Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council on common rules in the field of civil aviation security


(2006/C 185/03)

On 16 November 2005 the Council decided to consult the European Economic and Social Committee, under Article 80(2) of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 24 March 2006. The rapporteur was Mr McDonogh.

At its 426th plenary session, held on 20 and 21 April 2006 (meeting of 20 April), the European Economic and Social Committee adopted the following opinion by 134 votes to two.

1. **Recommendations**

1.1 Member States should be allowed, on the basis of a risk assessment, to apply more stringent measures than those to be laid down, under the condition that they finance them with their national budgets.

1.2 Each Member State should designate a single authority responsible for the coordination and monitoring of the implementation of security standards.

1.3 Each Member State should draw up a national civil aviation security programme.

1.4 In order to monitor the application by Member States of the new act, and also to identify weak points in aviation security, the Commission should conduct inspections, including unannounced inspections.

1.5 For the purpose of allowing transfer passengers and transfer baggage to be exempted from screening when arriving on a flight from a third country, which is known as the concept of 'one stop security' as well as for allowing passengers arriving on such a flight to mix with screened departing passengers, it is appropriate to encourage agreements between the Community and with third countries, recognising that the security standards applied in the third country are equivalent to Community standards.

1.6 The Committee welcomes the initiative of the Commission and fully supports the fundamental principles of the proposal.

1.7 It welcomes also the introduction of common rules for airport security, as procedures vary very much across Europe, and it is important that these should be standardised.

1.8 Considering annex Part 1 1.2 point 5 and part 11, in light of the freedom of movement of labour within the Community and the availability of labour from third countries, can the Commission offer assistance to national authorities, airports, airlines, etc. to validate personal information of potential employees, in order to meet the requirements of background checks.

1.9 The objective outlined in paragraph 1 of this Article should be amended to clarify that the security measures concerned are designed to protect civil aviation from acts of unlawful interference that jeopardise the safety of civil aviation. The measures concerned are not for addressing other types of unlawful interference such as theft and smuggling.

1.10 The European Commission should draw up and implement a comprehensive policy for financing aviation security measures that form part of Member States’ national security duty to protect their citizens from the threat of terrorism.

1.11 A mechanism for assessing the impact on the industry of every future proposal for security measure should be added to this regulation. This will ensure that the cost and the impact of a given measure are not disproportionately high compared to its efficiency.

2. **Introduction**

2.1 The European Commission's legislative proposal aims to clarify the European Union's legal framework (established by existing Regulation 2320/2002), to provide a basis for a common interpretation of the international requirements laid down by the International Civil Aviation Organisation, to remove sensitive information from the public arena and to place further emphasis on developing requirements in civil aviation security through implementing Regulation, i.e. by use of Decision 1999/468/EC on comitology which establishes a legislative decision-making process involving representatives of the EU Member States and the European Commission.

2.2 The proposal seeks to replace the existing regulation in order to bring forward better legislation, based on four principles, that of simplification, harmonisation, clarification, and enhancing the levels of security.
3. General comments

3.1 The objective of this proposal is to clarify, simplify and harmonise further the legal requirements with the aim of enhancing the overall security in civil aviation.

3.2 Experience over time has shown that the regulation is too detailed and is in need of simplification.

3.3 Whilst recognising the principle of subsidiarity, the Commission is of the view that a greater degree of harmonisation than currently exists of security measures and procedures is desirable.

3.4 This has resulted in 25 national systems being in place and a consequential potential distortion of competition and the inability of industry to benefit from the freedoms of the Single Market.

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

3.6 The Commission is of the view that the ability to (re)act swiftly in the light of risks that are constantly evolving over time is of major significance to improve the overall levels of security.

3.7 In the view of the Commission, it is not desirable to have detailed security measures and procedures placed in the public domain. By placing operational details in implementing legislation, this issue can be addressed. The Committee would like to stress the importance that these new common rules take account of the specificities of persons with reduced mobility in line with the recommendations made by the recent Committee's opinion on the issue. Security checks and other security related measures, while legitimate and necessary, may create further barriers and limit the rights of people with reduced mobility, which would be against recent Commission efforts to guarantee disabled persons and persons with reduced mobility equal opportunities in air travel compared to the rest of the population.


3.9 Thus, Regulation (EC) No 2320/2002 would be replaced by a simplified, clearer regulation laying down general principles.

3.10 The only additional competence sought relates to rules for in-flight security measures. It covers such diverse topics as access to the cockpit, unruly passengers, and in-flight security officers (sky marshals). The Committee would not recommend the use of sky marshals except in exceptional circumstances.

3.11 The requirement for security programmes reflects current best practice in the aviation sector, and, as such, is not a significant burden on industry or administrations. For Community carriers they should be approved by the carrier's national authorities and be mutually recognised by the other Member States and regulators.

3.12 Article 13 lays down an obligation for each Member State to undertake compliance monitoring activities by means of a national quality control programme.

3.13 Article 14 allows for Commission inspections of inter alia, Community airports.

3.14 Article 17 replaces the existing Article 10 on security of flights from third countries. It foresees agreements between the Community and third countries that would allow for the possibility of passengers, bags, and cargo transferring at Community airports without the need for re-screening and/or additional security controls.

3.15 This objective should be achieved by setting common rules and common standards on aviation security as well as mechanisms for monitoring compliance.

3.16 The content of Regulation (EC) No 2320/2002 should be revised in the light of the experience gained, and the Regulation itself should be replaced by a new act seeking the simplification, harmonisation, and clarification of the existing rules and the improvement of the levels of security.

3.17 Given the need for more flexibility in adopting security measures and procedures in order to meet evolving risk assessments and to allow new technologies to be introduced, the new act should lay down the basic principles of what has to be done in order to safeguard civil aviation against acts of unlawful interference.

3.18 The new act should cover security measures that apply on board an aircraft, or during a flight, of Community air carriers.

4. Specific comments

The following should be considered when implementing legislation

4.1 It is important that common standards are set in relation to prohibited articles so as to avoid confusion and disputes at security search.

4.2 The term 'continuous random' is used in the Annex of the proposed Regulation, but is not defined. Inserting a definition of continuous random is essential in order to assure a uniform interpretation across Europe of this principle when it is applied to security checks.
4.3 More stringent measures should only be introduced in response to specific terrorist threats identified by the Member State authority through risk assessment. The introduction of more stringent measures contradicts the goals of harmonising aviation security measures across the European Union and of establishing a one stop security area. Any additional deterrent or preventative security measures henceforth required by the Member State must be concluded in full consultation with the airport operator and the Member State concerned must pay for the additional security measures as part of the government national security duty to protect its citizens from acts of terrorism.

4.4 Some airlines do not allow steel cutlery e.g. knives and forks, while others do, standardisation among all air carriers should be encouraged.

4.5 While scissors, nail files etc. are prohibited items, glass bottles are allowed on. These are deadly weapons, particularly when broken. It is suggested that all duty free and all bottles carried on an aircraft are plastic. Otherwise, they should be stored in the hold of the aircraft with the rest of the baggage. This will need to be agreed on an international level before implementation.

4.6 It is important that rescue equipment like the fire extinguisher and safety axe are secured in a crew locker, and that passengers do not have ready access to these.

4.7 Airlines should use reinforced containers for luggage where possible, to protect against a bomb blast like on El Al airlines.

4.8 In the interest of security, there should be close monitoring by national authorities in relation to the amount of drink that can be served to passengers that cause drink-related security incidents.

4.9 While access to the flight deck is protected by a reinforced door, a hijacker could gain access through the flimsy toilet wall which is often situated next to the flight deck. This would need to be reinforced.

4.10 Article 11 should include Airline and Handling Agent who often supplies security.

4.11 Considering Annex Part 11, all security instructors should be trained at approved training facilities, e.g. the European Security Training Institute (EASTI), in order to standardise the presentation of ICAO Security Training Modules. National authorities should be required to establish National Training Programmes with EASTI qualified instructors.

4.12 Considering Annex Part 4 4.3 (with the increase in the number of deportees etc.) there should be a requirement for the national authority to set a period of minimum notice for carriers/airport/flight crews to prepare for the proposed transport of potentially disruptive passengers where this will involve a scheduled commercial flight.

Brussels, 20 April 2006

The President
of the European Economic and Social Committee
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