

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

(2002/C 48/17)

On 5 November 2001, the Council of the European Union decided to consult the Economic and Social Committee, under Article 80(2) of the Treaty establishing the European Community, on the above-mentioned proposal.

The Economic and Social Committee decided to instruct the Section for Transport, Energy, Infrastructure and the Information Society to carry out the preparatory work on this opinion. The rapporteur was Mr Green.

At its 386th plenary session of 28 and 29 November 2001 (meeting of 28 November) the Economic and Social Committee decided, in view of the urgency of the work, to appoint Mr Green rapporteur-general and adopted the following opinion by 74 votes in favour, with two abstentions.

1. Introduction

1.1. The day after the terrorist attacks in New York and Washington on 11 September 2001 the Heads of State and Government, the President of the European Parliament, the President of the European Commission and the High Representative responsible for the common foreign and security policy decided that the European Union must take urgent decisions to respond to this new threat. The Council of the European Union, which met the same day, asked the Ministers of Transport to evaluate the measures taken to ensure air transport security and to consider possible additional measures.

1.2. At a special meeting of the Transport Ministers on 14 September 2001, the Council adopted a decision to the effect that it was necessary to implement fully the essential measures to prevent unlawful acts against civil aviation set out in Document 30 of the European Civil Aviation Conference (ECAC) ⁽¹⁾.

1.3. Lastly, the European Council, meeting in extraordinary session on 21 September 2001 called upon the Transport Council to take the necessary measures to strengthen air transport security at its next meeting on 15 October. These measures cover in particular:

- classification of weapons;
- technical training for crews;
- checking and monitoring of hold luggage;

— protection of cockpit access;

— quality control of security measures applied by Member States.

2. The Commission's proposal

2.1. The Member States have been able to react in an appropriate manner to earlier waves of terrorism through cooperation with the International Civil Aviation Organisation ⁽²⁾ and ECAC. While passenger numbers increased four-fold and flight numbers doubled between 1970 and 1999, the number of acts affecting the security of air transport fell from 100 to 6 and the number of victims from 92 to 0.

2.2. Recent events have shown that the situation has changed dramatically and that we in the Community are all now faced with the same threat that any aircraft can be hijacked on departure from an airport and used as a potential bomb against any city within its flying range.

2.3. Awareness of this interdependence is one of the conclusions that emerged from discussions in the fora referred to above, leading to the realisation that everyone must now implement the recommendations set out in ECAC Document 30 uniformly, for both international and domestic flights. In addition, a collective mechanism should be devised to check that these measures are being applied.

⁽¹⁾ The European Civil Aviation Conference (ECAC) is a voluntary association of European aviation authorities which has adopted a number of recommendations, notably in the field of civil aviation security.

⁽²⁾ The International Civil Aviation Organisation (ICAO) is the UN civil aviation authority.

2.4. Given this situation and the urgent need to restore public confidence in air transport, the Commission believes that a regulation is the best way of ensuring common adoption of the proposed rules since a directive would take too long to implement. The Commission considers that a regulation falls within the scope of the common transport policy, and hence Article 80(2) of the Treaty.

2.5. As mentioned above, there is agreement that ECAC Document 30 should be the basis for regulation but the measures detailed therein are not detailed enough to enable their application to be monitored; technical standards must therefore be adopted to overcome this problem. Further, not all Member States have implemented all the measures recommended in ECAC Document 30. It will therefore be necessary to implement the proposed rules gradually. In this connection, to ensure the coordination of efforts, it will be essential for each Member State to appoint a competent authority.

2.6. The proposed rules must give the Community the means to ensure civil aviation security through the following measures:

- control of access to sensitive areas of airports and aircraft;
- control of passengers and their hand luggage;
- control and monitoring of hold luggage;
- control of cargo and mail;
- training of ground staff;
- definition of specifications for the equipment for the above controls;
- classification of weapons and other items which it is prohibited to bring on to aircraft or into the sensitive areas of airports.

2.7. Since there may be exceptional cases where the common measures are not fully suitable for dealing with a particular threat on certain flights, the Member States must be able to take special preventive measures. However, such contingency provisions can undermine the general measures. The Community must therefore have a control mechanism to protect against undesirable repercussions of national contingency rules and enable any national variants which are no longer justified to be terminated.

2.8. The Commission also proposes the creation of an effective system of control which can, among other things, help to spread good practice.

2.9. It is important to realise that the proposed regulation can only apply to Community territory. Third country flights which land in or overfly the Member States will therefore not be covered. Consequently it will still be necessary to ensure civil aviation security throughout the world by concluding bilateral or multilateral arrangements. Action along these lines is already in progress in the ICAO; in this context, the Community and other parties have proposed that the civil aviation security rules contained in Annex 17 to the Chicago Convention be tightened up.

3. General comments

3.1. The ESC welcomes the proposal for a regulation insofar as it is a fast and adequate answer to the need to ensure a high level of security by taking action to prevent acts of unlawful interference against civil aviation.

3.2. Accordingly, the form of the legal act, adopted by the Commission (a regulation instead of a directive) is welcomed. The regulation is in principle directly applicable in all Member States without having to wait for the transposition into national law.

3.3. The ESC notes that the common standards on security measures at airports and the technical specifications for equipment in support of aviation security are based on the current standards of ECAC Document 30 and are laid down in the annex of that regulation. This technical annex is constantly updated against the backdrop of a comitology procedure. The Committee supports such a procedure for the adoption of detailed technical implementing arrangements.

3.4. The Committee thinks that the current events in the US call for speedy, but also carefully considered, decisions in an effort to secure a high level of civil aviation security.

3.5. The EU is currently considering three other air safety proposals:

- a regulation amending technical requirements and administrative procedures in the field of civil aviation (JAR-OPS);
- a proposal for a directive on accident prevention and the collection and dissemination of information in the field of civil aviation;

— a proposal for a directive on safety requirements and the attestation of professional competence for cabin crews.

3.6. These proposals, which have an impact on air safety, should be promoted and finally adopted as quickly as possible.

3.7. The title of the Commission's proposal for a regulation is inappropriate, since the proposal deals only with security provisions for aircraft boarding, not on-board measures.

3.8. Effective legislation dealing with on-board security should be put into effect as quickly as possible, covering, among other things, cockpit access, in-flight security staff and the maintenance of effective air-ground communication in case of emergency.

3.9. The regulation specifically proposes that the recommendations set out in ECAC Document 30 be incorporated into EU legislation.

3.10. The regulation is to enter into force twenty days after its publication in the EC Official Journal.

3.11. This timeframe is unrealistic, especially for the infrastructure proposals.

3.12. Implementation of the proposed rules will involve significant expenditure.

3.13. The Committee feels it is unfair that airports and airlines should bear this additional expenditure. Securing public safety at airports should be a matter for Member States.

4. Specific comments

4.1. Scope (Article 3)

4.1.1. The ESC wonders whether article 3 of the proposal for a regulation which states, 'the measures prescribed by that regulation shall apply to any airport and other air navigation facilities, located in the territory of the Member States' is not in contradiction with its main objective. The ESC asks whether the aircraft coming from third countries should be authorized

to land at EU airports only if the level of security applicable in the airport of origin is at least equivalent to the provisions of the regulation.

4.1.2. The concept of security is not a territorial one and it should not be limited to the territory of EU.

4.2. Common standards [Article 4(1)]

4.2.1. Direct reference should be made in this provision to the current standards of European Civil Aviation Conference (ECAC) Document 30.

4.3. More stringent measures (Article 6)

4.3.1. The ESC wonders about the provisions of article 6 of the proposal for a regulation which allows Member States to apply more stringent measures than those laid down in the regulation. The objective of the regulation is already to ensure a high level of security.

4.3.2. If the provisions of this article are maintained it is essential that the Commission checks its application to ensure that these measures are not discriminatory or unnecessarily restrictive

4.4. Compliance monitoring [Article 7(3)]

4.4.1. Airport inspections are to be announced, i.e. the Commission is to inform the Member State concerned in good time before an inspection.

4.4.2. The Committee feels that a monitoring system based on unannounced inspections would be much more effective in securing implementation of the regulation.

4.5. Publication of information (Article 9)

4.5.1. Confidentiality considerations should be borne in mind in the publication of the Commission's annual report on the implementation of this regulation.

5. Conclusion

5.1. The Committee backs the proposal, including the decision to issue a regulation rather than a directive, which would take a long time to implement.

5.2. Three other pieces of proposed legislation dealing with civil aviation security should be promoted and adopted as quickly as possible.

5.3. This proposal deals only with security measures for boarding an aircraft. Legislation dealing with on-board security should be proposed and adopted as quickly as possible.

5.4. With regard to infrastructure, the suggested timeframe for implementing the proposal is unrealistic.

5.5. The significant additional expenditure involved in implementing the proposals should be shouldered by the Member States.

Brussels, 28 November 2001.

*The President
of the Economic and Social Committee*
Göke FRERICH

Opinion of the Economic and Social Committee on 'Tax policy in the European Union — Priorities for the years ahead'

(2002/C 48/18)

On 5 June 2001 the Commission decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on 'Tax policy in the European Union — Priorities for the years ahead'.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 13 November 2001. The rapporteur was Mr Morgan.

At its 386th plenary session (meeting of 28 November 2001), the Economic and Social Committee adopted the following opinion by 72 votes for and 8 votes against with 7 abstentions.

1. Introduction

1.1. The Commission's communication is complete and comprehensive.

In its introduction ⁽¹⁾, the Commission explains the purpose of the communication:

'This Communication sets out the Commission view of the fundamental priorities for tax policy in the European Union in the years ahead. It explains the general approach which, in the Commission's opinion, the Community needs to adopt having regard to wider EU policy objectives, and highlights a number of priorities in specific tax areas. In view of the fact that the legal basis for decisions on taxation will, for the time being, remain unanimity, this

Communication also examines whether there are other appropriate instruments that could be used, in addition to legislation, to achieve these policy objectives.'

1.2. The communication is divided into four parts: the general context for developing EU tax policy; EU tax policy — specific objectives for the years ahead; mechanisms to achieve the objectives; conclusion. In section 2, we have summarised the Commission's statement of context without comment, simply to position the proposals which the Commission has subsequently made. In the next three sections of the opinion, we quote the Commission's actions/proposals and give an opinion as to whether they should be accepted or rejected.

⁽¹⁾ COM(2001) 260 final, Introduction, last paragraph.