

TEN/070  
Civil aviation:  
occurrence reporting

Brussels, 12 September 2001

**OPINION**  
of the  
Economic and Social Committee  
on the  
**Proposal for a Directive of the European Parliament and of the Council  
on occurrence reporting in civil aviation**  
COM(2000) 847 final - 2000/0343 COD

---

On 24 January 2001, the Council decided to consult the Economic and Social Committee, under Article 80(2) of the Treaty establishing the European Community, on the

*Proposal for a Directive of the European Parliament and of the Council on occurrence reporting in civil aviation*  
COM(2000) 847 final - 2000/0343 COD.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 17 July 2001. The rapporteur was **Mr Green**.

At its 384th plenary session on 12 and 13 September 2001 (meeting of 12 September) the Economic and Social Committee adopted the following opinion by 89 votes in favour, with two abstentions:

## 1. Introduction

1.1 It is widely recognised that air transport is among the safest modes of transport. Over the last ten years the annual average number of deaths in commercial air transport was 1243 per year in 49 accidents worldwide. Europe can report an even more favourable situation as it only accounts for 10% of the accidents while it produces about a third of the air traffic. In the Community, commercial air traffic provided by Community carriers resulted in a yearly average of 52 deaths<sup>1</sup>.

1.2 All the safety experts recognise however that the global rate of accidents is merely stabilising; as a consequence, if nothing is done to improve it, the growth in air traffic will lead to an increase in the absolute number of fatal accidents per year. It is therefore necessary to explore new ways of improving air safety.

1.3 Community accident prevention policy in the air transport sector resulted, in November 1994, in the adoption of a directive on the investigation of civil aviation accidents and incidents<sup>2</sup>. That Directive aims at ensuring that any accident or serious incident is properly investigated with the objective of preventing its recurrence. However the limitations of this approach are mainly that, as the number of accidents is fortunately very low, the opportunities to learn from them are limited and that lessons are drawn only after a tragedy has already happened.

1.4 The International Civil Aviation Organisation (ICAO) confirms the need to collect data on incidents in standardised forms so as to facilitate exchange of statistics and hence analysis. Chapter 7 of Annex 13 to the Convention on International Civil Aviation recommends that "States

---

<sup>1</sup> Source: Airclaims

<sup>2</sup> Council Directive 94/56/EC of 21 November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents. OJ L 319 - 12.12.1994

should establish formal incident reporting systems to facilitate collection of information on actual or potential safety deficiencies".

1.5 A study carried out by the International Federation of Air Line Pilots Associations (IFALPA) on behalf of the Commission showed that only few Member States collect mandatory occurrence reports and even fewer stored, retrieved or analysed the related data. One reason could be that the number of significant occurrences at individual Member State level is not large enough to give an early indication of a potential serious hazard or to identify trends.

## 2. The Commission proposal

2.1 The Commission therefore proposes that the Community creates the necessary legal framework to collect and disseminate information on aviation incidents on the widest possible scale so that all parties involved in aviation can learn from mishaps and improve their performances to produce a safer system.

2.2 The proposal encompasses both mandatory and confidential reporting of incidents, defects or malfunctions which may constitute a hazard for civil aviation operations, described by the generic term of "occurrences". Adequate data will result in more accurate analysis, which will in turn improve knowledge of occurrences and therefore help to prevent future accidents.

2.3 The Commission's Joint Research Centre (JRC) has developed "ECCAIRS" (European Coordination Centre for Aviation Incident Reporting Systems), a data base which can operate as a centralised system for the collection and exchange of data without requiring Member States to change their current systems. Further, the ECCAIRS system is fully compatible with the ICAO (International Civil Aviation Organisation) system.

2.4 The proposal covers mandatory and confidential reporting of accidents, incidents and serious incidents as well as all other defects or malfunctioning of an aircraft, its equipment, ground equipment and any element of the air navigation system which is used or intended to be used for the purpose of or in connection with the operation of an aircraft or with the provision of an air traffic management service or navigational aid to an aircraft.

2.5 The relevant national authority is required to report on any occurrence which, if not corrected, would endanger an aircraft, its occupants or any other person. Examples of reportable occurrences are given in Annexes I and II to the proposed directive. The Annexes are the result of the work done by the European Organisation for the Safety of Air Navigation, Eurocontrol and the Joint Aviation Authorities Organisation (JAA), in a drive to harmonise technical reporting in Europe. The Commission took part in these working parties.

2.6 The proposal requires Member States to send mandatory data to the ECCAIRS database. Such information is confidential and only bodies with the task of framing civil aviation safety rules or investigating aviation accidents will have direct access to the information. The names and addresses of individual persons must never be recorded on the database. The Commission may

also make data available to other interested parties. Dissemination is to be limited to what is strictly necessary.

2.7 In order to inform the public about general aviation safety in the Community, the Member States are to publish overall statistics on a regular basis.

2.8 In addition, the proposal provides that the Member States shall adapt their national laws to ensure that the relevant authority can "disidentify" voluntary reports, i.e. reports which are not mandatory. Such information is to be stored under corresponding conditions in the ECCAIRs base.

2.9 Better knowledge of these accident "precursors" can be expected to help prevent their occurrence.

2.10 The Commission takes the view that the Community must provide the necessary framework to enable the setting up of a confidential incidents reporting programme which will encourage submission of voluntary reports of observed deficiencies in the aviation system perceived as an actual or potential hazard, and feed the aviation system with a view to contributing to the improvement of its safety level.

2.11 As already mentioned in the IFALPA study, the single main element to obtain the trust and confidence of reporters in the confidentiality of the reporting system is to disidentify as early as possible the data they give so that nobody in the chains of dissemination and analysis can identify them at any time.

2.12 The Commission has given financial support to the establishment of a confidential reporting system in Germany. This system, called EUCARE<sup>3</sup>, ran as a research prototype from 1993 to 1999. Its operation was monitored by a Steering Committee composed of safety experts of Member States and chaired by the Commission. The Steering Committee has produced a report describing in detail how a confidential reporting system should be organised in order to gain the confidence of all parties.

2.13 To evaluate the legal feasibility of confidential reporting in countries where legal provisions derive from the "Napoleonic Code", the Commission commissioned another study<sup>4</sup>. That study concluded that "... no truly relevant legal obstacle stands in the way of the establishment of voluntary air incident reports. ... The Community could ... establish the general legal framework for a standard voluntary aircraft incident reporting system ... From a strictly legal point of view it does not appear impossible to consider a system with operational principles that need not necessarily comply with the legal practices of each Member State and which therefore require special derogations from the criminal law".

---

<sup>3</sup> EUCARE - European Confidential Aviation Safety Reporting Network

<sup>4</sup> "Legal problems posed by implementation of a Community voluntary incident reporting system in the field of air safety", by **Prof. Lucien Rapp**

2.14 In the light of the above, the Commission concludes that the organisation of confidential incident reporting at EU level is feasible and that enough knowledge and experience has been gained by Member States and the Commission to facilitate a mostly human factor oriented network of confidential reporting systems.

2.15 Further, trust and confidence seem to be easier to gain if the bodies managing the reports are not themselves official or administrative organisations and if interested parties can participate in monitoring them so that confidentiality is guaranteed. The Commission therefore considers that the best option is for the Community to act as a facilitator, so that interested parties can establish the necessary structures, or existing bodies can expand their activities in the Community.

2.16 The Commission therefore proposes that the Member States adjust their laws, regulations and administrative practices so as to allow the disidentification of reports of occurrences which are not subject to mandatory reporting. If necessary the Commission could also examine how the Community budget allocated to improving air safety could be used to support existing or new foundations when they meet the necessary conditions, as identified by the EUCARE study, to win the trust and confidence of all interested parties.

### 3. General comments

3.1 Despite the fact that air transport is among the safest forms of transport, the ESC feels that it is vital to continue to focus attention on further reducing the risk of aviation accidents, especially in view of the steady increase in air traffic.

3.2 Further, the ESC agrees that the number of possible notifications of occurrences may be limited, in both quantitative and qualitative terms, at individual Member State level. To achieve the requisite "critical mass" a Community framework should therefore be established to facilitate the reporting of as many occurrences as possible, with a view to exchanging and disseminating information so that it can be analysed in order to draw accurate conclusions.

3.3 Accordingly the ESC is able to support the proposal, which involves the setting up of mandatory and confidential reporting systems and exchanges of information on the basis of commonly approved rules on confidentiality and dissemination, subject to the additions to the detailed common provisions on handling of confidentiality and on publication which are set out below.

3.4 The proposed mandatory reporting of information relating to aviation occurrences to the relevant national authority can seem to lack clarity. A provision could be envisaged whereby reporting shall always be made to the national authority in the country where the aircraft is registered, though it is not always appropriate. Irregularities in connection with air traffic or navigation services should be reported to the authority of the country responsible for these services.

3.5 Care should be taken to ensure that the proposal uses the same terminology as ICAO.

3.6 There would seem to be a grey area as regards reporting to be made under the proposed directive and reporting to be made under Directive 94/56/EC establishing the fundamental principles governing the investigation of civil aviation accidents and incidents.

3.7 The ESC recommends that the reporting of administrative causes should come within the scope of the European Aviation Safety Agency recently proposed by the Commission (COM(2000) 595)<sup>5</sup>.

#### 4. **Special comments**

##### 4.1 **Article 4**

The ESC feels that a provision should be inserted specifying that the authorities in a Member State may decide that mandatory reporting by pilots and other aviation company employees shall be made through a coordinator designated by the companies concerned.

##### 4.2 **Article 7(3)**

This provision should be amplified to require that the report shall contain statistical information on the number of operational disturbances and other irregular conditions classified in different categories along with the results, possibly including recommendations, of the authorities' assessments in the light of above, in the interests of aviation safety.

##### 4.3 **Article 8(2)**

In the ESC's view, the competent authorities referred to in Article 5(1) should be required, if necessary, to further disidentify reporting of occurrences in cases where the person's identity can be fairly accurately established even if their name and address are not registered.

##### 4.4 **Article 8(4)**

In accordance with general legal principles the ESC considers that Article 8(4) should be amplified to specify that the mandatory reporting provided for in Article 4(1) should not be required of persons against whom legal proceedings could be brought on account of their report.

#### 5. **Conclusion**

5.1 The ESC fully supports the coordinated collection, storage and exchange of information on irregular conditions of relevance to air safety since such a system can be expected to be helpful in preventing serious accidents.

---

<sup>5</sup> Proposal for a Regulation of the European Parliament and of the Council on establishing common rules in the field of civil aviation and creating a European Aviation Safety Agency (COM(2000) 595 final - 2000/0246 (COD); ESC Opinion (CES 704/2001) not yet published in OJ)

5.2 Subject to the above comments the Economic and Social Committee endorses the Commission's proposal for a directive of the European Parliament and the Council on occurrence reporting in civil aviation.

Brussels, 12 September 2001

The President  
of the  
Economic and Social Committee

The Secretary-General  
of the  
Economic and Social Committee

**Göke Frerichs**

**Patrick Venturini**

---