

**GA Alliance Position Paper in respect of  
COM(2005) 429 final 2005/0191 (COD)**

**Proposal for a**

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on common rules in the field of civil aviation security**

**Introduction**

The EC has proposed to implement a new Regulation to impose security requirements on airports and flight crew which, if approved in their current drafted state, will have significant adverse effects upon GA. The Regulation would require security at all airports, airfields including unlicensed fields, farm strips and the like (most of which have little or no security) plus initial and continuing background checks on all pilots and trainee pilots. A similar Regulation has been in force (EC 2320/2002) since January 2003 which was a response to the terrible events of 9/11 in the USA and the EC has decided it needs updating.

Whilst these proposals might be appropriate for airports with regular commercial air transport scheduled services they are clearly inappropriate for airfields used by the vast majority of GA. To impose them would be utterly impractical at most airfields and hugely costly. The Regulation proposals together with suggested amendments by the Committee on Transport and Tourism (COTT) are noted in **A** below.

In **B** below details are given of an amendment proposed by the COTT specifically for imposition of background checks on pilots being more extensive than the EC proposal, which would also impact on GA pilots directly and doubtless deter many aspiring pilots. They would also be costly to introduce and maintain and the costs would inevitably be borne by the pilots themselves; yet another disincentive to potential and existing pilots. Pilot checks were not in the original Regulation of 2003 and the COTT proposed amendment appears to apply independently of the rest of the Regulation.

Airfields of all types would need to introduce screening to add further to difficulties of operation (especially at small airfields) and costs. At private unmanaged strips that are not known to either the local authority or to recreational aviation bodies, such screening would be totally impossible. Many pilots operating from such strips would not therefore be in a position to comply with the Regulation.

Many airfields would not be able to substantiate either of the difficulties and costs of implementing this Regulation and close. Accordingly pilots and their associates would be deprived of use of the airfield for operating their aircraft on use for business and / or tourism sport and recreational purposes. That would adversely affect associated businesses such as flight training schools, maintenance organisations and suppliers, most likely putting them out of business.

**Extract(s) from the Regulation:**

**A. "1. Detailed explanation of the proposal**

Article 1 lays down the objectives, namely establishing common rules for safeguarding civil aviation against acts of unlawful interference. Article 1 does not differ in any significant way from Article 1 of Regulation (EC) No 2320/2002.

## **Recitals**

(8) The various types of civil aviation do not necessarily present the same level of threat. In setting common standards on aviation security, the size of the aircraft, the nature of the operation and/or the frequency of operations at airports should be taken into account with a view to permitting the grant of derogations.

### *Article 2*

#### **Scope**

This Regulation shall apply to the following:

- a) all airports serving civil aviation located in the territory of a Member State;
- b) all operators, including air carriers, providing services at airports referred to in point (a);
- c) all entities operating from premises located inside or outside airport premises and providing goods and/or services to or through airports referred to in point (a).

### *Article 4*

#### **Common standards**

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

These measures shall, in particular, address:

- a) methods of screening, access control and other security controls;
- b) methods of performing aircraft checks and aircraft searches;
- c) prohibited articles;
- d) performance criteria and acceptance tests for equipment;
- e) staff recruitment and training requirements;
- f) the definition of critical parts of security restricted areas;
- g) the obligations of, and the validation procedures for, regulated agents, known consignors and account consignors;
- h) categories of persons and goods that for objective reasons shall be subject to special security procedures or shall be exempted from screening, access control or other security controls.

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.

- NB.** 1. ‘civil aviation’ means any air transport operation, both commercial and non-commercial, as well as both scheduled and non-scheduled operations, but excluding operations carried out by state aircraft referred to in Article 3 of the 1944 Chicago Convention on International Civil Aviation.

2. An airport is defined as:

“(2a) 'airport' means any area of land [or water] specially adapted for the landing, taking-off and manoeuvres of 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.”

However, the 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, proposes an amendment:

**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.

**GAA Position:**

The key issue for GA is whether the proposals are, and need, to be applied to ALL aircraft and airports.

If they were to be applied as defined, all airports, aerodromes, farm strips and even gardens used for model aircraft flying (per the UK ANO model aircraft equate aircraft), in the UK (and EC as a whole) would be subject to the regulations unless derogations are granted on an extensive basis.

GA needs to know whether the amendment above and indeed other amendments will be adopted by the EC and implemented by individual member States. There is also the opportunity for States to impose higher levels of security requirements.

Unless derogation is permitted for GA aerodromes and airfields, as currently described in the definition, GA is most unlikely to survive. The practicalities of enclosing most GA airfields, or even what might be considered as the areas needed to be secured (would this mean the aircraft parking areas to prevent unauthorised access?), would be difficult and very costly. Associated security staff and/or equipment to permit access by authorised persons would also be very costly. At some airfields and farm strips it would be impossible to implement these measures and they would presumably have to close or choose to continue to operate outwith the Regulation.

In the 2003 Regulation (EC 2320/2002) Article 4.3. provided Member States (M S) could, on the basis of a local risk assessment, apply what has become known as the “10 tonne rule”, where the application of the security measures specified in the Annex to the Regulation may be disproportionate.....at airports:

“(a) with a yearly average of 2 commercial flights per day; or  
(b) with only general aviation flights; or  
(c) with commercial activity limited to aircraft with less than 10 tonnes of Maximum Take Off Weight (MTOW) or less than 20 seats,  
taking into account the particularities of such small airports.”

In most M S this meant GA as a whole was exempted. Furthermore, background checks on Pilots were not required.

Accordingly GAA would propose that the previous Article 4.3 be incorporated into the new Regulation to ensure GA can continue to operate effectively. In addition we suggest there is an additional derogation to exclude vintage and classic aircraft in excess of 10 tonnes MTOW (for example the B17 Flying Fortress ex wartime bomber and display aircraft “Sally B”). If such aircraft were not excluded there would be considerable difficulties in operating such aircraft at, for example, airshows.

**B** **ANNEX**  
**COMMON STANDARDS FOR SAFEGUARDING CIVIL AVIATION AGAINST ACTS**  
**OF UNLAWFUL INTERFERENCE (ARTICLE 4)**

**1. AIRPORT SECURITY**

(Further amendment proposed by Paolo Costa):

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.

**GAA Position:**

Apart from the issues of time delays, costs and civil liberties for existing and aspiring GA pilots, these proposals will do nothing to prevent a determined individual from GA carrying out a “terrorist style” attack. Furthermore it is likely to do severe damage to the flight training industry. We suggest it would be more realistic to ask that pilots produce current valid identification (driving licence/passport) if they are not known by the management of airfields. Applicants for pilot licences might be required to produce proof of identity to the organisation or assessment body receiving their application, as is already the case in many member states. The “10 tonne” rule should also be applied in relation to the need for any additional checks.

It is self evident that someone intent on carrying out such attacks could be far more effective in doing so by eg. driving a car / van / fuel laden truck and blowing it up in a location designed to maximise its damage; this has regrettably been amply demonstrated by the events of 7<sup>th</sup> July 2005 when public transport was targeted by terrorists on foot. Small aircraft pose no 9/11-style threat as is evident from the almost insignificant number of such aircraft crashing into buildings whether by accident or design.

Fuller details of the Regulation are available at:

<http://www.europarl.europa.eu/oeil/file.jsp?id=5274732>

PRD 21<sup>st</sup> August 2006

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