

Common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency

2015/0277(COD) - 07/12/2015 - Legislative proposal

PURPOSE: to revise the rules on aviation safety in the EU in order to maintain a high uniform level of civil aviation safety in the Union, while ensuring a high uniform level of environmental protection.

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

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND : building on over twelve years of experience in the implementation of Regulation (EC) No 216/2008, this initiative is part of the Commissions 2015 [Aviation Strategy to Enhance the Competitiveness of the EU Aviation Sector](#). Its objective is to prepare the EU aviation safety regulatory framework for the challenges of the next ten to fifteen years and thus to continue to ensure safe, secure and environmentally friendly air transport for passengers and the general public.

Safety and consideration for environmental protection are pre-requisites for a competitive aviation sector. With the aviation traffic in Europe predicted to reach 14.4 million flights in 2035 (50% more than in 2012), the Commission's objective is to make sure that the system continues to maintain the current low number of accidents, allowing the EU aviation sector to safely grow in the future and thus to contribute to its competitive edge.

To this end, the proposal aims to:

- introduce a risk and performance based approach to safety regulation;
- close existing safety gaps, and better take into account interdependencies between aviation safety and other technical domains of regulation such as aviation security or environmental protection;
- contribute to a competitive European aviation industry and aeronautical manufacturing which generates high value-jobs and drives technological innovation;
- create a Union framework for safe integration of unmanned aircraft (drones) into the European airspace;
- introduce a scalable framework that recognises the differences existing between the various sectors of civil aviation and the risks involved therein. This approach is expected to benefit the whole aviation sector in the Union and will be particularly suited to the needs of small and medium sized enterprises (SMEs);
- propose better arrangements for coordination and development of aviation research and training so that Member States and the European Union Aviation Safety Agency (EASA) might develop new skills and competences, as well as be continuously abreast with the latest technologies developed by industry;
- assist some national authorities maintaining and financing the resources necessary for accomplishing the required certification and oversight work.

IMPACT ASSESSMENT: the proposal is accompanied by two [impact assessment reports](#).

CONTENT: the proposal to revise the rules on aviation safety in the EU (Regulation 216/2008) aims to establish and maintain a high uniform level of civil aviation safety in the Union, while ensuring a high uniform level of environmental protection. The main points are as follows:

Scope: the present initiative proposes adding a limited number of specific areas to the overall Union aviation safety framework, namely unmanned aircraft, safety of ground handling services and security aspects of aircraft and aviation systems design, including cybersecurity.

Excluded from the scope of the legislation are aircraft that are of simple design or operate mainly on a local basis and those which are home-built or particularly rare or only exist in a small number. Certain aerodromes are exempt from the scope, such as those that are not open to public use and aerodromes mainly used for recreational flying or serving commercial air transport or those that do not fulfil certain minimum technical criteria related to the volume or scope of activities.

Aviation Safety Management: a new chapter dealing with safety management is introduced, which requires the adoption of the European aviation safety programme and the European plan for aviation safety, and transposes ICAO Annex 19 standards and recommended practices related to state safety programmes.

With regard to the European plan for aviation safety, the proposal introduces the concept of acceptable level of safety performance at Union level. The introduction of this concept does not result, however, in establishing any binding safety targets for the Union or its Member States.

Substantive requirements: it is proposed that the provisions of the Regulation (EC) No 216/2008 dealing with airworthiness be revised, taking into account existing experience and reflecting the new concept of non-installed equipment (equipment carried on board of an aircraft but not installed in the aircraft and which may have an impact on safety).

The scope of the provisions dealing with airworthiness certification is also extended to environmental compatibility of aeronautical products, but the Union would now be given the flexibility to adapt the ICAO standards to its specific needs, as is already the case for safety.

For low risk operations, the possibility of assessing the airworthiness and environmental compatibility of the design of products and parts without the need to issue a certificate is being proposed. This option could be implemented especially for certain aircraft used in the general aviation sector.

The certification requirement is now limited to commercial air transport operations. Other types of operations to be subject to a certification or declaration requirement are to be defined in the delegated acts based on a risk assessment.

Aircrew: the scope of the articles is extended to include cabin crew and the relevant provisions on cabin crew from are moved to this section. The text concerning the leisure pilot licence has been simplified and the text concerning the general medical practitioner has been moved to Chapter IV, which deals with certification activities

Operators: the certification requirement is now limited to commercial air transport operations. Other types of operations to be subject to a certification or declaration requirement are to be defined in the delegated acts based on a risk assessment.

Aerodromes: ground handling services have been added to the scope of this section. It is also proposed that providers of apron management services be allowed to declare their compliance with the applicable requirements instead of being certified.

Unmanned aircraft: Annex IX sets out the essential requirements regarding the design, production, maintenance and operation of unmanned aircraft which must be observed in order to ensure safety. It also sets out the means of demonstrating that the requirements have been complied with.

For mass produced unmanned aircraft which pose a low risk, it is proposed to use existing market surveillance mechanisms, as governed by Regulation 765/2008 and Decision 768/2008, which are specifically devised for the production and marketing of such type of products. While the Agency would not be responsible for the oversight of the market surveillance mechanisms, the Commission is always entitled to verify whether Member States fulfill their responsibilities.

Joint Oversight and Enforcement System: the new proposal contains, inter alia:

- a clear legal basis to empower the Commission to adopt, by means of delegated acts, requirements with respect to management systems of authorities, qualification of inspectors, conditions for conducting the inspections and other oversight activities, ramp inspections, and grounding of aircraft in case of non-compliance;
- a set of new provisions concerning cooperation between the competent authorities of Member States, the Commission and the European Union Aviation Safety Agency as regards certification, oversight and enforcement. A mechanism for pooling and sharing of aviation inspectors and other experts is introduced, along with a dedicated financing mechanism to assist Member States in cooperative oversight;
- a new provision for mitigating possible systemic safety oversight deficiencies identified at Member State. This emergency oversight mechanism is to be used as a measure of last resort of temporary nature;
- the possibility of accepting foreign certificates and similar documentation on the basis of conditions specified in delegated acts;
- clarification of the provisions on accreditation of qualified entities. It is proposed that qualified entities may be granted a privilege to issue, revoke, and suspend certificates on behalf of the Agency or national competent authority. The principle of recognition of accreditations of qualified entities is introduced;
- a legal basis for a new repository of information relevant for certification, oversight and enforcement activities, to be managed by the Agency. It is proposed that this repository is also used by the Member States for the purpose of exchanging information concerning medical fitness of pilots.

The European Union Aviation Safety Agency: the proposal creates three new functions for the Agency (assistance to national competent authorities, support to the Commission in the implementation of aviation performance schemes, and cooperation with other Union bodies, such as the European Chemicals Agency or the European Defence Agency on technical matters related to civil aviation).

The proposal:

- limits the responsibility of the Agency to approve organisations not established in the Union to organisations located outside the territory for which a Member State is responsible under the Chicago Convention;
- clarifies that fines are in principle to be imposed only if other enforcement measures would be inadequate or disproportionate;
- clarifies that the investigative powers of the Agency must be exercised in compliance with the applicable provisions of national law of the Member State where the investigation takes place;
- mandates the Agency to assist the Commission in identifying key research themes related to the areas covered by the Regulation;
- introduces an article focusing on interdependencies which may exist between aviation security measures (e.g. cockpit door locking systems) and aviation safety;
- sets out the role of the Agency in crisis management, provision of aviation training and the implementation of the Single European Sky;
- creates an Executive Board assisting the Management Board of the Agency.

BUDGETARY IMPLICATIONS: the proposal has budgetary implications with regard to the budget of the European Union Aviation Safety Agency set out under article 06 02 02 of the Union budget. Total expenditure is estimated at: EUR 37.369 million in year N (beginning of the implementation of the proposal); EUR 37.839 million in year N+1; EUR 37.887 million EUR in year N+2; EUR 38.598 million in year N+3.

The proposal introduces a number of new tasks for the Agency with consequences for its need for posts financed from the Union contribution. The human resources required will partially be met by present staff through their redeployment, thus reducing the need of the Agency for additional staff financed from budget related to the Union contribution to 5 posts and 4 contract agents.

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.