

# EUROPEAN PARLIAMENT

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**\*\*\*II**

## **RECOMMENDATION FOR SECOND READING**

on the Council common position for adopting a European Parliament and Council regulation on insurance requirements for air carriers and aircraft operators  
(13910/1/2003 – C5-0012/2004 – 2002/0234(COD))

Committee on Regional Policy, Transport and Tourism

Rapporteur: James Nicholson

### ***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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## PROCEDURAL PAGE

At its sitting of 13 May 2003 Parliament adopted its position at first reading on the proposal for a European Parliament and Council regulation on insurance requirements for air carriers and aircraft operators (COM(2002) 521 – 2002/0234(COD)).

At the sitting of 15 January 2004 the President of Parliament announced that the common position had been received and referred to the Committee on Regional Policy, Transport and Tourism (13910/1/2003 – C5-0012/2004).

The committee had appointed James Nicholson rapporteur at its meeting of 5 November 2002.

It considered the common position and the draft recommendation for second reading at its meetings of 21 January 2004 and 17 February 2004 .

At the last meeting it adopted the draft legislative resolution by 42 votes to 0, with 1 abstention.

The following were present for the vote: Paolo Costa (chairman), Rijk van Dam, Gilles Savary (vice-chairmen), James Nicholson (rapporteur), Pedro Aparicio Sánchez (for Danielle Darras), Graham H. Booth (for Alain Esclopé), Philip Charles Bradbourn, Felipe Camisón Asensio, Luigi Cocilovo, Nirj Deva (for Rolf Berend), Christine de Veyrac, Jan Dhaene, Den Dover (for Dieter-Lebrecht Koch), Garrelt Duin, Jacqueline Foster, Catherine Guy-Quint (for Giovanni Claudio Fava), Konstantinos Hatzidakis, Ewa Hedkvist Petersen, Roger Helmer (for Sérgio Marques), Juan de Dios Izquierdo Collado, Georg Jarzembowski, Elisabeth Jeggle (for José Javier Pomés Ruiz), Giorgio Lisi, Erik Meijer, Bill Miller (for John Hume), Enrique Monsonís Domingo, Francesco Musotto, Camilo Nogueira Román, Josu Ortuondo Larrea, Peter Pex, Wilhelm Ernst Piecyk, Samuli Pohjamo, Alonso José Puerta, Reinhard Rack, Ingo Schmitt, Elisabeth Schroedter (for Nelly Maes), Dirk Sterckx, Ulrich Stockmann, Hannes Swoboda (for Emmanouil Mastorakis), Herman Vermeer, Mark Francis Watts, Brigitte Wenzel-Perillo (for Ari Vatanen), Liam Hyland (for Gerard Collins pursuant to Rule 153(2)).

The recommendation for second reading was tabled on 23 February 2004.

## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the Council common position for adopting a European Parliament and Council regulation on insurance requirements for air carriers and aircraft operators (13910/1/2003 – C5-0012/2004 – 2002/0234(COD))**

**(Codecision procedure: second reading)**

*The European Parliament,*

- having regard to the Council common position (13910/1/2003 – C5-0012/2004),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(2002) 521)<sup>2</sup>,
  - having regard to the amended proposal (COM(2003) 454)<sup>3</sup>,
  - having regard to Article 251(2) of the EC Treaty,
  - having regard to Rule 80 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on Regional Policy, Transport and Tourism (A5-0088/2004),
1. Amends the common position as follows;
  2. Instructs its President to forward its position to the Council and Commission.

Council common position

Amendments by Parliament

### Amendment 1

Article 2, paragraph 2, point (a a) (new)

***(aa) Microlights and gliders with a MTOM of less than 500 kg which are used for non-commercial operations, or are used for local flight instruction which does not entail the crossing of international borders.***

### *Justification*

*A microlight is an aircraft which cannot exceed 35 knots or has a wingloading not exceeding 25 kg. In view of the costs which their inclusion within the scope of the draft regulation would impose on this area of leisure flying and the minimal risk they represent it is proposed to exclude them by this amendment. Current insurance arrangement and Member State*

<sup>1</sup> Texts Adopted, 13.5.2003, P5\_TA(2003)0203.

<sup>2</sup> OJ.C 20 (E), 28.1.2003, p. 193.

<sup>3</sup> Not yet published in OJ.

*requirements would still applied. This article was changed by the Council in its Common Position.*

## **EXPLANATORY STATEMENT**

### **INTRODUCTION**

As Members will recall the background to the proposed Regulation on aviation insurance is the very difficult situation in the air carrier insurance sector, which arose as a result of the terrorist attack on the United States in September 2001, and is still present today.

The Commission's objective in bringing forward this proposal is to ensure, that

there are adequate levels of insurance cover,

that insurance documentation is verifiable

and

that there is a level playing field throughout the Community, in the sense that the same basic conditions apply to all carriers operating in or over the territory of the European Union.

There is a general need for stability to return to the market and this draft Regulation is intended to assist in encouraging this.

### **THE COMMON POSITION**

In broad terms the Council's common position has accepted in whole or in part 16 of the 26 amendments introduced by the Parliament at first reading.

The Council has accepted that depositing proof of insurance in one Member State should suffice for all Member States.

The Council has also accepted most of the Parliament's amendments on the field of application of the Regulation and the definition of a passenger.

State aircraft will no longer be covered by the Regulation.

Parliament's amendment on the application of global amounts in accordance with commercial practice has also been entirely accepted.

In a range of other areas, -the inclusion of local flights; measures to be taken when aircraft land without adequate insurance cover; and withdrawal of operating licence if the insurance provisions are not met have all been accepted.

Areas of difference do remain. For example the Council does not share the Parliament's view on how to regulate for overfliers. Nor did the Council accept the Parliament's amendment on the need for a harmonised inspection regime.

Members will recall there was particular concern about the impact of the Commission's proposal on operators of smaller aircraft and leisure flying. For the levels of third party cover for these smaller aircraft, there is a convergence of view between the Council and the Parliament, at least for aircraft in the first four categories. For aircraft in the middle and larger categories the positions of the Council and the Commission are now, it seems, in agreement

## **SECOND READING ISSUES**

The position with respect to gliders and microlights remains unclear. Gliders are non powered aircraft held aloft by the dynamic action of air pressure on their wing surfaces. The inclusion of these craft within the scope of the regulation , especially where this would require leisure flyers to extend insurance cover to acts of war and terrorism, risks having a serious detrimental effect on this activity.

The position in respect of microlights is similar. Although they are powered they have very small engines, air stall speeds are low, no more than 35 knots, and limited weight.

If these matters can be resolved your rapporteur tends to the view that a third reading and conciliation will not be necessary.