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## **\*\*\*|** **REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
on common rules in the field of civil aviation security  
(COM(2005)0429 – C6-0290/2005 – 2005/0191(COD))

Committee on Transport and Tourism

Rapporteur: Paolo Costa

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on common rules in the field of civil aviation security (COM(2005)0429 – C6-0290/2005 – 2005/0191(COD))**

**(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0429)<sup>1</sup>,
  - having regard to Article 251(2) and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0290/2005),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A6-0194/2006),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1  
Recital 1

(1) In order to protect persons and goods within the European Union, acts of unlawful interference with civil aircraft should be prevented by establishing common rules for safeguarding civil aviation. This objective should be achieved by setting common rules and common standards on aviation security as well as mechanisms for monitoring compliance.

(1) In order to protect persons and goods within the European Union, acts of unlawful interference with civil aircraft, ***which jeopardise the security of civil aviation*** should be prevented by establishing common rules for safeguarding civil aviation. This objective should be achieved by setting common rules and common standards on aviation security as well as mechanisms for monitoring compliance.

<sup>1</sup> OJ C ... / Not yet published in OJ.

*Justification*

*For clarification. The goal of the proposed Regulation is to protect aviation from terrorist acts, not from other acts of unlawful interference, such as theft or smuggling.*

Amendment 2

Recital 7

(7) Without prejudice to the Convention on offences and certain other acts committed on board aircraft, Tokyo, 1963, the Convention for the suppression of unlawful seizure of aircraft, The Hague, 1970 and the Convention for the suppression of unlawful acts against the safety of civil aviation, Montreal 1971, the new act should cover security measures that apply on board an aircraft, or during a flight, of Community air carriers.

(7) Without prejudice to the Convention on offences and certain other acts committed on board aircraft, Tokyo, 1963, the Convention for the suppression of unlawful seizure of aircraft, The Hague, 1970 and the Convention for the suppression of unlawful acts against the safety of civil aviation, Montreal 1971, the new act should **also** cover security measures that apply on board an aircraft, or during a flight, of Community air carriers.

*Justification*

*This regulation of course applies to safety measures on board, but not solely to these (security of airport installations and annexes thereto, controls on access to them, etc.). The amendment provides clarification.*

Amendment 3

Recital 9

(9) Member States should also be allowed, on the basis of a risk assessment, to apply more stringent measures than those to be laid down. ***However, it should be possible for the Commission to examine those more stringent measures and to decide whether a Member State may continue to apply them.***

(9) Member States should also be allowed, on the basis of a risk assessment, to apply more stringent measures than those to be laid down. ***A distinction should be drawn, however, between common basic standards and more stringent measures and there should be a similar distinction in their funding.***

Amendment 4

Recital 9 a (new)

***(9a) A distinction should be drawn between postal mail and traditional cargo. Common***

*security measures adapted to the specific features of postal mail should be put in place.*

Amendment 5  
Recital 13

(13) In order to monitor compliance with the new act and with the national civil aviation security programme, each Member State should draw up and ensure the implementation of a national programme to check the **quality** of civil aviation security.

(13) In order to monitor compliance with the new act and with the national civil aviation security programme, each Member State should draw up and ensure the implementation of a national programme to check the **level** of civil aviation security.

*Justification*

*The new wording seems more appropriate.*

Amendment 6  
Recital 14 a (new)

***(14a) In the context of the forthcoming extension of its competences, the European Aviation Safety Agency should gradually be integrated into the monitoring of compliance with common provisions on civil aviation security.***

*Justification*

*It should be guaranteed that the European Aviation Safety Agency can properly carry out its task of ensuring high EU-wide security standards.*

Amendment 7  
Recital 17a (new)

***17a The goal of "one-stop security" for all flights within the European Union should be advanced.***

*Justification*

*For clarification.*

Amendment 8  
Recital 19a (new)

***(19a) Arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers of Foreign Affairs of the two countries. Such arrangements have yet to enter into operation.***

*Justification*

*For clarification.*

Amendment 9  
Recital 19 b (new)

***(19b) Consideration should be given to the creation of a solidarity mechanism that could offer assistance following terrorist acts with a major impact on the transport field.***

Amendment 10  
Article 1, paragraph 1

1. This Regulation establishes common rules ***for safeguarding civil aviation against acts of unlawful interference.***

1. This Regulation establishes common rules ***to protect civil aviation against acts of unlawful interference that jeopardise the security of civil aviation.***

*Justification*

*For clarification. The goal of the proposed Regulation is to protect aviation from terrorist acts, not from other acts of unlawful interference, such as theft or smuggling.*



Amendment 11  
Article 2, point (a)

(a) all airports serving civil aviation located in the territory of a Member State;

(a) all airports ***or parts of airports*** serving civil aviation located in the territory of a Member State;

Amendment 12  
Article 2, paragraph 1a (new)

***1a. Application of this Regulation to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom with regard to the dispute over sovereignty over the territory in which the airport is situated.***

*Justification*

*For clarification.*

Amendment 13  
Article 3, point 2

(2) ‘aviation security’ means the combination of measures and human and natural resources intended to safeguard civil aviation against acts of unlawful interference.

(2) ‘aviation security’ means the combination of measures and human and natural resources intended to safeguard civil aviation against acts of unlawful interference ***that jeopardise the security of civil aviation.***

*Justification*

*For clarification. The goal of the proposed Regulation is to protect aviation from terrorist acts, not from other acts of unlawful interference, such as theft or smuggling.*

Amendment 14  
Article 3, point 2 a (new)

*(2a) 'airport' means any area of land [or water] specially adapted for landing, taking-off, and manoeuvring aircraft, including ancillary installations which these operations may involve for the requirements of aircraft traffic and services including the installations needed to assist commercial air services.*

*Justification*

*For clarification.*

Amendment 15  
Article 3, point 4

(4) 'air carrier' means an air transport undertaking holding a valid operating licence;

(4) 'air carrier' means an air transport undertaking holding a valid operating licence ***or equivalent***;

*Justification*

*For clarification.*

Amendment 16  
Article 3, point 6

(6) 'prohibited articles' means weapons, explosives or other dangerous devices, articles or substances that may be used to commit an act of unlawful interference;

(6) 'prohibited articles' means weapons, explosives or other dangerous devices, articles or substances that may be used to commit an act of unlawful interference ***that jeopardises security***;

*Justification*

*For clarification. The goal of the proposed Regulation is to protect aviation from terrorist acts, not from other acts of unlawful interference, such as theft or smuggling.*

Amendment 17  
Article 3, point 9

(9) ‘access control’ means the application of means by which the entry of unauthorised persons or unauthorised vehicles, or both, **is** prevented;

(9) ‘access control’ means the application of means by which the entry of unauthorised persons or unauthorised vehicles, or both, **may be** prevented;

*Justification*

*For clarification.*

Amendment 18  
Article 3, point 13

(13) ‘demarcated area’ means an area that is separated **by means of access control either** from security restricted areas, or, if the demarcated area itself is a security restricted area, from other security restricted areas of an airport;

(13) ‘demarcated area’ means an area **that is not accessible to the general public and** that is separated from security restricted areas, or, if the demarcated area itself is a security restricted area, from other security restricted areas of an airport;

Amendment 19  
Article 3, point 14

(14) ‘background check’ means a verifiable check of a person’s identity, including any criminal history, as part of the assessment of an individual’s suitability for unescorted access to security restricted areas;

(14) ‘background check’ means a verifiable check of a person’s identity, including any criminal history **and intelligence data**;

*Justification*

*The intelligence data available to the Member States in the context of terrorist activities should also be included in the background checks. As a matter of principle, all pilots should be subject to a background check in order to counter the possibility of security loopholes.*

Amendment 20  
Article 3, point 15

(15) ‘transfer passengers, baggage **or** cargo’ means passengers, baggage **or** cargo departing on an aircraft other than that on which they arrived;

(15) ‘transfer passengers, baggage, cargo **or mail**’ means passengers, baggage, cargo **or mail** departing on an aircraft other than that on which they arrived **or on the same aircraft but on a flight with a different**

*flight number;*

*Justification*

*Transfer passengers may depart on the same aircraft.*

Amendment 21  
Article 3, point 16

(16) 'transit passengers, baggage *or* cargo' means passengers, baggage *or* cargo departing on the same aircraft as that on which they arrived;

(16) 'transit passengers, baggage, cargo *or mail*' means passengers, baggage, cargo *or mail* departing on the same aircraft as that on which they arrived *and keeping the same flight number;*

*Justification*

*It is an important right for all EU citizens to have their mail distributed by a smoothly operating service and in reasonable time. The above amendment guarantees that the public does not receive a worse postal service as a result of the regulation.*

Amendment 22  
Article 3, point 17

(17) 'potentially disruptive passenger' means a passenger *who* is *either* a deportee, a person deemed to be inadmissible for immigration reasons or a person in lawful custody;

(17) 'potentially disruptive passenger' means a passenger *whose behaviour is manifestly abnormal and threatens to compromise the security of a flight, or a passenger who* is a deportee, a person deemed to be inadmissible *to the country of origin* for immigration reasons or a person in lawful custody;

Amendment 23  
Article 3, point 22 a (new)

*(22a) 'mail' means letters, packages and other articles intended for delivery to postal service companies responsible for handling them in accordance with the provisions of the Universal Postal Union (UPU).*

*Justification*

*It is an important right for all EU citizens to have their mail distributed by a smoothly operating service and in reasonable time. The above amendment guarantees that the public does not receive a worse postal service as a result of the regulation.*

Amendment 24  
Article 3, point 23

(23) ‘cargo’ means any property intended for carriage on an aircraft other than baggage, air carrier mail and air carrier materials, and in-flight supplies;

(23) ‘cargo’ means any property intended for carriage on an aircraft other than baggage, **mail**, air carrier mail and air carrier materials, and in-flight supplies.

*Justification*

*It is an important right for all EU citizens to have their mail distributed by a smoothly operating service and in reasonable time. The above amendment guarantees that the public does not receive a worse postal service as a result of the regulation.*

Amendment 25  
Article 3, point 23 a (new)

***(23a) ‘mail’ means any dispatches of correspondence and other items tendered by and intended for delivery to postal services in accordance with the rules of the Universal Postal Union (UPU);***

*Justification*

*Mail has a different risk profile than other cargo and may be subject to other security rules laid down in the annex of the Regulation. Therefore, it should have a separate definition.*

Amendment 26  
Article 3, point 24

(24) ‘regulated agent’ means an air carrier, agent, freight forwarder or any other entity **who provides** the security controls in accordance with this Regulation in respect of cargo;

(24) ‘regulated agent’ means an air carrier, agent, freight forwarder or any other entity **that ensures** the security controls in accordance with this Regulation in respect of cargo **or mail**;

*Justification*

*For clarification.*

Amendment 27  
Article 3, point 25

(25) ‘known consignor’ means a consignor who originates cargo and whose procedures meet common security rules and standards sufficient to allow carriage of that cargo on any aircraft ***without further screening***;

(25) ‘known consignor’ means a consignor who originates cargo ***or mail*** and whose procedures meet common security rules and standards sufficient to allow carriage of that cargo ***or mail*** on any aircraft;

*Justification*

*For clarification.*

Amendment 28  
Article 3, point 26

(26) ‘account consignor’ means a consignor who originates cargo and whose procedures meet common security rules and standards sufficient to allow carriage of that cargo on all-cargo aircraft ***without further screening***;

(26) ‘account consignor’ means a consignor who originates cargo ***or mail*** and whose procedures meet common security rules and standards sufficient to allow carriage of that cargo on all-cargo aircraft ***and aircraft carrying mail only***;

*Justification*

*For clarification.*

Amendment 29  
Article 3, point 27

(27) ‘aircraft check’ means an inspection of those parts of the interior of the aircraft to which passengers may have had access, together with an inspection of the hold of the aircraft in order to detect prohibited articles and unlawful interferences ***with the***

(27) ‘aircraft ***security*** check’ means an inspection of those parts of the interior of the aircraft to which passengers may have had access, together with an inspection of the hold of the aircraft in order to detect prohibited articles and unlawful

aircraft;

interferences **that jeopardise the security of** the aircraft;

*Justification*

*For clarification.*

Amendment 30  
Article 3, point 28

(28) ‘aircraft search’ means an inspection of the interior and accessible exterior of the aircraft in order to detect prohibited articles and unlawful interferences **with** the aircraft;

(28) ‘aircraft **security** search’ means an inspection of the interior and accessible exterior of the aircraft in order to detect prohibited articles and unlawful interferences **that jeopardise the security with** the aircraft;

*Justification*

*For clarification.*

Amendment 31  
Article 3, point 29

(29) ‘in-flight security officer’ means a person who is employed by a Member State to travel on an aircraft of the air carrier licensed by it with the purpose of protecting that aircraft and its occupants against acts of unlawful interference.

(29) ‘in-flight security officer’ means a person who is employed by a Member State to travel on an aircraft of the air carrier licensed by it with the purpose of protecting that aircraft and its occupants against acts of unlawful interference **that jeopardise the security of the flight.**

*Justification*

*For clarification. The goal of the proposed Regulation is to protect aviation from terrorist acts, not from other acts of unlawful interference, such as theft or smuggling.*

Amendment 32  
Article 3, point 29 a (new)

**(29a) "Continuous random check" means a check conducted during the entire period of activity, whilst these checks are to be conducted on a random basis.**

*Justification*

*A definition of continuous random checks is necessary.*

Amendment by Christine De Veyrac

Amendment 33  
Article 4, paragraph 1

1. The common standards for safeguarding civil aviation against acts of unlawful interference shall be as laid down in the Annex.

1. The common **basic** standards for safeguarding civil aviation against acts of unlawful interference **that jeopardise the security of civil aviation** shall be as laid down in the Annex.

Or. fr

*Justification*

*It is important to specify in this paragraph and in the remainder of the text that the standards laid down in the annex represent a basis upon which the Member States may build more far-reaching security measures, depending on the threat in their own particular country.*

Amendment 34  
Article 4, paragraph 2, subparagraph 1

2. Detailed measures and procedures for the implementation of the common standards referred to in paragraph 1 shall be laid down in accordance with the procedure referred to in Article 16(2).

2. Detailed measures and procedures for the implementation of the common **basic** standards referred to in paragraph 1 shall be laid down in accordance with the procedure referred to in Article 16(2).

*Justification*

*It is important to specify in this paragraph and in the remainder of the text that the standards laid down in the annex represent a basis upon which the Member States may build more far-*



*reaching security measures, depending on the threat in their own particular country.*

Amendment 35  
Article 4, paragraph 1 a (new)

***1a. Member States and users shall share the costs of the application of the common standards for tackling acts of unlawful interference. In order to avoid any distortion of competition between Member States and between airports, air carriers and other entities concerned within the Community as well as between Member States and third countries, the Commission shall as soon as possible submit a proposal to introduce uniform arrangements for financing these security measures.***

Amendment 36  
Article 4, paragraph 2, subparagraph 2, point (h a) (new)

***(ha) background checks***

*Justification*

*To complete the list.*

Amendment 37  
Article 4, paragraph 2, subparagraph 3

***By way of derogation from the common standards referred to in paragraph 1, the measures and procedures may also address screening, access control or other security controls*** that provide an adequate level of protection at airports, or demarcated areas thereof. Such alternative measures shall be justified by reasons relating to the size of the aircraft, the nature of the operation and/or the frequency of operations at the airports concerned.

***The Commission shall set, in accordance with the procedure referred to in Article 16(2), criteria for allowing Member States to derogate from the common standards referred to in paragraph 1, and to adopt security measures*** that provide an adequate level of protection at airports or demarcated areas thereof ***on the basis of a local risk assessment***. Such alternative measures shall be justified by reasons relating to the size of the aircraft, the nature of the operation and/or the frequency of operations at the airports concerned.

*Justification*

*Some airports may apply other security measures because of practical, geographical or other constraints, but the procedure for doing so must be clearly defined.*

Amendment 38  
Article 4, paragraph 3 a (new)

***3a. Each of the detailed measures and procedures for the implementation of the common standards referred to in paragraph 2 shall be laid down on the basis of a risk and impact assessment. The assessment shall include the estimated costs.***

*Justification*

*Impact assessment must be conducted during the conception of proposed aviation security rules and prior to their introduction in order to evaluate their effectiveness in addressing security risks and threats. Such an approach is imperative for achieving the European Commission's stated policy of making 'Better Regulation'.*

*The overall objective must be to ensure that security resources target significant risks in the air transport system. In this regard, it is essential to assess fully the nature of the risk or threat, the role and effectiveness of existing security measures, and if new rules are deemed necessary, the impact of the measures proposed in terms of producing an adequate and proportionate response or action to the risk or threat identified.*

Amendment 39  
Article 4 a (new)

***Article 4a***

***Transparency in charging***

***Where airport or on board security costs are included in the price of an air ticket, those costs shall be shown separately on the ticket or otherwise indicated to the passenger.***

Amendment 40

Article 4, paragraph 4 b (new), paragraph 1

***Action to be taken in the event of a security breach***

***Where they have reason to believe that the level of security has been compromised through a security breach, Member States shall ensure that appropriate and prompt action is taken to rectify that breach and ensure the continuing security of civil aviation.***

*Justification*

*Prompt action is required where security is breached.*

Amendment 41  
Article 4 b (new), paragraph 2

***Member States shall consult the Regulatory Committee before applying such measures.***

*Justification*

*It is very important that there is effective communication to ensure the success of any additional measures in one Member State.*

Amendment 42  
Article 5, paragraph 1, subparagraph 2

Member States shall notify the Commission of such measures.

Member States shall notify the Commission ***and the Committee referred to in Article 16*** of such measures ***before applying them.***

*Justification*

*There should be a level playing field between Member States in the field of civil aviation security. More stringent measures taken by Member States should therefore be duly reported to both the Commission and the Regulatory Committee, so they can be monitored.*

Amendment 43  
Article 5, paragraph 3 a (new)

**3a. Member States shall meet the costs of applying more stringent measures, as referred to in paragraph 1.**

*Justification*

*It is right that Member States meet the costs of additional security measures that may periodically require on which result from circumstances beyond the control of airports or airlines.*

Amendment 44  
Article 5 a (new)

**Article 5a**

***Hypothecation of security taxes and charges***

***Security taxes and charges, whether levied by Member States or by air carriers or entities shall be transparent, shall be used exclusively to meet airport or on board aircraft security costs and shall not exceed the costs for applying the common basic standards as referred to in Article 4.***

Amendment 45  
Article 6, paragraph 2

2. At the request of the Member State concerned or on its own initiative, the Commission shall examine the application of paragraph 1 and, ***after consulting the Committee referred to in Article 16(1), may decide whether the Member State, operator or other entity concerned may continue to apply these measures.***

2. At the request of the Member State concerned or on its own initiative, the Commission shall examine the application of any measures notified under paragraph 1 and ***may, in accordance with the procedure referred to in Article 16(2), and after consulting the third country, draw up an appropriate response to the third country.***

*Justification*

*For clarification.*

Amendment 46  
Article 7

Where, within a single Member State, two or more bodies or entities are involved in aviation security, that Member State shall designate a single authority (hereinafter referred to as “the ***national*** authority”) to be responsible for the coordination and monitoring of the implementation of the common standards referred to in Article 4.

Where, within a single Member State, two or more bodies or entities are involved in aviation security, that Member State shall designate a single authority (hereinafter referred to as “the ***appropriate*** authority”) to be responsible for the coordination and monitoring of the implementation of the common basic standards referred to in Article 4.

*Justification*

*For clarification.*

Amendment 47  
Article 9, paragraph 1, subparagraph 2

That programme shall define responsibilities for the implementation of the common standards referred to in Article 4 and shall describe the measures required by operators and other entities for this purpose.

That programme shall define responsibilities for the implementation of the common ***basic*** standards referred to in Article 4 and shall describe the measures required by operators and other entities for this purpose.

*Justification*

*For clarification.*

Amendment 48  
Article 9, paragraph 2

2. The ***national*** authority shall make available in writing the appropriate parts of its national civil aviation security programme to operators and entities with a legitimate interest.

2. The ***appropriate*** authority shall make available in writing ***on a 'need to know' basis*** the appropriate parts of its national civil aviation security programme to operators and entities which it deems to have a legitimate interest.

*Justification*

*For clarification.*

Amendment 49  
Article 9a (new)

***Article 9a***

***National quality control programme***

***1. Every Member State shall draw up, apply and maintain a national quality control programme.***

***That programme shall enable the Member State to check the quality of civil aviation security in order to monitor compliance both with this Regulation and with its national civil aviation security programme.***

***2. The specifications for the national quality control programme shall be adopted in accordance with the procedure referred to in Article 16(2).***

***The programme shall allow for the swift detection and correction of deficiencies. It shall also provide that all airports, operators and other entities responsible for the application of security standards that are located in the territory of the Member State concerned are to be regularly monitored directly by, or under the supervision of, the national authority.***

*Justification*

*(Ex Article 13) National quality control programmes are essential to secure standards needed in this area.*

Amendment 50  
Article 11, paragraph 1

1. Every *air carrier shall draw up, apply and maintain* an air carrier security programme.

1. Every *Member State shall ensure that air carriers providing services from their territory, implement and maintain* an air carrier security programme *appropriate to meet the requirements of national civil aviation security programmes.*

*Justification*

*It is very important that there is coordination and information exchange of and between national programmes and air carriers' programmes.*

Amendment 51

Article 11, paragraph 2 a (new)

*2a. Where a Community air carrier security programme has been validated by the appropriate authority of the Member State granting the operating licence, it shall be recognised by all other Member States. Such validation and recognition shall not apply to those parts of the programme that relate to any more stringent measures that are to be applied in a Member State other than the Member State granting the operating license.*

*Justification*

*This provision avoids the need to validate in several Member States.*

Amendment 52

Article 12, introductory part

Security programme of *an entity* applying aviation security standards

Security programme of *a regulated agent* applying aviation security standards

Amendment 53

Article 12, paragraph 1, subparagraph 1

1. Every entity *applying* aviation security standards shall draw up, apply and

1. Every entity *required under the national civil aviation security*

maintain a security programme.

**programme to apply** aviation security standards shall draw up, apply and maintain a security programme.

*Justification*

*For clarification.*

Amendment 54

Article 12, paragraph 1, subparagraph 2

That programme shall describe the methods and procedures which are to be followed by the entity in order to comply **both with this Regulation** and with the national civil aviation security programme of the Member State **in which it is located**.

That programme shall describe the methods and procedures which are to be followed by the entity in order to comply **primarily** with the national civil aviation security programme of the **relevant** Member State **in respect of its operations in that Member State and with this Regulation**.

*Justification*

*For clarification.*

Amendment 55

Article 12, paragraph 2

Upon request, the security programme of the entity applying aviation security standards shall be submitted to the **national** authority.

Upon request, the security programme of the entity applying aviation security standards shall be submitted to the **appropriate** authority.

*Justification*

*For clarification.*

Amendment 56

Article 13

**National quality control programme** *deleted*  
**1. Every Member State shall draw up, and**



*ensure the implementation of, a national quality control programme.*

*That programme shall enable the Member State to check the quality of civil aviation security in order to monitor compliance both with this Regulation and with its national civil aviation security programme.*

*2. The specifications for the national quality control programme shall be adopted in accordance with the procedure referred to in Article 16(2).*

*The programme shall allow for the swift detection and correction of deficiencies. It shall also provide that all airports, operators and other entities responsible for the application of security standards that are located in the territory of the Member State concerned shall be regularly monitored by, or under the supervision of, the national authority.*

#### *Justification*

*For clarification.*

#### Amendment 57 Article 14, paragraph 1

1. The Commission, acting in cooperation with the **national** authority, **shall** conduct inspections - including inspections of airports, operators and entities applying aviation security standards - in order to monitor the application by Member States of this Regulation **and** to identify weak points in aviation security. For this purpose, the **national** authority shall inform the Commission in writing of all airports in its territory serving civil aviation other than those covered by the third subparagraph of Article 4(2).

1. The Commission **shall instruct the European Aviation Safety Agency**, acting in cooperation with the **appropriate** authority **of the Member State concerned, to** conduct inspections - including inspections of airports, operators and entities applying aviation security standards - in order to monitor the application by Member States of this Regulation, to identify weak points in aviation security **and, as appropriate, to make recommendations to improve aviation security**. For this purpose, the **appropriate** authority shall inform the Commission in writing of all airports in its territory serving

civil aviation other than those covered by the third subparagraph of Article 4(2).

*Justification*

*The wording is the same as in the rapporteur's Amendment 30. However, the role of the European Aviation Safety Agency as a Community-wide monitoring body should also be stressed. It should be given the corresponding powers when Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency is revised.*

Amendment 58

Article 14, paragraph 3, subparagraph 2

The report, together with the answer of the **national** authority, shall subsequently be communicated to **all other national authorities**.

The report, together with the answer of the **appropriate** authority, shall subsequently be communicated to **the appropriate authorities of all other Member States**.

*Justification*

*For clarification.*

Amendment 59

Article 14, paragraph 3 a (new)

**3a. The Commission shall ensure that every European airport that falls within the scope of this Regulation is inspected at least once within four years of the entry into force of this Regulation.**

*Justification*

*It is necessary that all airports are checked at least once within a reasonable time, to guarantee regulatory compliance and correct implementation of the European aviation security rules laid down in the Regulation.*

Amendment 60

Article 15 a (new)

**Article 15a**

**Report**

***Every year the Commission shall present a report to the European Parliament, the Council, the Member States and the national parliaments, informing them of the application of this Regulation and its impact on improving air security, as well as of any weaknesses or shortcomings brought to light by the Commission's checks and inspections.***

*Justification*

*It is essential that the effects of this regulation should be made known in a regular and appropriate fashion.*

Amendment 61  
Article 16 a (new)

**Article 16a**

**Stakeholders' Advisory Group**

***Without prejudice to the role of the Committee referred to in Article 16, the Commission shall establish a Stakeholders' Advisory Group on Aviation Security, composed of European representative organisations engaged in or directly affected by aviation security. The role of this group shall be solely to advise the Commission. The Committee referred to in Article 16 shall keep the Stakeholders' Advisory Group informed during the entire regulatory process.***

Amendment 62  
Article 16 b (new)

*Article 16b*

*Publication of information*

*Every year the Commission shall draw conclusions from the inspection reports and publish, in accordance with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents<sup>1</sup> a report on the implementation of this Regulation and on the situation in the Community as far as aviation security is concerned.*

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<sup>1</sup> OJ L 145, 31.5.2001, p. 43.

*Justification*

*This provision existed in the previous regulation 2320/2002 and should be retained.*

Amendment 63

Article 17

Agreements recognising that the security standards applied in a third country are equivalent to Community standards ***may be concluded*** between the Community and a third country in accordance with Article 300 of the Treaty.

Agreements recognising that the security standards applied in a third country are equivalent to Community standards ***should be included in global aviation agreements*** between the Community and a third country in accordance with Article 300 of the Treaty ***in order to advance the goal of "one-stop security" for all flights between the European Union and third countries.***

*Justification*

*One stop security is one of the cornerstones of the EU's external aviation policy. It should therefore be explicitly included in every horizontal aviation agreement the EU closes with third countries.*

Amendment 64

Article 20, subparagraph 2

It shall apply from *[...]*, with the exception of Articles 4(2), 13(2), 14(1) and 16 which shall apply from the date of entry into force.

It shall apply from *[one year from the date of entry into force of this Regulation]*, with the exception of Articles 4(2), 13(2), 14(1) and 16, which shall apply from the date of entry into force.

*Justification*

*For clarification.*

Amendment 65  
Annex, section 1.2, point 1

1. Access to airside shall be restricted in order to **deter** unauthorised persons and vehicles from entering these areas.

1. Access to airside shall be restricted in order to **prevent** unauthorised persons and vehicles from entering these areas.

*Justification*

*A reminder of the imperative need for the measures to be effective.*

Amendment 66  
Annex, chapter 1, section 1.2, paragraph 4

**4. Before being issued with a crew identification card, a flight crew member of a Community air carrier shall have successfully completed a background check carried out by the licensing Member State.**

**deleted**

*Justification*

*Content of this paragraph needs to be inserted in paragraph 5 of section 1.2 of the Annex for clarification.*

Amendment 67  
Annex, chapter 1, section 1.2, paragraph 5

**5. Before being issued with an airport identification card that authorises access to security restricted areas, a staff member shall have successfully completed a background check carried out by the**

**5. All staff, including flight crew members, shall have successfully completed a background check before an airport or crew identification card is issued to them authorising unescorted access to security**

*Member State in which the airport is located. This shall not apply to flight crew members that have been issued with crew identification cards as referred to in paragraph 4.*

*restricted areas. Identification cards may be recognised by an appropriate authority other than that which issued the identification card concerned.*

*Justification*

*For clarification. Combines paragraphs 4 and 5 of chapter 1.2 of the Annex.*

Amendment 68  
Annex, chapter 2

Aircraft parked in demarcated areas of airports to which alternative measures referred to in the third subparagraph of Article 4(2) apply, shall be separated from aircraft to which the common standards as laid down in the Annex apply in full, in order to avoid that security standards applied to aircraft, passengers, baggage and cargo of the latter are compromised.

Aircraft parked in demarcated areas of airports to which alternative measures referred to in the third subparagraph of Article 4(2) apply, shall be separated from aircraft to which the common basic standards as laid down in the Annex apply in full, in order to **ensure** that security standards applied to aircraft, passengers, baggage and cargo of the latter are **not** compromised.

*Justification*

*For clarification.*

Amendment 69  
Annex, chapter 3, paragraph 1

1. If passengers disembark an aircraft, the aircraft shall be subjected to an aircraft check before departure in order to ensure that no prohibited articles are present on board.

1. If passengers disembark an aircraft, the aircraft shall be subjected to an aircraft check before departure in order to ensure that no prohibited articles are present on board. ***An aircraft may be exempted from the check if it arrives from a Member State, unless the Commission or that Member State has provided information suggesting that the passengers and their cabin baggage cannot be considered as having been screened in accordance with the***

*common standards referred to in Article 4.*

*Justification*

*Security must be risk-based. The requirement to check aircraft should be consistent with the exemption system applying to passengers and baggage. The concept of one-stop security is laid down in Recital 17 of the Preamble and should apply where relevant, including in this case, so that security resources can be deployed more effectively elsewhere.*

Amendment 70

Annex, chapter 3, paragraph 1 a (new)

***1a. Passengers who are disembarked from an aircraft at a recognised airport due to technical issues and subsequently held in a secure zone at that airport should not be subject to re-screening.***

*Justification*

*Appropriate security checks have already been taken.*

Amendment 71

Annex, chapter 3, paragraph 2

2. Every aircraft shall be protected from unauthorised interference.

2. Every aircraft shall be protected from unauthorised interference. ***The presence of aircraft in the critical parts of the security restricted area shall be deemed to be sufficient protection.***

*Justification*

*Critical parts of security restricted areas have allowed to create fully sterile areas around aircraft and screened passengers and baggage. Since it is important to target resources where the risks are, additional protection in the critical parts should not be requested unless there is a suspicion of unlawful interference or inadequate security in place.*

Amendment 72

Annex, chapter 5, section 5.3, paragraph 2

2. Unaccompanied hold baggage shall not be

2. Unaccompanied hold baggage shall not be

transported, unless that baggage has been either separated due to factors beyond the passenger's control or subjected to **additional** security controls.

transported, unless that baggage has been either separated due to factors beyond the passenger's control or subjected to **adequate** security controls.

*Justification*

*Additional security controls might not be necessary since the baggage will already have been covered by the "one stop security" system.*

Amendment 73  
Annex, chapter 6, title

CARGO

CARGO **AND MAIL**

*Justification*

*Cargo and mail do not necessarily have the same risk profile and may be subject to different rules in the implementing acts. They should therefore be defined separately.*

Amendment 74  
Annex, section 6.1, paragraph 1

1. All cargo shall be subjected to security controls prior to being loaded on an aircraft. An air carrier shall not accept cargo for carriage on an aircraft unless the application of security controls is confirmed and accounted for by **a** regulated agent, a known consignor or an account consignor.

1. All cargo shall be subjected to security controls prior to being loaded on an aircraft. An air carrier shall not accept cargo for carriage on an aircraft unless the application of security controls is confirmed and accounted for by **another air carrier** regulated agent, a known consignor or an account consignor.

*Justification*

*For clarification.*

Amendment 75  
Annex, chapter 6, section 6.1, paragraph 2

2. Transfer cargo shall be subjected to security controls as detailed in an implementing act.

2. Transfer cargo shall be subjected to security controls as detailed in an implementing act. **It may be exempted from**



*security controls:*

*a) if it arrives from a Member State, unless the Commission or that Member State has provided information suggesting that the cargo cannot be considered as having been screened in accordance with the common standards; or,*

*b) if it arrives from a third country with which the Community has an agreement as referred to in Article 17 that recognises that the cargo has been screened in accordance with security standards equivalent to Community standards; or,*

*c) in cases detailed in an implementing act.*

#### *Justification*

*Chapters 4.1.2 (passengers and cabin baggage) and 6.1.3 (transit cargo) refer to exemptions from screening. The proposed amendment ensures that exemptions are possible for all transfer cargo and that they may exist in strictly defined cases. In no case should a requirement be put in place which requires to screen large quantities of cargo at the airport, since this would lead to huge bottlenecks, making the European trade less competitive.*

#### *Amendment 76*

*Annex, chapter 6, section 6.1, paragraph 2 a (new)*

##### *2a. Security controls for mail*

*1. All mail shall be subjected to security controls prior to being loaded on an aircraft. An air carrier shall not accept mail for carriage on an aircraft unless it is confirmed that appropriate security controls for mail, as detailed in an implementing act, have been applied.*

*2. Transfer mail shall be subjected to security controls as detailed in an implementing act. It may be exempted from security controls on the basis of the exemption criteria laid down in section 5.1, paragraph 2.*

*3. Transit mail may be exempted from security controls if it remains on board of the aircraft.*

*Justification*

*Cargo and mail do not necessarily have the same risk profile and may be subject to different rules in the implementing acts. They should therefore be defined separately.*

Amendment 77  
Annex, chapter 10, paragraph 1

**1.** Without prejudice to the applicable aviation safety rules, unauthorised persons shall be prevented from entering the flight crew compartment during a flight.

Without prejudice to the applicable aviation safety rules:

**1.** unauthorised persons shall be prevented from entering the flight crew compartment during a flight;

*Justification*

*For clarification.*

Amendment 78  
Annex, chapter 10, paragraph 2

**2. Without prejudice to the applicable aviation safety rules**, potentially disruptive passengers shall be subjected to appropriate security measures during a flight.

2. potentially disruptive passengers shall be subjected to appropriate security measures during a flight;

*Justification*

*For clarification.*

Amendment 79  
Annex, chapter 10, paragraph 4

4. Weapons shall not be carried on board an aircraft, unless ***an authorisation has been given by the Member State concerned and the required security conditions have been fulfilled.***

4. weapons, ***with the exception of those carried as declared cargo***, shall not be carried on board an aircraft, unless ***the required security conditions have been fulfilled, and***

***a) authorisation has been given by the***

***State granting the operating licence to the air carrier concerned; and***

***b) prior approval has been given by the States of departure and arrival and, where applicable, by any State which is flown over or in which intermediate stops are made;***

*Justification*

*For clarification.*

Amendment 80

Annex, chapter 10, paragraph 6

6. Paragraphs 1 to 5 shall apply ***only to Community air carriers***

6. Paragraphs 1 to 5 shall apply ***to Community air carriers and to carriers that have their principal place of business in one or more Member States.***

*Justification*

*Carriers from non-EU countries that have their principal place of business in the Community should follow the same rules as Community carriers.*

Amendment 81

Annex, chapter 10, paragraph 6 a (new)

***6a. Responsibilities for taking appropriate action in the event of any act of unlawful interference committed on board a civil aircraft or during a flight shall be clearly defined, without prejudice to the principle of the authority of the captain of the aircraft.***

*Justification*

*The Captain bears the final responsibility for his aircraft. His authority in matters of in-flight security should be recognised.*

Amendment 82

Annex, chapter 11, paragraph 1

1. Persons implementing or responsible for implementing, screening, access control or other security controls shall be recruited, trained and certified so as to ensure that they are suitable for employment and competent to undertake the duties to which they will be assigned.

1. Persons implementing, or responsible for implementing, screening, access control or other security controls shall be recruited, trained and, ***where appropriate***, certified so as to ensure that they are suitable for employment and competent to undertake the duties to which they will be assigned.

*Justification*

*For clarification.*

Amendment 83

Annex, chapter 11, paragraph 2

2. Persons other than passengers requiring access to security restricted areas shall, before either an airport identification card or crew identification card is issued, receive security training.

2. Persons other than passengers ***and escorted persons with a short term airport pass*** requiring access to security restricted areas shall, before either an airport identification card or crew identification card is issued, receive security training ***unless they are continuously escorted by one or more persons that have an airport identification card or crew identification card.***

*Justification*

*For clarification.*

Amendment 84

Annex, chapter 12

Equipment used for screening, access control and other security controls shall ***be capable to perform the security controls concerned.***

Equipment used for screening, access control and other security controls shall ***comply with approved specification and be capable of performing the security controls concerned.***

*Justification*

*There needs to be a certification requirement in this area.*

Amendment 85  
Annex, chapter 12 a (new)

**12a. BACKGROUND CHECKS**

***All pilots and applicants for pilot licences for motorised aircraft shall be subject to uniform background checks which shall be repeated at regular intervals. Decisions of the appropriate authorities regarding background checks shall be taken on the basis of the same criteria.***

*Justification*

*As a matter of principle, all pilots should be subject to a background check in order to counter the possibility of security loopholes. In order to achieve a uniformly high level across the Community, uniform standards should be laid down as a basis for these checks.*

## EXPLANATORY STATEMENT

### Background

The existing Regulation, 2320/2002, was drafted and adopted in the immediate aftermath of the terrorist attack in the United States on 11 September 2001. It was adopted after Parliament and the Council had worked closely and speedily to close a perceived gap in Europe's aviation security. There was an acknowledgement at the time that the legislation might have to be revisited in the light of its implementation and the experiences gained from that. The proposal now brought forward by the Commission is to replace the existing Regulation by what is in effect a framework regulation. Since its adoption the technical specifications in Regulation 2320/2002 have been amended on many occasions through comitology. This is a further argument in favour of the framework regulation approach.

Regulation 2320/2002 was adopted in December 2002 after Third Reading and conciliation. An outstanding issue at the time of Regulation 2320/2002 for the European Parliament was the funding of the security measures proposed.

### The current proposal

The major underlying intention of the current proposal is to remove detailed technical specifications from the Regulation and its annex and to place them in a series of implementing measures which the Commission may adopt. The reasons for this are to remove from the public domain information which may be of use to terrorists and to allow an easier and speedier updating of technical requirements through comitology. It is proposed to use the regulatory procedure which requires a weighted majority of Member States representatives in a regulatory committee in favour before a Commission proposal to be adopted. Under this procedure the Parliament can inform the Council if it believes the Commission is exceeding its powers. The measures adopted will be "EU classified information" available only to operators and entities with a legitimate interest.

A further and related aim of the amending Regulation is to provide a basis for a common interpretation of annex 17 on security to the Chicago Convention on International Civil Aviation.

The draft Regulation also deals with substantive matters the existing Regulation does not cover. For the first time the act deals with measures to apply on board an aircraft during flight. These include authorisation of in flight security officers and prohibition on carrying weapons unless certain security conditions have been met (Annex, section 10).

The proposal allows, on the one hand, Member States to apply more stringent measures than those specified in the Regulation on the basis of risk assessment and on the other permits derogations based on the size of aircraft and the frequency of operations at airports.

The aim of "one-stop security" is advanced by the draft Regulation's provisions on exempting transfer passengers and baggage from screening under certain conditions including where

third countries meet Community standards. It also establishes provisions for the application of third country standards where those are required for, inter alia, overflight.

Finally it requires Member States to draw up civil aviation security plans and operators and carriers to have security programmes and mechanisms for the Commission to monitor compliance with the Regulation.

However there are issues which the amending Regulation does not address but must be considered. The issue of costs for security and the apportionment of these is not dealt with. Nor is it made clear how the industry will be involved in the consultation process on specific security measures.

#### Balance between the Regulation and implementing measures

A major consideration is to strike the right balance between what should be adopted in the framework Regulation and its annexe and what should be dealt with by way of implementing measures adopted by the comitology procedure. This will be to the forefront of your Rapporteur's mind when particular aspects of the proposal are examined. It would seem right to have everything in the Regulation except for technical standards which are subject to periodic adjustment and which for security reasons should not appear in the public domain.

#### Costs and who pays?

This is not a new question in respect of aviation security costs. Regulation 2320/2003 which the current proposal amends was accompanied by an Interinstitutional Declaration in which the Parliament, Council and Commission recognised that the funding question had to be analysed urgently. It is therefore disappointing to see that the draft amending Regulation does not address this issue. Not only does it make no proposal in respect of funding, the Commission does not present an estimate of the costs to airports and airlines of the measures it proposes. It is also the case that, where costs are apportioned differently in different Member States, there is a possibility of a distortion effect and trade advantage to some operators.

It could well be argued that the security of the citizen at airports or in the air is the state's responsibility just as much as it is at any other point of travel departure, for example a railway or bus station

Your rapporteur also notes that Article 5 of the draft Regulation permits Member States to apply more stringent security measures than the common standards required by the Regulation. These, when required by national administrations, will entail increased costs for airports and airlines. There is a case for at least these additional costs related to non standard measures to be met by the Member State.

#### What role for stakeholders?

The proposal to adopt implementing measures using a Regulatory committee of Member States representatives, chaired by the Commission, is in itself reasonable. Nevertheless it will be important to ensure that an effective mechanism exists to allow those in the industry with day to day responsibility for implementing the decisions made by the Regulatory committee to advise that committee. It is for this reason that the role of the Stakeholder Advisory Group on Aviation Security, which already exists and is consulted by the Commission, should be recognised by the Regulation.

#### In-Flight Security measures

The existing Regulation does not deal with in-flight security measures. There is some risk of overlap with other arrangements determined at international level. Measures to prevent unauthorised access to the flight crew compartment, for example, are covered by ICAO provisions. The Regulation would not require in flight security officers on board aircraft and the Commission recognises that this is an area primarily for the Member States. The inclusion on in-flight security officers at part 10 of the annexe seems to be to allow common rules and standards to be applied if and when this is necessary through using the comitology procedure.

#### Third countries and "one stop" security

The effect of Article 6 is to ensure that security measures required by third countries are subject to scrutiny and agreement by the Regulatory committee. There is also provision at Article 17 for agreements to be concluded between third countries and the Commission on security standards. This will facilitate uninterrupted transfer of passengers and goods where such agreements are reached. However care has to be taken to avoid a dilution in security standards over time under pressure to reduce costs and smooth passenger transfer.

#### Conclusion

Your rapporteur supports the draft Regulation in general terms and recognises the need to replace Regulation 2320/2002 in the light of experience gained since it came into force. He also recognises that a framework Regulation with details such as screening methods and equipment performance criteria dealt with in implementing measures is the right approach. However, as indicated above there remain a number of areas where greater clarity or changes to the proposal may be required. It is for that reason that he is putting forward a number of amendments at this point. Some of those deal with the points raised above while others aim to tighten the legislation in particular areas.

In putting forward these amendments your rapporteur seeks to strike a balance between the need for scrutiny and control and the need for speedy, non public adaptation of certain technical standards and procedures; a better founded provision for stakeholder participation; and a more equitable arrangement on the distribution of costs. In general however he welcomes the draft Regulation.



5.4.2006

## **OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS**

for the Committee on Transport and Tourism

on the proposal for a regulation of the European Parliament and of the Council on common rules in the field of civil aviation security  
(COM(2005)0429 – C6-0290/2005 – 2005/0191(COD))

Draftsman: Romano Maria La Russa

### **SHORT JUSTIFICATION**

One of the most immediate major challenges the European Union has to face is that of guaranteeing the safety of people and property within its frontiers: seen in terms of civil aviation, this task calls for the implementation of policies capable of forestalling unlawful actions targeting civil aircraft and/or airport zones by establishing minimum common rules and standards, and mechanisms to enforce them.

The most recent regulation in force on the subject ((EC) No 2320/2002) was adopted on 16 December 2002 in the wake of the events of 11 September 2001 in the United States. In the light of experience gained since then, its content needs to be reviewed and the regulation replaced with a new version designed to give greater simplicity, harmonisation and clarity, all in the service of a higher level of security in practice.

In the face of threats that come in many forms and are constantly changing, the new act needs to set out the basic principles underlying the actions to be taken, without prescribing in too much detail how those involved are to implement them; it is important to leave it to the Member States to determine the tools needed to meet their own specific needs and to place the former under an obligation to arrive at a result – the security of civil aviation – without an intrusive and counterproductive insistence on how this is to be achieved.

The new act must apply to airports (and their annexes) used for civil aviation and situated on the territory of a Member State, to operators providing services to these airports, and to bodies supplying goods and/or services to or via these airports; also, without prejudice to the international legislation in force in this area<sup>1</sup>, the new regulation must also cover safety

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<sup>1</sup> The Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo in 1963,

measures applicable on board, or during flights of, aircraft operated by Community air carriers.

Your rapporteur has concentrated essentially on making the few amendments he considered necessary; while welcoming the Commission's valuable contribution in arriving at common standards and rules designed to guarantee a high level of civil aviation security throughout the Union, he takes the view that the Union's Member States must remain free to implement even stricter security policies, both internally and in the context of bilateral relations with third countries. After the tragic events of the past few years, one could not blame any Member State that felt the need to raise the security level still further by applying stricter measures, provided that these respected civil liberties and, in more general terms, the fundamental values and principles that underpin the European Union.

Generally speaking, the proposed new wordings spring from two concerns: firstly, clarity and, secondly, close involvement of the various parties concerned – economic operators, Member States, the Commission – in achieving a specific outcome: a constant raising of the level of security of civil aviation.

This overall approach also led your rapporteur to broaden the definition of a 'potentially disruptive passenger' to include people whose behaviour, as opposed to their legal situation, is a potential source of disruption; likewise, in relation to cargo he suggests that inspections and screening should not be automatically ruled out even where in principle the consignor and the customer meet common security standards.

At a more technical level, it also seemed advisable to include all infrastructures adjoining and connected to airports in the scope of this regulation, and to make an even clearer distinction between the concepts of 'passengers in transit' and 'transfer passengers'.

Finally, this opinion recommends distribution of an annual report, inter alia to the European Parliament and the national parliaments, informing recipients of the application and results of this new regulation.

## AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Transport and Tourism, as the committee responsible, to incorporate the following amendments in its report:

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Text proposed by the Commission<sup>1</sup>

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Amendments by Parliament

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Amendment 1  
Recital 1

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the Hague Convention for the Suppression of Unlawful Seizure of Aircraft of 1970, and the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

<sup>1</sup> Not yet published in OJ.

(1) In order to protect persons and goods within the European Union, acts of unlawful interference with civil aircraft should be prevented by establishing common rules for **safeguarding** civil aviation. This objective should be achieved by setting common rules and common standards on aviation security as well as mechanisms for monitoring compliance.

(1) In order to protect persons and goods within the European Union, acts of unlawful interference with civil aircraft should be prevented by establishing common rules for **maintaining the security of** civil aviation. This objective should be achieved by setting common rules and common standards on aviation security as well as mechanisms for monitoring compliance.

*Justification*

*The word 'safeguard' opens the way to a much broader interpretation. The suggested wording is clearer in that it restricts the present regulation to the area of security.*

Amendment 2  
Recital 5

(5) 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 without going into technical and procedural details on how they are to be implemented.

(5) Given the need **to adapt** security measures and procedures to 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 without going into technical and procedural details on how they are to be implemented.

*Justification*

*The expression 'more flexibility' is usually regarded as synonymous with greater latitude, whereas this regulation is seeking to achieve the very opposite. The new wording is more in keeping with the spirit of the text.*

Amendment 3  
Recital 7

(7) Without prejudice to the Convention on offences and certain other acts committed on board aircraft, Tokyo, 1963, the Convention for the suppression of unlawful seizure of aircraft, The Hague, 1970 and the Convention for the suppression of unlawful acts against the safety of civil aviation,

(7) Without prejudice to the Convention on offences and certain other acts committed on board aircraft, Tokyo, 1963, the Convention for the suppression of unlawful seizure of aircraft, The Hague, 1970 and the Convention for the suppression of unlawful acts against the safety of civil aviation,

Montreal 1971, the new act should cover security measures that apply on board an aircraft, or during a flight, of Community air carriers.

Montreal 1971, the new act should *also* cover security measures that apply on board an aircraft, or during a flight, of Community air carriers.

*Justification*

*This regulation of course applies to safety measures on board, but not solely to these (security of airport installations and annexes thereto, controls on access to them, etc.). The amendment provides clarification.*

Amendment 4  
Recital 9

(9) Member States should also be allowed, on the basis of a risk assessment, to apply more stringent measures than those to be laid down. ***However, it should be possible for the Commission to examine those more stringent measures and to decide whether a Member State may continue to apply them.***

(9) Member States should also be allowed, on the basis of a risk assessment, to apply more stringent measures than those to be laid down.

*Justification*

*Where security is concerned, it is desirable that the Commission should contribute to defining a minimum standard that is binding on all the Member States, but the latter should retain their right to decide themselves to apply stricter standards without any risk of this being forbidden by the Commission.*

Amendment 5  
Recital 10

(10) Third countries may require the application of measures that differ from those laid down in this act in respect of flights from an airport in a Member State to, or over, that third country. ***However, without prejudice to any bilateral agreements to which the Community is a party, it should be possible for the Commission to examine the measures required by the third country and to decide whether a Member State, operator or other entity concerned may continue to apply the measures required.***

(10) Third countries may require the application of measures that differ from those laid down in this act in respect of flights from an airport in a Member State to, or over, that third country.

*Justification*

*See justification of Amendment 9.*

Amendment 6

Recital 13

(13) In order to monitor compliance with the new act and with the national civil aviation security programme, each Member State should draw up and ensure the implementation of a national programme to check the **quality** of civil aviation security.

(13) In order to monitor compliance with the new act and with the national civil aviation security programme, each Member State should draw up and ensure the implementation of a national programme to check the **level** of civil aviation security.

*Justification*

*The new wording seems more appropriate.*

Amendment 7

Recital 14

(14) 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.

(14) In order to monitor the application by Member States of the new act, and also to identify weak points, the Commission should conduct **or have conducted on its behalf** inspections, including unannounced inspections.

Amendment 8

Recital 17

(17) 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 third countries, **recognising** that the security standards applied in the third country are equivalent to Community standards.

(17) 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 third countries, **guaranteeing** that the security standards applied in the third country are equivalent to Community

standards.

*Justification*

*The wording chosen is stronger. The message must be one of close involvement, and not simply of recognition.*

Amendment 9  
Article 2, point (a)

a) all airports serving civil aviation located in the territory of a Member State;

a) all airports serving civil aviation **and their annexes** located in the territory of a Member State;

*Justification*

*It is very important that all infrastructures adjoining and connected to airports should be included in the scope of this regulation.*

Amendment 10  
Article 3, point 8

(8) ‘security control’ means the application of means by which the introduction of prohibited articles **may** be prevented;

(8) ‘security control’ means the application of means by which the introduction of prohibited articles **must** be prevented;

*Justification*

*The amendment aims to underline the obligation to provide effective security controls.*

Amendment 11  
Article 3, point 9

(9) ‘access control’ means the application of means by which the entry of unauthorised persons or unauthorised vehicles, or both, **is** prevented;

(9) ‘access control’ means the application of means by which the entry of unauthorised persons or unauthorised vehicles, or both, **must be** prevented;

*Justification*

*The amendment aims to underline the obligation to provide effective security controls.*

Amendment 12  
Article 3, point 15

(15) ‘transfer passengers, baggage *or* cargo’ means passengers, baggage *or* cargo departing on an aircraft other than that on which they arrived;

(15) ‘transfer passengers, baggage, cargo *or mail*’ means passengers, baggage, cargo *or mail* departing on an aircraft other than that on which they arrived *or on the same aircraft but with a different flight number*;

*Justification*

*To have their mail distributed efficiently and within a reasonable period of time is an important right for all citizens in the EU. This amendment guarantees that the postal service available to citizens will not deteriorate as a result of the regulation.*

*This amendment also aims to clarify the concepts of transit and transfer passengers.*

Amendment 13  
Article 3, point 16

(16) ‘transit passengers, baggage *or* cargo’ means passengers, baggage *or* cargo departing on the same aircraft as that on which they arrived;

(16) ‘transit passengers, baggage, cargo *or mail*’ means passengers, baggage, cargo *or mail* departing on the same aircraft as that on which they arrived *and keeping the same flight number*;

*Justification*

*To have their mail distributed efficiently and within a reasonable period of time is an important right for all citizens in the EU. This amendment guarantees that the postal service available to citizens will not deteriorate as a result of the regulation. This amendment also aims to clarify the concepts of transit and transfer passengers.*

Amendment 14  
Article 3, point 17

(17) ‘potentially disruptive passenger’ means a passenger who is either a deportee, a person deemed to be inadmissible for immigration reasons or a person in lawful custody;

(17) ‘potentially disruptive passenger’ means *a passenger whose manifestly abnormal behaviour is deemed to pose a potential threat to the safety of the flight*, or a passenger who is either a deportee, a person deemed to be inadmissible for immigration reasons or a person in lawful custody;

*Justification*

*People presenting problems other than legal ones should also be mentioned as potentially disruptive passengers.*

Amendment 15  
Article 3, paragraph 22 a (new)

***(22a) ‘mail’ means letters, parcels and other items intended for delivery to postal service undertakings which take responsibility for their handling in accordance with the provisions of the Universal Postal Union (UPU).***

Or. sv

*Justification*

*To have their mail distributed efficiently and within a reasonable period of time is an important right for all citizens in the EU. This amendment guarantees that the postal service available to citizens will not deteriorate as a result of the regulation.*

Amendment 16  
Article 3, paragraph 23

(23) ‘cargo’ means any property intended for carriage on an aircraft other than baggage, air carrier mail and air carrier materials, and in-flight supplies;

(23) ‘cargo’ means any property intended for carriage on an aircraft other than baggage, air carrier mail and air carrier materials, and in-flight supplies ***and mail***;

Or. sv

*Justification*

*To have their mail distributed efficiently and within a reasonable period of time is an important right for all citizens in the EU. This amendment guarantees that the postal service available to citizens will not deteriorate as a result of the regulation.*

Amendment 17  
Article 3, paragraph 24

(24) ‘regulated agent’ means an air carrier,

(24) ‘regulated agent’ means an air carrier,



agent, freight forwarder or any other entity who provides the security controls in accordance with this Regulation in respect of cargo;

agent, freight forwarder or any other entity who provides the security controls in accordance with this Regulation in respect of cargo **or mail**;

Or. sv

*Justification*

*To have their mail distributed efficiently and within a reasonable period of time is an important right for all citizens in the EU. This amendment guarantees that the postal service available to citizens will not deteriorate as a result of the regulation.*

Amendment 18  
Article 3, paragraph 25

(25) ‘known consignor’ means a consignor who originates cargo and whose procedures meet common security rules and standards sufficient to allow carriage of that cargo on any aircraft without further screening;

(25) ‘known consignor’ means a consignor who originates cargo **or mail** and whose procedures meet common security rules and standards sufficient to allow carriage of that cargo **or mail** on any aircraft without further screening;

Or. sv

*Justification*

*To have their mail distributed efficiently and within a reasonable period of time is an important right for all citizens in the EU. This amendment guarantees that the postal service available to citizens will not deteriorate as a result of the regulation.*

Amendment 19  
Article 3, paragraph 26

(26) ‘account consignor’ means a consignor who originates cargo and whose procedures meet common security rules and standards sufficient to allow carriage of that cargo on all-cargo aircraft without further screening;

(26) ‘account consignor’ means a consignor who originates cargo **or mail** and whose procedures meet common security rules and standards sufficient to allow carriage of that cargo **or mail** on all-cargo aircraft **and aircraft which exclusively carry mail** without further screening;

Or. sv

### *Justification*

*To have their mail distributed efficiently and within a reasonable period of time is an important right for all citizens in the EU. This amendment guarantees that the postal service available to citizens will not deteriorate as a result of the regulation.*

#### Amendment 20 Article 3, point 27

(27) ‘aircraft check’ means an inspection of those parts of the interior of the aircraft to which passengers may have had access, together with an inspection of the hold of the aircraft in order to detect prohibited articles and unlawful interferences with the aircraft;

(27) ‘aircraft **security** check’ means an inspection of those parts of the interior of the aircraft to which passengers may have had access, together with an inspection of the hold of the aircraft in order to detect prohibited articles and unlawful interferences with the aircraft;

#### Amendment 21 Article 4, paragraph 2, point (a)

a) methods of screening, access control and other security controls;

*(Does not affect English version.)*

#### Amendment 22 Article 4, paragraph 3

3. Member States shall ensure the application of the common standards referred to in paragraph 1.

3. Member States shall ensure the application of the common standards referred to in paragraph 1. ***They must, inter alia, take all necessary measures immediately to re-establish maximum security when they are aware that the level of security has been downgraded by an illegal act or by the absence of one or more links in the security chain.***

### *Justification*

*The Member States must bear the responsibility for remedying any security failing brought to their notice; this responsibility must be the corollary of their freedom to apply stricter standards and measures than the minima laid down at Community level.*

#### Amendment 23

Article 5, paragraph 1

1. Member States may apply more stringent measures than the common standards as laid down in Article 4. In doing so, they shall act on the basis of a risk assessment and in compliance with Community law. More stringent measures shall be relevant, objective, non-discriminatory and proportional to the risk that is being addressed.

1. Member States may apply more stringent measures than the common standards as laid down in Article 4. In doing so, they shall act on the basis of a risk assessment and in compliance with Community law. More stringent measures shall be relevant, objective, non-discriminatory and proportional to the risk that is being addressed. ***They shall respect the principles set out in Articles 81, 82 and 87 of the Treaty and shall be compatible with the common market.***

Amendment 24  
Article 5, paragraph 2

***2. The Commission may examine the application of paragraph 1 and, after consulting the Committee referred to in Article 16(1), may decide whether the Member State is allowed to continue to apply the measures.***

*deleted*

***The Commission shall communicate its decision to the Council and the Member States.***

***Within one month of the decision being communicated by the Commission, a Member State may refer the decision to the Council. The Council, acting by qualified majority, may within a period of three months take a different decision.***

*Justification*

*See Amendment 4.*

Amendment 25  
Article 5, paragraph 3

3. The second subparagraph of paragraph 1, ***and paragraph 2***, shall not apply if the more stringent measures are limited to a given

3. The second subparagraph of paragraph 1 shall not apply if the more stringent measures are limited to a given flight on a

flight on a specific date.

specific date.

*Justification*

*Results from the previous amendment.*

Amendment 26  
Article 6, paragraph 2

**2. At the request of the Member State concerned or on its own initiative, the Commission shall examine the application of paragraph 1 and, after consulting the Committee referred to in Article 16(1), may decide whether the Member State, operator or other entity concerned may continue to apply these measures.** *deleted*

**The Commission shall communicate its decision to the Council and the Member States.**

*Justification*

*See Amendment 4.*

Amendment 27  
Article 6, paragraph 3, introductory part

3. Paragraphs 1 **and 2** shall not apply if:

3. Paragraphs 1 shall not apply if:

*Justification*

*Results from the previous amendment.*

Amendment 28  
Article 12, paragraph 1, subparagraphs 1 and 2

1. Every entity **applying** aviation security standards shall draw up, apply and maintain a security programme.

That programme shall describe the methods and procedures which are to be followed by

1. Every entity **required under national civil security programmes to apply** aviation security standards shall draw up, apply and maintain a security programme.

That programme shall describe the methods and procedures which are to be followed by

the entity in order to comply both with this Regulation and with the national civil aviation security programme *of the Member State in which it is located*.

the entity in order to comply both with this Regulation and with the national civil aviation security programme *relevant to its activities in that Member State*.

*Justification*

*This wording is more appropriate to the wide variety of situations that arise.*

Amendment 29  
Article 15 a (new)

*Article 15a*

*Report*

*Each year the Commission shall present a report to the European Parliament, the Council, the Member States and the national parliaments informing them of the application of the present regulation and its impact on improving air security, as well as of any weaknesses or shortcomings brought to light by the Commission's checks and inspections.*

*Justification*

*It is essential that the effects of this regulation should be made known in a regular and appropriate fashion.*

Amendment 30  
Annex, section 1.2, point 1

1. Access to airside shall be restricted in order to *deter* unauthorised persons and vehicles from entering these areas.

1. Access to airside shall be restricted in order to *prevent* unauthorised persons and vehicles from entering these areas.

*Justification*

*A reminder of the imperative need for the measures to be effective.*

Amendment 31  
Annex, section 1.2, point 3

3. Persons and vehicles may only be granted access to airside and security restricted areas if they fulfil the required security conditions.

*(Does not affect the English version.)*

## PROCEDURE

<b>Title</b>	Proposal for a regulation of the European Parliament and of the Council on common rules in the field of civil aviation security
<b>References</b>	COM(2005)0429 – C6-0290/2005 – 2005/0191(COD)
<b>Committee responsible</b>	TRAN
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	LIBE 27.10.2005
<b>Enhanced cooperation</b> Date announced in plenary	
<b>Draftsman</b> Date appointed	Romano Maria La Russa 13.10.2005
<b>Previous drafts(wo)man</b>	
<b>Discussed in committee</b>	6.3.2006      3.4.2006
<b>Date adopted</b>	3.4.2006
<b>Result of final vote</b>	+:                      26 -:                      9 0:                      0
<b>Members present for the final vote</b>	Alexander Nuno Alvaro, Edit Bauer, Johannes Blokland, Kathalijne Maria Buitenweg, Michael Cashman, Giusto Catania, Jean-Marie Cavada, Carlos Coelho, Fausto Correia, Agustín Díaz de Mera García Consuegra, Kinga Gál, Lilli Gruber, Adeline Hazan, Timothy Kirkhope, Ewa Klant, Wolfgang Kreissl-Dörfler, Barbara Kudrycka, Stavros Lambrinidis, Henrik Lax, Claude Moraes, Hartmut Nassauer, Martine Roure, Inger Segelström, Ioannis Varvitsiotis, Manfred Weber, Stefano Zappalà, Tatjana Ždanoka
<b>Substitute(s) present for the final vote</b>	Gérard Deprez, Evelyne Gebhardt, Jeanine Hennis-Plasschaert, Sophia in 't Veld, Sylvia-Yvonne Kaufmann, Bill Newton Dunn, Siiri Oviir, Herbert Reul, Marie-Line Reynaud.
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Salvatore Tatarella.
<b>Observations (data available in one language only)</b>	

## PROCEDURE

<b>Title</b>	Proposal for a regulation of the European Parliament and of the Council on common rules in the field of civil aviation security				
<b>References</b>	COM(2005)429– C6-0290/2005 – 2005/0191(COD)				
<b>Date submitted to Parliament</b>	22.9.2005				
<b>Committee responsible</b> Date announced in plenary	TRAN 27.10.2005				
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	LIBE				
	27.10.2005				
<b>Not delivering opinion(s)</b> Date of decision					
<b>Enhanced cooperation</b> Date announced in plenary					
<b>Rapporteur(s)</b> Date appointed	Paolo Costa 10.10.2005				
<b>Previous rapporteur(s)</b>					
<b>Simplified procedure – date of decision</b>					
<b>Legal basis disputed</b> Date of JURI opinion		/			
<b>Financial endowment amended</b> Date of BUDG opinion		/			
<b>European Economic and Social Committee consulted – date of decision in plenary</b>					
<b>Committee of the Regions consulted – date of decision in plenary</b>					
<b>Discussed in committee</b>	22.2.2006	18.4.2006			
<b>Date adopted</b>	2.5.2006				
<b>Result of final vote</b>	+	40			
	-	0			
	0	2			
<b>Members present for the final vote</b>	Inés Ayala Sender, Etelka Barsi-Pataky, Philip Bradbourn, Paolo Costa, Michael Cramer, Arūnas Degutis, Saïd El Khadraoui, Jill Evans, Emanuel Jardim Fernandes, Roland Gewalt, Luis de Grandes Pascual, Mathieu Grosch, Ewa Hedkvist Petersen, Jeanine Hennis-Plasschaert, Stanisław Jałowiecki, Georg Jarzembowski, Silvana Koch-Mehrin, Jaromír Kohlíček, Jörg Leichtfried, Bogusław Liberadzki, Eva Lichtenberger, Robert Navarro, Josu Ortuondo Larrea, Willi Piecyk, Luís Queiró, Gilles Savary, Dirk Sterckx, Ulrich Stockmann, Gary Titley, Marta Vincenzi, Corien Wortmann-Kool				
<b>Substitute(s) present for the final vote</b>	Johannes Blokland, Den Dover, Anne E. Jensen, Sepp Kusstatscher, Helmuth Markov, Salvatore Tatarella				
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Marie-Hélène Descamps, Esther Herranz García, Francisco José Millán Mon, Hubert Pirker, José Javier Pomés Ruiz				
<b>Date tabled</b>	22.5.2006				
<b>Comments</b> (available in one language only)					