioned articles. The adoption of such acts remains necessary in respect of Article 7(6) and may become necessary in respect of Article 17.

Civil aviation: reporting, analysis and follow-up of occurrences

2012/0361(COD) - 03/04/2014 - Final act

PURPOSE: to contribute to reduce the number of aviation accidents and accident victims by the improvement of existing systems, both at the national and European levels, by using civil aviation occurrences to address safety deficiencies and to prevent their repetition.

LEGISLATIVE ACT: Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003 /42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007.

CONTENT: the Regulation aims **to improve aviation safety in the Union via a proactive approach** and by ensuring that relevant safety information relating to civil aviation is reported, collected, stored, protected, exchanged, disseminated and analysed.

The Regulation lays down rules on the **reporting of occurrences** which endanger or which, if not corrected or addressed, would endanger an aircraft, its occupants, any other person, equipment or installation affecting aircraft operations; and the reporting of other relevant safety-related information in that context.

Occurrence reporting: so as to ensure that front-line aviation professionals report occurrences that pose a significant risk to aviation safety, the Regulation provides for the implementation of **mandatory and voluntary reporting systems** of incidents linked to aviation safety in organisations, the European Aviation Safety Agency (EASA) and the competent authorities of Member States.

Within the mandatory reporting system, the persons concerned shall report occurrences **within 72 hours** of becoming aware of the occurrence, unless exceptional circumstances prevent this.

The exchange of information on occurrences should have the sole object of **the prevention of accidents and incidents**, and not the attribution of blame or liability.

Collection and storage of information: each Member State shall designate one or more organisations to implement an **independent mechanism** for the collection, evaluation, processing, analysis and storage of details of occurrences reported. Furthermore, each organisation established in a Member State shall designate one or more persons to handle independently the collection and storage of details.

The Agency (EASA) shall also designate one or more persons to establish a mechanism to independently collect and store information.

By agreement with the competent authority, small organisations may put in place a simplified mechanism for the collection and storage of details of occurrences.

Risk classification: the Commission shall develop, no later than 15 May 2017, a **common European risk classification scheme** to enable the organisations, Member States and the Agency to classify occurrences in terms of safety risk. This mechanism should assist the relevant bodies to evaluate incidents and to better target their efforts.

Exchange of information: the Commission shall manage a **European Central Repository** to store all occurrence reports collected in the Union.

Member States and the Agency shall participate in an exchange of information by making all information relating to safety stored in their respective reporting databases available to the competent authorities of the other Member States, the Agency and the Commission, through the European Central Repository.

Any entity entrusted with regulating civil aviation safety, or any safety investigation authority, within the Union will have **full access**, secure and online, to information on occurrences contained in the European Central Repository.

Confidentiality and protection of sources of information: the Regulation aims to ensure the continued availability of safety information by introducing rules on confidentiality and on the appropriate use of information and through **the harmonised and enhanced protection of reporters** and persons mentioned in occurrence reports.

The Regulation stipulates that the handling of the reports should be done with a view to preventing the use of information for purposes other than safety. The confidentiality of the identity of the reporter and of the persons mentioned in occurrence reports must be appropriately safeguarded, with a view to promoting a ‘just culture’.

In the event of possible disciplinary or administrative proceedings instituted under national law, **the information outlined in the record of events must not be used against the notifiers** or the persons mentioned in the record of events.

Review: by 16 November 2020, the Commission shall publish an evaluation report on the implementation of this Regulation. That report shall cover, in particular, the contribution made by this Regulation to reducing the number of aircraft accidents and related fatalities.

ENTRY INTO FORCE: 14/05/2014. The Regulation shall apply from 15/11/2015.

DELEGATED ACTS: the Commission may adopt delegated acts in order to complete or to amend the Regulation. The power to adopt such acts is conferred on the Commission for a period of **five years** from the entry into force of this Regulation. The European Parliament or the Council may object to a delegated act within a period of two months from the date of notification (this period can be extended for two months). If the European Parliament or the Council make objections, the delegated act will not enter into force.

Civil aviation: reporting, analysis and follow-up of occurrences

2012/0361(COD) - 18/12/2012 - Legislative proposal

PURPOSE: to lay down common rules in the field of occurrence reporting in civil aviation in order to correct safety deficiencies and prevent them from recurring.

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

BACKGROUND: the average annual rate of fatal accidents in scheduled passenger operations in the EU has remained more or less stable for the past years. However, it is feared that with the air traffic growth forecast for the next decades there will be an increase in the number of accidents.

Experience has shown that often before an accident occurs, a number of incidents and numerous other deficiencies have shown the existence of safety hazards.

Whilst the ability to learn lessons from an accident is crucial, **purely reactive systems have shown their limit in continuing to bring forward improvements** . In this context, the International Civil Aviation Organisation (ICAO) has encouraged the **transition towards a more proactive and evidence-based safety approach.**

At Union level, Directive 2003/42/EC established the basis for a proactive and evidence-based aviation safety management system in the European Union by imposing the reporting of occurrences. However, the European Union and its Member States are currently not sufficiently able to use experience feedback for preventing accidents and the **current legislation is insufficient** to prevent that the number of accidents and related fatalities would increase as a consequence of the expected traffic growth.

The improvement of civil aviation safety requires that relevant civil aviation safety information should be reported, collected, stored, protected, exchanged, disseminated, analysed and that appropriate safety actions should be taken on the basis of the information collected.

IMPACT ASSESSMENT: in addition to the option of not introducing any change to the current situation, **three policy packages** were considered to assess how Directive 2003/42/EC could be revised.

- **Policy package 1** aims at improving the current system through amendment to the legislation limited to what is strictly necessary and to the adoption of recommendations and guidance wherever possible;
- **Policy package 2** consists of a more ambitious package of policy measures entailing a substantial revision of EU legislation on occurrence reporting;
- **Policy package 3** aims at improving the current system by transferring Member States occurrence reporting competencies to the EU level and establishing requirements for occurrence analysis together with the adoption of necessary safety actions and improvement in monitoring.

On the basis of the efficiency, effectiveness and consistency criteria, it is recommended that **policy package 2 should be implemented**, as its benefits would be considerably higher than the costs incurred.

LEGAL BASIS: Article 100(2) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposal aims to contribute to the reduction of the number of aircraft accidents and related fatalities, through the improvement of existing systems, both at national and European level, **using civil aviation occurrences** for correcting safety deficiencies and prevent them from recurring.

The main points of the proposal are as follows:

1) Better collection of occurrences: the proposal establishes the appropriate framework for ensuring that **all occurrences that endanger or would endanger aviation safety are reported**. The proposal:

- maintains the obligation to establish mandatory occurrence reporting systems (MORS) and lists the persons obliged to report, as well as the occurrences to be reported under the MORS;
- imposes the establishment of voluntary systems whose aim is to collect occurrences which have not been captured by the MORS;
- contains provisions ensuring that aviation professionals are encouraged to report safety-related information by protecting them from punishment, except in cases of gross negligence.

2) Clarification of the flow of information: the proposal requires organisations and Member States to establish **occurrence reporting systems** which will enable the identification of safety hazards. The occurrences collected by organisations must be transmitted to Member States' competent authorities or to the European Aviation Safety Agency (EASA), when appropriate. All occurrences collected by Member States, organisations and EASA are aggregated into the European Central Repository.

3) Improved quality and completeness of data: in order to ensure better identification of key risk areas and of measures to be taken, **occurrence reports will have to contain minimum information and mandatory data fields**, such as the date of the occurrence, the occurrence category or the narrative of the occurrence, will be introduced. The proposal also includes:

- the obligation to classify occurrences in terms of risk according to a **European common risk classification scheme;**

- **procedures for implementing data quality checks**, notably to ensure consistency between an occurrence report and the initial information collected from the reporter.

The Commission will support Member States in reaching higher data quality and completeness standards by supporting the development of guidance material and the use of workshops.

4) Better exchange of information: access by Member States and EASA to the European Central Repository, which contains all occurrences collected by Member States as well as by EASA, is **extended to all data and information** contained in the database.

In addition, when, in the assessment of data collected through occurrence reporting systems, an authority identifies safety matters considered to be of interest for another authority, it shall forward the information in a timely manner.

In order to facilitate the exchange of data and information, the text requires that **all occurrence reports should be compatible with the ECCAIRS software** (this software is used by all Member States and for the European Central Repository) and with the ADREP taxonomy (the ICAO taxonomy also used in the ECCAIRS software).

5) Better protection against inappropriate use of safety information: the proposal strengthens the rules on ensuring that, besides the obligation to guarantee the confidentiality of the data collected, such information can only be made available and used for the purpose of maintaining or improving aviation safety.

6) Better protection of reporter to ensure the continued availability of information: the text reaffirms the **obligation to render anonymous occurrence reports** and it limits access to fully identified data only to certain persons. In addition, Member States are asked to refrain from instituting proceedings except in cases of gross negligence. Organisations are also asked to adopt a policy describing how the employees' protection is guaranteed.

National bodies must be established, allowing employees to report infringements to the rules which guarantee their protection and penalties should be adopted, where appropriate.

7) Introduction of requirements on information analysis and follow up actions at national level: the proposal imposes new requirements which transpose into EU law the rules related to analysis and follow up of occurrences collected, which have been agreed at international level. Organisations and Member States are required to analyse the information collected through occurrence reporting systems in order to identify safety risks and to take actions in order to remedy to any safety deficiency identified.

8) Strengthen analysis at EU level: analysis at EU level will complement what is done at national level notably by the identification of possible safety problems and key risk areas at European level.

9) Improved transparency towards the general public: the proposal provides for the publication of annual safety reviews containing information about actions taken in application of the regulation, trends and aggregated data.

BUDGETARY IMPLICATIONS: this is related to additional human resources for the European Aviation Safety Agency (involved through the Network of Analysts) and additional budget for mission and outreach activities. Both additional human resources (2 posts estimated at EUR 300 000 per year) and additional budget (mission and outreach activities estimated at EUR 65 000 per year) will be fully covered by redeployment within the existing resources of the Agency. Therefore the impact on the EU budget is neutral.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU).

Civil aviation: reporting, analysis and follow-up of occurrences

2012/0361(COD) - 11/03/2013

The Council took note of the state of play as regards a revision of the 2003 Directive on the reporting of occurrences which could endanger aviation safety.

Discussion of this proposal in the Council working party started on 10 January 2013. All Member States broadly welcomed the Commission proposal, albeit with some caveats. Some of them expressed concerns about issues such as the potential cost and burden on administrations and industry, in particular on small and medium enterprises, deadlines for the implementation of the Regulation, the protection of employees who report occurrences and the list of types of occurrences that are obligatory to report.

Comments were made on the following specific issues:

1. **Collection of occurrences:** several delegations are of the opinion that a clear delimitation between the mandatory occurrence reporting system (MORS) and the voluntary occurrence reporting system is necessary.

   Most delegations consider that, for **legislative certainty**, it would be preferable to have a complete list of incidents under mandatory reporting, all the more as failure to report such occurrences could lead to criminal proceedings. On the other hand, this option would create the risk that an unknown number of occurrences may end up unreported under the voluntary system.

   Other delegations prefer an open list of occurrences to be reported under MORS. In this case, the list will be an enumeration of examples of types of occurrences which have to be mandatorily reported.

The Presidency has proposed to set up an *ad-hoc* group of Member States' experts who will examine the content of the annexes and who will make recommendations to the Aviation Working Party.

2. **Potential administrative burden:** the proposal introduces reporting requirements to organisations, which will be required to establish a voluntary occurrence reporting system. Moreover, organisations are also required to analyse the reported occurrences in order to identify possible safety hazards and take, if necessary, appropriate action.

   A great number of delegations have expressed concerns about the potential administrative burden created by these requirements as the number of voluntary reports which would have to be recorded, transmitted to Member States' authorities and analysed is significantly higher than the mandatory ones. They consider that the text should be clarified so that the analysis and, if deemed applicable, the follow-up action would reflect the scale of the notified occurrence.

   Moreover, these delegations consider it necessary to clarify for which categories of aircraft the mandatory system would apply. Some delegations argue that MORS should be used only for commercial civil aviation. They consider that, taking into account its specific activity, general aviation should not have the same obligations as commercial civil aviation. Others consider that the level of regulation of general aviation that is proposed would be appropriate and explain that removing the mandatory reporting requirement for general aviation would eliminate a significant source of safety information.

3. **'Just Culture" and the definition of 'gross negligence':** the Commission proposal establishes a non-punitive environment facilitating the spontaneous reporting of the occurrences based on the principle of 'Just Culture'.

   Concerns were expressed about the **degree of protection that should be given to employees who report occurrences and the necessary administrative arrangements between judicial and safety authorities in order to strike the right balance between the interest of justice and aviation safety**.

   Some Member States would prefer total impunity in order to encourage reporting and thus have a better chance to improve aviation safety, others consider that in situations of gross negligence and wilful wrongdoing punitive action is necessary. On the other hand, several delegations consider that the notion of intent or wilfulness should not be included in the definition of 'gross negligence'. They consider that in a situation of wilful wrongdoing, the reporter should not be protected against punitive action.

   So far, the term **'gross negligence'** has not been defined in EU legislation. EU Member States have their own definitions in their national law and therefore several delegations would prefer not to include this definition in the Regulation. They have argued that since the definition already exists in the national law of Member States, it is better not to try to define it at EU level because Member States have different interpretations for it. Deleting the definition from the proposal would avoid any possible conflicts between the Regulation and national legislation. Other delegations consider that the definition is essential in order to ensure the uniform application of the Regulation.

Lastly, Member States are divided over the deadlines for the implementation of the Regulation.

The Presidency's aim is to reach a Council position ("general approach", pending the position of the European Parliament) on the proposal at the June Transport Council meeting.

Civil aviation: reporting, analysis and follow-up of occurrences

2012/0361(COD) - 02/10/2013 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Transport and Tourism adopted the report by Christine DE VEYRAC (EPP, FR) on the proposal for a regulation of the European Parliament and of the Council on occurrence reporting in civil aviation amending Regulation (EU) No 996/2010 and repealing Directive No 2003/42/EC, Commission Regulation (EC) No 1321/2007 and Commission Regulation (EC) No 1330/2007.

The committee recommended that the Parliament's position adopted at first reading, following the ordinary legislative procedure, should amend the Commission proposal as follows:

The main amendments were as follows:

Subject matter: the Committee proposed that the Regulation should seek to:

- improve aviation safety by ensuring that relevant civil aviation safety information is reported, collected, stored, protected, exchanged, disseminated, analysed and that safety actions are taken **as quickly as possible;**
- provide for rules concerning the **integration of information collected into a European Central Repository (ECR)** and concerning their dissemination to interested parties;
- ensure the continued availability of **safety information** by means of rules on the confidentiality;
- ensures that aviation safety risks are considered and dealt with also at European level.

Scope: with a view to enhancing staff members' trust in a '**just culture**', so as to encourage reporting of events with the sole aim of improving aviation safety, the committee suggested that protection for persons reporting an occurrence should be extended to cover **anyone involved in the incident rather than merely the individual reporting it**.

Mandatory, occurrence and voluntary reporting systems:

- ***The voluntary reporting system*** should be set up by EASA to facilitate collection of details on occurrences that may not be captured by the mandatory reporting system but which are perceived by the

person reporting them as an actual or potential hazard to aviation safety, including collection of details on occurrences gathered by organisations certified or approved by EASA.

- ***A mandatory reporting system*** should be set up by EASA to facilitate collection of details of occurrences, including collection of details of occurrences gathered by organisations certified or approved by European Aviation Safety Agency (EASA).

- ***The occurrence reporting system*** should clearly specify the Member State to which the person reporting the occurrence has to address his report.

The mandatory occurrence reporting requirements should be **extended to all types of aircraft and aircraft operations**.

Reporting requirements for light aircraft: the amended text stipulated that a detailed list of the incidents to be reported under the mandatory reporting system appears in Annex I. That list sets out specific reporting obligations concerning the notification of incidents to be reported involving a **non-complex aircraft**. Any other incident considered to be relevant by the parties involved shall be notified under the **voluntary reporting system**.

Reporting delays: every person who reports occurrences should do so within not more than **72 hours** after becoming aware of the occurrence, unless prevented from doing so by exceptional circumstances.

Each organisation certified or approved by EASA shall report to EASA the details on occurrences collected within 72 hours of the actual or potential danger to aviation safety being identified.

Confidentiality: the Committee deemed it essential to respect the rules of **independence and confidentiality** with a view to ensuring the effective protection of the information supplied by the person reporting the occurrence.

EASA: the Authority should:

- designate one or more persons to put in place a mechanism to collect, evaluate, process, analyse and store details on occurrences reported;
- comply with the same obligations as the competent authorities of the Member States, particularly by putting in place mandatory and voluntary reporting systems, by ensuring the protection and anonymity of the data in its Internal Occurrence Reporting System database (IORS) and taking, where appropriate, the necessary preventive or corrective action, and then by passing on this information in the ECR.
- be given adequate resources to enable it to carry out the tasks entrusted to it;
- store in a database occurrence reports arising from the collection of details of occurrences;
- put in place procedures seeking to monitor the quality of the data it collects.

European risk classification system: the Commission should develop within two years a common **European risk classification scheme** enabling the Member States and EASA to classify occurrences in terms of safety risk. In doing so the Commission shall take into account the need for compatibility with existing risk classification schemes. Collaboration shall be carried out by a **Network of Aviation Safety Analysts** from all the Member States.

Review: the Commission should monitor and review the application of this Regulation. Within five years from the entry into force of this Regulation, it should publish an evaluation report covering, in particular, the contribution made by this Regulation to reducing the number of aircraft accidents and related fatalities. Where appropriate and on the basis of that report, the Commission shall make proposals for amendment of this Regulation.

Civil aviation: reporting, analysis and follow-up of occurrences

2012/0361(COD) - 10/04/2013 - Document attached to the procedure

Opinion of the European Data Protection Supervisor on the Commission proposal for a Regulation on occurrence reporting in civil aviation and repealing Directive 2003/42/EC, Commission Regulation (EC) No 1321/2007, Commission Regulation (EC) No 1330/2007 and Article 19 of Regulation (EU) No 996/2010.

The proposal builds on Directive 2003/42/EC to improve the existing occurrence reporting systems in civil aviation both at national and European level.

The EDPS acknowledges the fact that the purpose of the Proposal is not to regulate the processing of personal data. However, the information that will be stored, reported and transferred may relate to natural persons who are either directly or indirectly identifiable, such as reporters, third parties involved in the reported occurrence and interested parties applying for access. The information reported might not only involve technical problems but also, for instance, violent passengers, incapacitation of crew or health incidents.

The EDPS welcomes the attention paid to the protection of personal data, particularly through **the commitment to 'disidentify' a major part of the data processed** under occurrence reporting. However, what is provided for amounts at best to partial anonymisation.

Accordingly, the EDPS recommends **clarifying the scope of 'disidentification'**. In particular, he proposes the following improvements to the text:

- clarifying that disidentification in the sense of the proposal is relative and does not correspond to full anonymisation;

- specifying that data available to independent handlers should also be disidentified or deleted as soon as possible, unless the necessity of storing the data is justified;

- clarifying the scope of disidentification, by replacing ‘personal data’ by ‘personal details’ and adding a reference to the possibility of identification through technical details;
- clarifying that personal data contained in the safety information collection and processing systems established by Member States and organisations should also be disidentified;
- specifying that the information should be anonymised before its publication;
- specifying that information made available to interested parties listed in Annex III and not relating to their own equipment, operations or field of activity, should not only be aggregated or disidentified, but fully anonymised.

The EDPS advises specifying in the proposal **who will be the controller of every database** and defining all the categories of data to be processed. It should at least be mentioned that additional information not required by the proposal should not contain sensitive data.

The EDPS also recommends specifying **the periods during which data shall be** stored in the databases, the rights of data subjects and the security measures to be implemented.

The data protection measures that will apply to the **processing of data relating to third parties** (e.g., for how long the data will be stored after access has been granted or denied and who has access to these data) should also be specified.

Lastly, the necessity of processing sensitive data should be justified in the Preamble. The EDPS also recommends adopting additional safeguards as regards the processing of **sensitive data,** such as stricter security measures, the prohibition to disclose the related categories of data to third parties not subject to EU data protection law and the restriction of its disclosure to other interested parties.

In addition, the processing of these categories of data may be subject to prior check by EU national data protection authorities and by the EDPS.

Civil aviation: reporting, analysis and follow-up of occurrences

2012/0361(COD) - 26/02/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 644 votes to 14, with 6 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on occurrence reporting in civil aviation amending Regulation (EU) No 996/2010 and repealing Directive No 2003/42/EC, Commission Regulation (EC) No 1321/2007 and Commission Regulation (EC) No 1330/2007.

Parliament adopted its position in first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of an agreement between Parliament and Council. They amended the proposal as follows:

Objectives: Members specified that the Regulation should ensure:

- the **continued availability of safety information** by introducing rules on confidentiality and on the appropriate use of information and through the harmonised and enhanced protection of reporters and persons mentioned in occurrence reports; and
- that **aviation safety risks** are considered and dealt with at both Union level and national level.

Mandatory reporting: Parliament stated that **occurrences** which may represent a significant risk to aviation safety and which fall into the **following categories** shall be reported through the mandatory occurrence reporting systems:

- occurrences related to the operation of the aircraft (such as collisions, take-off and landing-related occurrences, fuel, in-flight, communication, emergencies and other critical situations, meteorological conditions or security -related occurrences);
- occurrences related to technical conditions, maintenance and repair of aircraft (such as structural defects, system malfunctions);
- occurrences related to air navigation services and facilities (such as collisions, near collisions or potential for collisions);
- occurrences related to aerodromes and ground services (such as occurrences related to aerodrome facilities, handling of passengers, baggage, mail and cargo and ground handling and related services).

The **European Aviation Safety Agency (EASA) should establish a mandatory reporting system** to facilitate the collection of details of occurrences, including the collection of details of occurrences collected by organisations which have been certified or approved by the Agency.

The persons concerned should report occurrences **within 72 hours** of becoming aware of the occurrence, unless exceptional circumstances prevent this.

Each organisation established in a Member State which is certified or approved by the Agency should report to the Agency the details of occurrences collected as soon as possible, and in any event no later than 72 hours after becoming aware of the occurrence.

Voluntary reporting system: each organisation established in a Member State should establish a voluntary reporting system to facilitate the collection of: (i) details of occurrences that may not be captured by the mandatory reporting system; (ii) other safety-related information which is perceived by the reporter as an actual or potential hazard to aviation safety.

Collection and storage of information: the handling of the reports should be done with a view to preventing the use of information for purposes other than safety, and should appropriately **safeguard the confidentiality of the identity of the reporter** and of the persons mentioned in occurrence reports, with a view to promoting a 'just culture' .

By agreement with the competent authority, small organisations may put in place a simplified mechanism for the collection, evaluation, processing, analysis and storage of details of occurrences.

The EASA should:

- **designate one or more persons** to establish a mechanism to independently collect, evaluate, process, analyse and store details of occurrences reported;
- **store occurrence reports in a database**.

Risk classification: occurrence reports should include a safety risk classification for the occurrence concerned. The Commission, in close cooperation with the Member States and the Agency through the **network of aviation safety analysts**, should develop a **common European risk classification scheme** to enable the organisations, Member States and the Agency to classify occurrences in terms of safety risk.

Occurrence analysis and follow- up at national level: each organisation established in a Member State shall regularly provide its employees and contracted personnel with information concerning the analysis of, and follow-up on, occurrences for which preventive or corrective action is taken.

In order to inform the public of the level of safety in civil aviation, each Member State shall publish a safety review at least once a year.

Confidentiality and protection of the information source: according to the amended Regulation, each Member State, each organisation established in a Member State, or the Agency shall process personal data only to the extent necessary **for the purposes of this Regulation** and without prejudice to national legal acts implementing Directive 95/46/EC.

The Agency should ensure that no personal details are ever recorded in the Agency database. Such **disidentified information** shall be made available to all relevant parties, for example to allow them to discharge their obligations in relation to aviation safety improvement.

If disciplinary or administrative proceedings are instituted under national law, information contained in occurrence reports **should not be used against the reporters**, or the persons mentioned in occurrence reports.

Evaluation: by five years after the entry into force of the Regulation, the Commission should publish and send to the European Parliament and to the Council an evaluation report on the implementation of this Regulation. That report should cover, in particular, the contribution made by this Regulation to reducing the number of aircraft accidents and related fatalities. If appropriate and on the basis of that report, the Commission shall make proposals for amending this Regulation.