



## AVIATION SAFETY

Common rules, which have gradually been extended to cover the entire aviation sector, guarantee a uniform, high level of safety<sup>[1]</sup> throughout the internal market in air transport.

### LEGAL BASIS

Article 100(2) of the Treaty on the Functioning of the European Union.

### OBJECTIVES

The completion of the internal market in air transport towards the mid-1990s<sup>[2]</sup> required that common rules be adopted to ensure a uniform, high level of safety in the sector.

### RESULTS

Safety is an integral part of aviation. Without stringent rules to guarantee a high level of safety, the air transport sector would not have been able to develop in the way that it has, since no one would have been willing to fly (either as passengers or crew). Given that air travel makes it possible to travel long distances in a relatively short space of time, at least some measure of international cooperation is essential to aviation safety.

At international level, the International Civil Aviation Organization (ICAO<sup>[3]</sup>) is responsible for setting minimum aviation safety standards, but these are not binding and so compliance is mainly dependent on the States parties' goodwill.

The creation of a European internal market in aviation has meant that all passengers should benefit from the same, high level of safety wherever they fly in the Union. National rules have thus given way to common binding rules at EU level. In the same way, national regulatory authorities, and their voluntary cooperation bodies (in particular, the former Joint Aviation Authorities<sup>[4]</sup>), have been replaced by an EU-level

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[1]Aviation safety covers the design, manufacture, maintenance and use of aircraft. It should not be confused with aviation security, the purpose of which is to prevent malicious acts against aircraft and their passengers and crew (see fact sheet [3.4.7](#)).

[2]The 'third package' on liberalisation of the aviation sector — Regulations (EEC) Nos 2407/92, 2408/92 and 2409/92 (which have since been superseded by Regulation (EC) No 1008/2008) — gave EU air carriers free access to intra-Community routes (see fact sheet [3.4.6](#)).

[3]The ICAO is a specialised agency of the United Nations which was established under the Convention on International Civil Aviation of December 1944 (also known as the 'Chicago Convention'), to which 191 countries have now acceded. The ICAO adopts standards and 'recommended practices' which are mandatory for the States parties, but there is no binding mechanism with which to verify compliance.

[4]The Joint Aviation Authorities (JAA) was an informal body established to facilitate cooperation between the various civil aviation regulatory authorities of most European (EU and non-EU) countries, and was responsible for developing safety standards and procedures (which each State party was then free to apply



mechanism linking national civil aviation authorities, the European Commission and the European Aviation Safety Agency (EASA)<sup>[5]</sup>. Since 2003, the EASA has been responsible, in particular, for drafting regulatory provisions in this field (forming the basis for the Commission's proposals for legislative acts). The Commission, the EASA and the competent national authorities monitor the application of these rules within their respective spheres of competence, but also on the basis of mutual support.

The common civil aviation safety rules are based on the standards and recommendations adopted by the ICAO, but are often more stringent. They have been gradually extended to cover the entire air transport sector. The overall purpose of the rules is to prevent accidents from happening in the first place and they seek to do so as much by fostering a culture of responsibility in the industry as through outside supervision<sup>[6]</sup>.

Since 1994, the ICAO principles relating to the investigation of civil aviation accidents have been part of EU law (in Directive 94/56/EC, which was then superseded by Regulation (EU) No 996/2010). Investigations must be fully independent, and must aim only to determine the causes of accidents, and to prevent future accidents, rather than to seek to apportion blame or responsibility (an approach which is not always in keeping with that employed under national civil and criminal law, the purpose of which is to identify and punish transgressors). The same preventive and 'non-punitive' logic underpins the rules governing occurrence reporting in civil aviation (Directive 2003/42/EC, and Regulations (EC) Nos 1321/2007 and 1330/2007, all of which were superseded by Regulation (EU) No 376/2014): since 2005, any problems identified in the air transport system must be declared to the competent national authorities, which must declare them to the EASA, with the relevant reports then being stored and disseminated (by means of a central repository managed by the Commission) for the purpose of analysis.

Since 2003<sup>[7]</sup>, common rules have also governed airworthiness, i.e. how aircraft must be designed, constructed and maintained. In 2008, the rules were extended to air operations and aircrew training, i.e. governing how aircraft must be operated. In 2009, they were further extended to cover the safety of airport operations, air traffic management and the provision of air navigation services. All the rules apply equally to aircraft and aircraft parts and to organisations and personnel with responsibility for designing, constructing, maintaining and operating them, including third countries' aircraft and carriers operating in the EU. In 2015, the Commission proposed tightening

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in its own way). The JAA, which had 43 member countries at its peak, began its work in 1970 (when Airbus was launched) and was disbanded in 2009: the adoption of binding and directly applicable common civil aviation safety rules meant that the JAA was no longer needed by EU Member States.

[5] It should be noted that the technical regulations in the area of air traffic management and air navigation services are also drawn up by Eurocontrol, or by other standardisation bodies such as EUROCAE (Eurocontrol also implements part of this regulation). The extension of the common rules on aviation safety and of the EASA's competences in these areas is accompanied by a clarification of the division of tasks: the EASA will now be responsible for drawing up technical regulations and Eurocontrol will carry out operational tasks relating to the 'Single European Sky' (see fact sheet [3.4.8](#)). See also the proposal for a regulation [COM\(2013\) 0409](#) of 11 June 2013 and the resolution adopted by Parliament at first reading on 12 March 2014, OJ C 378, 9.11.2017, p. 584.

[6] The Design Organisational Approval granted by the EASA is a good example of the way in which this culture of responsibility is being fostered in the sector.

[7] Technical requirements' were minimally harmonised in 1991, by means of Regulation (EC) No 3922/91, on the basis of the 'arrangements' adopted (with difficulty) by the Joint Aviation Authorities.



up those rules to take account, for example, of the development of unmanned aircraft (drones) and of the interdependence between aviation safety and other areas such as security and environmental protection ([COM\(2015\)0613](#)). The proposal extended the EASA's competences in fields such as security (including cyber-security) and the environment. It also suggested some changes to the EASA's structure (e.g. creation of an Executive Board to assist the Management Board and the Executive Director). Importantly, two additional sources of revenue (grants and air navigation charges for ATM/ANS tasks) were also proposed for the EASA. Following extensive discussions on this proposal between the Parliament and the Council, Regulation (EU) 2018/1139<sup>[8]</sup> was adopted in July 2018 repealing the previous EASA Basic Regulation (Regulation (EC) No 216/2008).

The SAFA (Safety Assessment of Foreign Aircraft) programme, launched in 1996 by the European Civil Aviation Conference (ECAC<sup>[9]</sup>), laid the foundations for the harmonisation of inspections of foreign aircraft, both European and non-European, at the airports of the States parties in order to verify compliance with the minimum safety requirements laid down by the ICAO<sup>[10]</sup>. The SAFA programme was made mandatory for Member States, as from 2006, by Directive 2004/36/EC (which was superseded by Regulation (EC) No 216/2008). Since 2014, aircraft from EASA countries (European Union, Iceland, Norway and Switzerland) are inspected on the basis of the Agency's standards, which are sometimes more restrictive, and the SACA (Safety Assessment of Community Aircraft) inspections governed by Regulation (EU) No 965/2012. Forty-eight countries, both European and non-European and including the 28 Member States, now take part in SAFA/SACA, and each year inspections are carried out in the EU on more than 6 000 aircraft (with EU and non-EU operators accounting for an almost equal number of those aircraft), while more than 11 000 aircraft are inspected in total in all participating countries. The EASA keeps a centralised record of inspection reports. Any deficiencies found may lead to restrictions on operations; where necessary, the operators concerned will be placed on a blacklist of air carriers banned on safety grounds from operating in the EU. The blacklist was introduced in 2005 (Regulation (EC) No 2111/2005). It is regularly updated (via legislation amending Regulation (EC) No 474/2006) and published so as to keep passengers, air ticket sellers and the competent authorities permanently informed. Furthermore, since November 2016, all non-EU operators wishing to operate flights to the EU must prove that they comply with ICAO safety standards. This proof takes the form of authorisation issued by the EASA (Regulation (EU) No 452/2014).

The content of the blacklist demonstrates the need to improve civil aviation safety in particular regions of the world. To do so, the EU has set up collaborative

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[8] Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91, OJ L 212, 22.8.2018, p. 1.

[9] The European Civil Aviation Conference (ECAC) is an informal grouping of 44 European countries' civil aviation authorities which seeks to harmonise their policies and practices and promote their relations with other regions of the world. The ECAC has no regulatory powers, but is a useful forum for discussion.

[10] The requirements set out in Annexes 1 (Personnel Licensing), 6 (Operation of Aircraft) and 8 (Airworthiness of Aircraft) to the Chicago Convention.



arrangements with the ICAO and assists countries which have the greatest difficulties in establishing effective air safety systems. In tandem with this, the EU has proposed that its neighbouring countries — potential air travel destinations for large numbers of European citizens — join the internal air transport market, meaning that all common air safety rules must be applied (European Economic Area countries, Switzerland and the Balkan countries, which are parties to the European Common Aviation Area agreement).

A further aim of international cooperation on air safety is to facilitate trade in products and services, which may be hampered by the proliferation of national technical standards. Accordingly, the EU has concluded mutual recognition agreements on safety levels with its main aviation partners (the USA, Canada and Brazil). The EASA, for its part, has concluded working arrangements, for specific projects, with industrial partners from countries not coming under such mutual recognition agreements. The products and services covered by those agreements and arrangements can therefore be freely traded by the countries concerned.

In 2018, the Commission presented a proposal on the conclusion of an agreement between the European Union and China on civil aviation safety. The decision process is still ongoing ([2018/0155/NLE](#))

## **ROLE OF THE EUROPEAN PARLIAMENT**

Parliament's proactive support for the establishment of an effective European system for civil aviation safety has always placed particular emphasis on air passenger rights to information and the effectiveness of the European Aviation Safety Agency.

Parliament has therefore always been of the opinion that one function of the SAFA Directive is to publicly shame airlines which flout international safety standards. Parliament has also taken the view that the Commission should have the power to extend any measures imposed by one Member State subsequent to a SAFA inspection to cover the entire EU. In so doing, MEPs laid the foundations for what would become, one year after the Directive took effect, the so-called 'black list'. It was also Parliament that made the publication of the black list compulsory, and ruled that passengers are entitled to reimbursement or re-routing in the event of a flight cancellation subsequent to an airline being placed on this list. Parliament furthermore required from the outset that the EASA should be independent in the performance of its technical tasks and be given a broader remit: thus, in 2002, Parliament asked that the common safety rules and EASA powers be extended to cover aircraft operations and flight crew licensing. This extension was finally accorded in 2008. It was Parliament that vested the Agency with effective powers of compulsion and deterrence by allowing it to impose financial penalties proportionate to violations.

Moreover, in 2016, Parliament welcomed the Commission proposal to review the EASA Basic Regulation (Regulation (EC) No 216/2008), aimed at achieving the highest levels of safety in aviation. It particularly highlighted the need for the necessary provisions to adapt the EASA to new developments in aviation, such as increased air traffic, the widespread use of drones, the emergence of conflict zones on Europe's doorstep and increasing technological complexity in aviation. In 2017, it called on the Commission



and the Council to equip the EASA with sufficient resources and staff to ensure high safety standards and to strengthen its role on the international scene.

Key European Parliament texts in this area include:

- Recommendation of 21 March 2002 on the Council common position for adopting a European Parliament and Council regulation on common rules in the field of civil aviation and establishing a European Aviation Safety Agency ([A5-0093/2002](#));
- Report of 9 March 2004 on the joint text approved by the Conciliation Committee for a European Parliament and Council directive on safety of third countries aircraft using community airports ([A5-0125/2004](#));
- Report of 19 October 2005 on the proposal for a regulation of the European Parliament and of the Council on the information of air transport passengers on the identity of the operating carrier and on communication of safety information by Member States ([A6-0310/2005](#));
- European Parliament resolution of 29 October 2015 on safe use of remotely piloted aircraft systems (RPAS), commonly known as unmanned aerial vehicles (UAVs), in the field of civil aviation ([A8-0261/2015](#))<sup>[11]</sup>;
- Report of 2 December 2016 on the 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 ([A8-0364/2016](#));
- European Parliament resolution of 16 February 2017 on an Aviation Strategy for Europe ([A8-0021/2017](#))<sup>[12]</sup>.

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[11][OJ C 355, 20.10.2017, p. 63.](#)

[12][OJ C 252, 18.7.2018, p. 284.](#)

