



Council of the
European Union

Brussels, 17 May 2016
(OR. en)

Interinstitutional File:
2015/0277 (COD)

5925/3/16
REV 3

LIMITE

AVIATION 20
CODEC 138
RELEX 90

WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	5741/16 AVIATION 16 CODEC 109 RELEX 69
No. Cion doc.:	14991/15 AVIATION 152 CODEC 1667 RELEX 1014
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and repealing Regulation (EC) No 216/2008 of the European Parliament and of the Council Agency tasks now formalised (block IV): Articles 74 - 80

With a view to the Aviation Working Party on 19 May, delegations will find attached a working document containing a revised Presidency compromise text on **block IV** of articles from the above-mentioned proposal. Changes with respect to the previous version of the document are marked with **bold** and ~~strikethrough~~.

*Article 3***Definitions**

For the purposes of this Regulation, the following definitions shall apply:

- (21) ‘international standards and recommended practices’ means the international standards and recommended practices adopted by ICAO in accordance with Article 37 of the Chicago Convention;

*Article 74***Research and innovation**

1. The Agency shall assist the Member States and the Commission in identifying key research themes in the field of civil aviation to contribute to ensuring consistency and coordination between publicly funded research and development and policies falling within the scope of this Regulation.
2. The Agency shall support the Commission in the definition and accomplishment of the relevant Union framework programmes for research and innovation activities and of the annual and multi-annual work programmes, including in the conduct of evaluation procedures, in the review of funded projects and in the exploitation of the results of research and innovation projects.
3. The Agency may develop and finance research in so far as is strictly related to the improvement of activities in its field of competence. The Agency's research needs and activities shall be included in its annual work programme.
4. The results of research funded by the Agency shall be published, unless the applicable rules of intellectual property law or the security rules of the Agency referred to in Article 112 preclude such publication.
5. In addition to the tasks set out in paragraphs 1 to 4 and in Article 64, the Agency may also engage in ad hoc research activities, provided that those activities are compatible with the Agency's tasks and the objectives of this Regulation.

Article 75

Environmental protection

1. The measures taken by the Agency as regards emissions and noise, for the purpose of the certification of the design of products in accordance with Article 11, shall aim at preventing significant harmful effects on the environment and human health caused by the civil aviation ~~activities~~ **products** concerned.
2. The Member States, the Commission, the Agency and other Union institutions, bodies, offices and agencies shall, within their respective fields of competence, cooperate on environmental matters, including those addressed in Regulation (EC) No 1907/2006 of the European Parliament and of the Council¹, with a view to ensuring that interdependencies between environmental protection, human health and other technical domains of civil aviation are taken into account.
3. The Agency shall, **where it has the relevant expertise**, assist the Commission with the definition and coordination of civil aviation environmental protection policies and actions, in particular by conducting studies, simulations and providing technical advice.
4. In order to inform interested parties and the general public, the Agency shall, every three years, publish an environmental review, which shall give an objective account of the state of environmental protection relating to civil aviation in the Union. The Agency shall associate the Member States and **consult** relevant stakeholders and organisations in the development of this review.

Article 76

Interdependencies between civil aviation safety and security²

1. The Member States, the Commission and the Agency shall cooperate on security matters related to civil aviation, including cyber security, where interdependencies between civil aviation safety and security exist.

¹ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

² DE proposes to delete paragraphs 2 and 3. EL supports the deletion of paragraph 3. HU proposes the deletion of the whole article.

2. Where interdependencies between civil aviation safety and security exist, the Agency shall, upon request, provide technical assistance to the Commission, where the Agency has the relevant safety expertise, in the implementation of³ Chapters 3⁴, 4.3, 10 and 11 of Annex I to Regulation (EC) No 300/2008 of the European Parliament and of the Council⁵.
3. To contribute to protecting civil aviation against acts of unlawful interference, the Agency may, where necessary, react without undue delay to an urgent problem which is of common concern to Member States and where interdependencies between civil aviation safety and security exist and which falls within the scope of this Regulation by:
 - (a) taking measures under Article 66(1)(i) to address vulnerabilities in aircraft design;
 - (b) recommending actions to be taken by national competent authorities or legal and natural persons subject to the provisions of this Regulation, and/or disseminating relevant information to those authorities and persons, when the problem affects aircraft operations, including risks to civil aviation arising from conflict zones.

Before taking the measures referred to in subparagraphs (a) and (b), the Agency shall obtain the agreement of the Commission and consult the Member States. The Agency shall base those measures, where possible, on common Union risk assessments and take into account the need for rapid reaction in emergency cases.

Article 77

International cooperation

1. The Agency shall, upon request, assist the Commission in its management of relations with third countries and international organisations relating to matters covered by this Regulation. Such assistance shall in particular contribute to the harmonisation of rules and the mutual recognition of certificates.

³ BE, DK, IT, RO do not agree with specifying the Chapters from Regulation (EC) No 300/2008. CY, EE, FI, PL, SE would have preferred a broader scope of cooperation with the Agency, but could also accept the current compromise text.

⁴ AT and FR propose to be more specific and replace Chapter 3 with 3.1.

⁵ Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 (OJ L 97, 9.4.2008, p. 72.)

2. The Agency may cooperate with the competent authorities of third countries and with international organisations competent in matters covered by this Regulation. To this end, the Agency may, subject to prior approval by the Commission, establish working arrangements with those authorities and international organisations.
3. The Agency shall assist Member States in exercising their rights and fulfilling their obligations under international agreements relating to matters covered by this Regulation, in particular their obligations under the Chicago Convention.
4. The Agency shall, in cooperation with the Member States and the Commission, ~~establish,~~ **include** and update where necessary, **the following information in the a repository referred to in Article 63** ~~which shall include:~~
 - (a) information on compliance of this Regulation, the delegated and implementing acts adopted on the basis thereof and the measures taken by the Agency under this Regulation with the international standards and recommended practices;
 - (b) other information related to the implementation of this Regulation, which is common to all Member States and which is relevant for monitoring by ICAO of the compliance of Member States with the Chicago Convention and international standards and recommended practices;

The Member States shall use ~~the that~~ **that** information ~~contained in this repository~~ when implementing their obligations under Article 38 of the Chicago Convention and when providing to ICAO information under the Universal Safety Oversight Audit Programme.

5. Without prejudice to the relevant Treaty provisions, the Commission, the Agency and the national competent authorities shall⁶ collaborate, through a network of experts, on technical matters falling within the scope of this Regulation and related to the work of ICAO.

The Agency shall provide this network with the necessary administrative support, including assistance for the preparation and organisation of its meetings.

6. In addition to the tasks set out in paragraphs 1 to 5 and in Article 64, the Agency may also engage in ad hoc technical cooperation, and research and assistance projects with third countries and international organisations, provided that those activities are compatible with the Agency's tasks and the objectives set out in Article 1.

⁶ ES proposes to replace '*shall*' with '*may*'.

Article 78

Aviation Crisis Management

1. The Agency shall, within its field of competence, contribute to a timely response to and mitigation of aviation crises.
2. The Agency shall participate in the European Aviation Crisis Coordination Cell ('EACCC') established in accordance with Article 18 of Commission Regulation (EU) No 677/2011⁷.

Article 79

Aviation training

1. In order to promote best practices and uniformity in the implementation of this Regulation and the measures adopted on the basis thereof, the Agency may approve providers of aviation training after having assessed their compliance with the conditions established by the Agency and published in its official publication.
2. The Agency may provide training, primarily addressed to its and national competent authorities' staff, either through its own training resources or, where necessary, by relying on external training providers.

⁷ Commission Regulation (EU) No 677/2011 of 7 July 2011 laying down detailed rules for the implementation of air traffic management (ATM) network functions and amending Regulation (EU) No 691/2010 (OJ L 185, 15.7.2011, p. 1.)

Article 80

Implementation of Single European Sky

The Agency shall, within its field of competence and upon request, provide technical assistance to the Commission, in the implementation of the Single European Sky, in particular by:

- (a) conducting technical inspections, technical investigations, and studies;
- (b) contributing to the implementation of a performance scheme for air navigation services and network functions;
- (c) contributing to the implementation of the ATM Master Plan, including the development and deployment of the Single European Sky ATM Research (SESAR) programme.⁸

⁸ DE proposes to delete subparagraph (c).