

EUROPEAN PARLIAMENT

2004



2009

Session document

FINAL
A6-0310/2005

19.10.2005

*****I** **REPORT**

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 (COM(2005)0048 – C6-0046/2005 – 2005/0008(COD))

Committee on Transport and Tourism

Rapporteur: Christine De Veyrac

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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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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
(COM(2005)0048 – C6-0046/2005 – 2005/0008(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0048)¹,
 - having regard to Article 251(2) and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0046/2005),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A6-0310/2005),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 Title

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*

Proposal for a Regulation of the European Parliament and of the Council on *informing* air transport passengers of the identity of the operating carrier and on *the adoption of a Community list of operating bans and traffic rights restrictions imposed on air carriers*

¹ Not yet published in OJ.

Amendment 2
Recital 2

(2) In order for the competitive framework in air transport to yield the greatest possible benefits for companies and passengers, it is important that consumers receive **sufficient** information to be able to make informed choices.

(2) In order for the competitive framework in air transport to yield the greatest possible benefits for companies and passengers, it is important that consumers receive **all the necessary** information to be able to make informed choices.

Justification

Consumers should receive not simply sufficient information but all the necessary information required to ensure that their final choice has been made on the basis of full and complete information.

Amendment 3
Recital 2 a (new)

(2a) This Regulation is part of a legislative process pursuing an efficient and coherent approach to improving air safety in the Community. In this framework,, which includes among other measures broadening the competence of the European Aviation Safety Agency and strengthening the inspection scheme base on the Safety Assessment of Foreign Aircraft programme, it is necessary to increase the number and improve the quality of the safety inspections of aircraft and to harmonise these inspections.

Amendment 4
Recital 6

(6) **While** these practices increase flexibility and allow a better provision of services to passengers, a certain number of last minute changes for technical reasons is unavoidable and contributes to the safety of air transport. This flexibility must be balanced by transparency for consumers.

(6) **These** practices increase flexibility and allow a better provision of services to passengers. **Moreover**, a certain number of last minute changes for technical reasons is unavoidable and contributes to the safety of air transport. This flexibility must,

however, be balanced by verification that the companies actually operating the flights meet safety requirements and by transparency for consumers in order to secure their right to the final choice. A fair balance between the commercial viability of air carriers and passenger access to information should be sought.

Justification

Clarification.

Last minute changes to the operating air carrier should be made known so that passengers are fully informed and to ensure that they have the final choice.

Amendment 5
Recital 6 a (new)

(6a) Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002¹ established a European Aviation Safety Agency (EASA), giving it, inter alia, the task of maintaining a uniformly high standard of safety and environmental protection in civil aviation. However, the EASA does not yet have any regulatory powers in respect of third-country aircraft. If the Commission intends to extend the EASA's powers to include, inter alia, the issue of operators' certificates in respect of third-country aircraft, the present Regulation will need to be revised so as to make it consistent with the adoption by the Community of a cogent and effective system for monitoring the safety of all carriers flying to and from Member States.

¹ *Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing an*

European Aviation Safety Authority (OJ L 240, 7.9.2002, p. 1). Regulation last amended by Commission Regulation (EC) No 1701/2003(OJ L 243, 27.9.2003, p. 5).

Justification

Reference needs to be made to the EASA and the possibility of solving the problem of how to monitor the safety of third-country aircraft by means of a technical measure (operators' certificates) rather than by political means.

However, if this is not feasible at present, a call should nonetheless be made for the Agency's powers rapidly to be extended to cover the issue of operators' certificates in respect of third-country aircraft.

Amendment 6
Recital 6 b (new)

(6b) Given that a change in the company actually operating a flight implies a unilateral change in the transport contract, there need to be safeguards to ensure that this operating flexibility does not harm passenger interests.

Justification

It should be recognised that changing the operating company means a change in the contract. Although it is due to operational reasons, any abuse against consumers, by using this flexibility in an abusive way, must be prevented.

Amendment 7
Recital 6 c (new)

(6c) Given that the Commission proposes to extend the EASA's powers, specifically to include the issue of operators' certificates in respect of third-country aircraft, the present Regulation will need to be revised to make it consistent with the adoption by the Community of a cogent and effective safety inspection system for all air carriers operating in the Member States and funding will need to be set aside for these new tasks.

Justification

As new responsibilities are being added to the EASA's existing tasks there is a need to provide the necessary funding.

Amendment 8

Recital 7

(7) Improving communication of information relating to safety of air **operators** by Member States **is** essential to **improve** general safety level of air transport in the Community.

(7) Improving the communication of information relating to *the* safety of air **carriers** by Member States **and publishing such information in the form of a Community list are** essential to *improving the* general safety level of air transport in the Community.

Justification

A reference to the Community list provided for in Article 4 of the regulation needs to be included.

Amendment 9

Recital 7 a (new)

(7a) Information on the safety of air carriers should be publicised in an effective manner. To this end, a Community list of air carriers that do not meet safety requirements should be brought to the notice of passengers so as to ensure the utmost consistency and transparency. This Community list should be based on common publication criteria drawn up at Community level, with the collaboration of the Commission and a committee of national experts on civil aviation safety, so as to ensure equal treatment for passengers and carriers throughout EU territory. When drawing up the criteria for establishing the list, the highest safety standards existing in the EU should be used as the basis.

Moreover, operating bans and traffic rights restrictions imposed on air carriers, which are to be published in the Community list, should apply in all the Member States, in

particular to ensure equal treatment for passengers and carriers throughout EU territory.

Justification

The rapporteur's amendment proposing Recital 7a (new) should be extended to ensure that when criteria applicable Community-wide are drawn up existing standards are safeguarded.

The above recital explains Article 4 of the Regulation. It should be stressed that the common criteria are to be drawn up at Community level with the collaboration of the Commission and the committee of national experts on civil aviation safety.

Amendment 10
Recital 7 b (new)

(7b) Air carriers should pursue a policy of transparency vis-à-vis passengers regarding safety-related information. Publishing such information will contribute to passenger awareness of the level of reliability of air carriers.

Justification

For consumers to be able to make informed choices, it is necessary that air operators pursue a policy of transparency as regards their safety records and policy. For instance some air companies publish in their web-sites performance data related to delays etc.

Amendment 11
Recital 7 c (new)

(7c) Not only should air carriers be required to report safety failings to the national air safety authority and make good such failings without delay, but also air and ground crew should be expected to take appropriate action when safety failings are apparent to them. Staff must not be penalised for doing so, in particular in accordance with Article 8(4) of Directive 2003/42/EC of the European Parliament and of the Council of 13 June 2003 on occurrence reporting in civil

aviation¹.

OJ L 167, 4.7.2003, p. 23.

Amendment 12
Recital 7 d (new)

(7d) Companies that do not enjoy air traffic rights in Member States may nonetheless fly to and from EU territory when their aircraft are leased by companies that do enjoy those rights. Pending the harmonisation at Community level of the conditions governing the leasing of aircraft by third-country companies, bringing them into line with those already existing for Community carriers under Council Regulation (EEC) No 2407/1992 of 23 July 1992 on licensing of air carriers¹, provision should be made for the possibility of extending the list of carriers subject to an operating ban or to traffic rights restrictions to include such companies.

OJ L 240, 24.8.1992, p. 1.

Justification

Some air carriers which have traffic rights on EU territory sometimes lease aircraft from companies which do not have traffic rights in Europe and do not provide acceptable safety guarantees, as was the case, among others, with Onur Air, which leased aircraft from Sierra Leone.

The scope of the list therefore needs to be extended to cover carriers of this kind, which may carry passengers in the Union in such circumstances.

Amendment 13
Recital 7 e (new)

(7e) Arrangements need to be made to

¹ OJ L 167 of 4/7/2003, p.23

compensate air transport passengers where it transpires that the operating carrier is subject to an operating ban published on the basis of common publication criteria. This can occur when a passenger has already made a reservation with a carrier which subsequently appears on a list of carriers subject to an operating ban or to traffic rights restrictions. It can also occur where, after the reservation is made, the initial carrier is replaced by a carrier appearing on the list.

Justification

To provide a justification for and explain new Article 6(1), providing for the introduction of a right to compensation for passengers.

Amendment 14
Recital 7 f (new)

(7f) The principle of penalties for failing to comply with the obligation to provide information about the operating carrier's identity needs to be established in order to ensure that the obligation is effectively enforced. The nature and severity of the penalties may be left to the discretion of the Member States, on the basis of their national law.

Justification

To provide a justification for and explain new Article 6(3), enabling Member States to ensure proper implementation of the regulation.

Amendment 15
Recital 7 g (new)

(7g) This regulation should not prevent the Member States from introducing, at national level and in accordance with Community law, a quality labelling system for air carriers for which the criteria might include considerations other than

minimum safety requirements.

Amendment 16
Recital 7 h (new)

(7h) This regulation is without prejudice to Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 ¹.

OJ L 46, 17.2.2004, p. 1.

Amendment 17
Article 1, heading

Subject matter

(Does not affect English version.)

Justification

(Does not affect English version.)

Amendment 18
Article 1

This Regulation establishes rules to ensure that air passengers are informed about the identity of the air carrier operating the flights on which they travel and establishes an obligation of ***exchange of safety information between*** Member States.

This Regulation establishes rules to ensure that air passengers are informed about the identity of the air carrier operating the flights on which they travel and establishes an obligation ***on*** Member States ***and the Commission to draw up, on the basis of common criteria, a list of the names of air carriers subject to an operating ban or to traffic rights restrictions, and to publish that list at Community level.***

Justification

The purpose of this regulation goes beyond merely exchanging information between Member States. So the requirement for not only the Member States but also the Commission to

publicise safety information, and the principle of a Community list based on uniform criteria, need mentioning in this article.

Amendment 19
Article 2, point (c)

(c) ‘**contracting air carrier**’ means the carrier which concludes a contract of carriage with a passenger. If the contract comprises a package, the **contracting carrier** is the tour operator;

(c) ‘**air carriage contractor**’ means the carrier which concludes a contract of carriage with a passenger. If the contract comprises a package, the **air carriage contractor** is the tour operator. ***For the purposes of this Regulation, any ticket seller that concludes a contract of carriage shall also be deemed an air carriage contractor;***

Justification

Air carriers have a number of responsibilities that other groups, such as tour operators, do not have.

Although the term 'contracting air carrier' applies only for the purposes of this regulation, it would be better to use a more legally neutral term, such as 'air carriage contractor'.

The duty to provide passengers with information on the identity of the operating air carrier should not apply solely to airlines and to tour operators providing package travel services, but should extend to all air ticket sellers.

Amendment 20
Article 2, point (f)

(f) ‘reservation’ means the fact that the passenger has a ticket or other proof, which indicates that the reservation has been accepted and registered by the air carrier **or** tour operator.

(f) ‘reservation’ means the fact that the passenger has a ticket or other proof, which indicates that the reservation has been accepted and registered by the air carrier, tour operator **or ticket seller**.

Justification

In line with Article 2(c).

Amendment 21
Article 2, point (f a) (new)

(fa) 'ticket seller' means the seller of an air ticket, whether for a flight alone or as part of a package.

Justification

To define the term 'ticket seller' used in Amendments 10 and 11.

Amendment 22
Article 3

Article 3 ***deleted***
Scope

- 1. This Regulation shall apply to the provision of air transport services when the departure of the flight is from an airport in the territory of a Member State to which the Treaty applies or from an airport located in a third country, if the flight is part of a journey which started in the Community, provided the contracting carrier has an establishment in the Community.***
- 2. This Regulation shall apply regardless of whether the flight is scheduled or non-scheduled, and regardless of whether the flight is part of a package or not.***
- 3. This Regulation shall not affect the rights of passengers under Directive 90/314/EEC and Regulation (EEC) No 2299/89 on a code of conduct for computer reservation systems.***

Justification

A distinction should be made between the scope of the proposal's provisions on information and that of those on the black list. The scope of each set of provisions should therefore be indicated separately in the relevant articles. Part of Article 3 has thus been incorporated into Article 5.

Amendment 23
Article 4 - Title

Justification

The title needs to be changed to correspond to the content of the paragraph.

Amendment 24
Article 4, paragraph 1

1. Member States shall publish a list of all air carriers which are banned from its airspace or which are subjected to traffic rights restrictions for safety reasons. This list shall be made available to all the Member States and to the Commission. The Commission shall publish a consolidated list of these air carriers.

1. Each Member State shall draw up a list of all air carriers to which, for safety reasons, it has refused authorisation to operate air transport services to its airports, or on which it has imposed traffic rights restrictions or a ban on operating in its airspace.

For safety reasons, these lists may also include carriers which, whilst not having traffic rights within the territory of the Member States, may operate flights within this territory under a leasing arrangement.

Justification

A distinction should be drawn between the paragraph dealing with the drawing up of the list and the paragraph dealing with its publication.

A number of air carriers enjoying traffic rights within European Union territory sometimes charter aircraft from companies which do not enjoy traffic rights in Europe and provide no acceptable safety guarantee. This was the case in particular of Onur Air, which chartered aircraft from Sierra Leone. The scope of the list should therefore be extended to include these carriers, which may be carrying passengers within the Union.

The provisions concerning the forwarding of the list to the Commission and the Member States have been moved to paragraph 1d.

Amendment 25
Article 4, paragraph 1 a (new)

1a. The lists referred to in paragraph 1 shall include only air carriers affected by measures taken in accordance with the common criteria established by the

Commission and referred to in paragraph 1b, with the aim of systematically verifying the capacity of air carriers to operate throughout the territory of the Member States to which the EC Treaty applies.

The common criteria shall concern the objective nature of the various breaches of civil aviation safety rules and not merely the duration of any banning measure or restriction of traffic rights.

These criteria shall comply with the general principles laid down in Annex I to this Regulation.

The Commission may amend the common criteria, in particular in order to take into account technical developments, in accordance with the procedure referred to in Article 6.

Justification

To prevent distortions and differences in what is published by different Member States, common criteria should be determined for the drawing up of the list.

Some bans or restrictions are introduced without mentioning a specific duration but are intended to last 'until the breach in safety rules has been remedied'. Duration should therefore not be the only criterion for listing.

Furthermore, it must be possible to amend these criteria so that they cover as effectively as possible, safety violations in line with developments in air transport.

Amendment 26

Article 4, paragraph 1 b (new)

1b. As soon as this regulation has been published in the Official Journal of the European Union, the Commission shall adopt the common criteria, in accordance with the procedure laid down in Article 6, and attach them to this Regulation.

Justification

The common criteria should be determined at the time when the regulation enters into force so as to ensure that it is immediately applicable.

Amendment 27
Article 4, paragraph 1 c (new)

1c. The Member States shall forward their list to the Commission and other Member States no later than one month after the adoption of the common criteria referred to in paragraph 1b of this Article.

Justification

A reasonable time period should be set for the forwarding of national lists to the Commission and the other Member States.

Amendment 28
Article 4, paragraph 2

2. The Commission shall take the appropriate measures to facilitate the exchange of information ***mentioned in paragraph 1.***

2. The Commission shall take the appropriate measures to facilitate the exchange of information ***among Member States.***

Justification

Clearer wording.

Amendment 29
Article 4, paragraph 2 a (new)

2a. If, within one month of the national lists of air carriers referred to in paragraph 1 being forwarded, a Member State objects to the inclusion of an air carrier's name on the Community list, the Commission shall take a decision on its inclusion on the list, after having

informed the air carrier concerned, and in accordance with the procedure laid down in Article 6.

Amendment 30
Article 4, paragraph 2 b (new)

2b. At the end of the period referred to in paragraph 2a, the Commission shall draw up a Community list.

The air carriers included on the Community list shall be subject to operating bans or to traffic rights restrictions throughout the territory of the Member States to which the EC Treaty applies.

Justification

All European passengers, from whichever Member State their flight departs, must benefit from the same level of air transport safety under this regulation. The published blacklist must therefore be valid throughout the territory of the Union and any bans must extend to all Member States.

Amendment 31
Article 4 a (new)

Article 4 a
Updating of the Community list

Justification

A distinction should be made between the initial drawing up of the list and its updating.

Amendment 32
Article 4 a, paragraph 1 (new)

1. The Community list shall be updated, at least every three months, by the Commission acting on its own initiative or at the request of a Member State, in accordance with the fast track procedure

referred to in Article 6(3) and on the basis of the common criteria drawn up in accordance with Article 4.

Justification

It must be possible to update the list rapidly to ensure that it is effective and prevent defective aircraft being used to transport passengers.

The Commission must propose the inclusion or removal of names on the Community list.

Amendment 33

Article 4 a, paragraph 2 (new)

2. Accordingly, once the safety breaches that gave rise to the imposition of an operating ban or traffic rights restrictions on an air carrier have been remedied, the Commission, acting on its own initiative or at the request of a Member State, may decide to remove the air carrier's name from the Community list, in accordance with the procedure referred to in Article 6.

Justification

Carriers which have remedied the safety breaches of which they were accused should be removed from the list.

Amendment 34

Article 4 a, paragraph 3 (new)

3. In order to assist the effective updating of the Community list, the Member States and the European Aviation Safety Agency shall forward to the Commission and the other Member States all relevant information that may result in an operating ban or traffic rights restriction on a carrier.

Justification

Greater transparency and improved exchange of air safety information are needed within the European Union.

Amendment 35
Article 4 b (new)

Article 4 b
Stricter measures

Amendment 36
Article 4 b, paragraph 1 (new)

1. This Regulation shall not preclude Member States from reacting immediately to unforeseen safety problems requiring the introduction of an operating ban or traffic rights restrictions, in accordance with the common criteria drawn up by the Commission pursuant to Article 4.

Justification

Member States must be able to respond immediately in the event of a sudden safety problem and take immediate measures against a carrier before the mechanism for updating the Community list is triggered.

Amendment 37
Article 4 b, paragraph 2 (new)

2. A decision not to include a carrier on the Community list in accordance with the procedure referred to in Article 6 shall not preclude a Member State from taking safety measures with regard to that carrier if, in that Member State, there is a safety problem which does not exist in the others and which will thus not justify a ban on the air carrier concerned

throughout the Community.

Amendment 38
Article 4 b, paragraph 3 (new)

3. Airlines, including those not operating on the territory of the Member States to which the treaty applies, may ask the European Aviation Safety Agency to subject them to systematic checks to show that they are complying with the common criteria under Article 4(1b), and hence with European safety standards, wherever they may be operating.

Amendment 39
Article 4 c (new)

Article 4 c

Publication of Community list

The initial list and its updates shall be published in the Official Journal.

The Commission and the Member States shall take the measures necessary to ensure the widest possible dissemination of the list, in particular by publishing it on the Internet.

Ticket sellers, national civil aviation authorities and airports of the Member States shall bring the Community list defined in this Regulation to the attention of passengers both at their premises and via their websites.

Justification

In order to give passengers easier access to information and provide them with more effective notification of banned carriers included on the list, such information should be accessible at all times, in particular when purchasing tickets and at the time of departure.

Amendment 40
Article 5, paragraph 1

1. The **contracting carrier** shall inform the passenger of the identity of the operating air carrier or carriers upon reservation.

1. The **air carriage contractor** shall inform the passenger of the identity of the operating air carrier or carriers upon reservation, **whatever the means used to make the reservation**.

Justification

Air carriers have a number of responsibilities that other groups, such as tour operators, do not have.

Although the term 'contracting air carrier' applies only for the purposes of this regulation, it would be better to use a more legally neutral term, such as 'air carriage contractor'.

The second part of the amendment establishes the fact that the air carriage contractor is obliged to supply the information even in situations where, for example, the passenger buys an electronic ticket.

Amendment 41

Article 5, paragraph 1 a (new)

1a. Where the precise identity of the operating air carrier(s) is not known when the reservation is made, the air carriage contractor shall ensure that the passenger is given the name(s) of the air carrier(s) that will probably act as operating air carrier(s) for the relevant flight(s). In such cases, the air carriage contractor shall ensure that the passenger is informed of the operating air carrier's or carriers' identity as soon as it is known.

Justification

Tickets are sometimes bought months ahead of the departure date, when the identity of the operating air carrier may not yet be known. In such cases, the passenger should be given access to all the information the air carriage contractor can provide, particularly a list of potential carriers. The contractor should then inform the passenger of the operating air carrier's name as soon as it is known.

Amendment 42

Article 5, paragraph 2

2. The **contracting** carrier shall immediately notify the passenger if the operating carrier or carriers is changed

2. The **air carriage contractor** shall immediately notify the passenger if the operating carrier or carriers is changed

after reservation irrespective of the reason of the change.

after reservation irrespective of the reason of the change, ***including by means of the latest information transfer technology.***

The air carrier and the tour operator must inform the air carriage contractor about the name of the operating air carrier, especially in case of a change of operating air carrier.

Amendment 43

Article 5, paragraph 2 a (new)

2a. Where the operating carrier is changed either a few hours before the aircraft's departure or, in cases where the journey involves more than one flight, once the journey has already begun, the air carriage contractor shall take all necessary steps to ensure that the passenger is informed of the change of operating air carrier no later than at check-in, or on embarkation in cases where no check-in is required for the connecting flight.

Justification

On safety grounds, carriers sometimes replace aircraft at the last minute. The obligation to inform passengers of the name of the operating air carrier should not act as a barrier to such replacements, which are necessary in order to ensure the safety of passengers. In such cases, therefore, it should be possible not to notify the passenger until check-in or embarkation.

Amendment 44

Article 5, paragraph 2 b (new)

2b. The air carriage contractor's obligation to inform passengers of the identity of the operating carrier shall be specified in the general terms of sale applicable to the journey.

Justification

Passengers should be better informed of these rights. The inclusion of this stipulation will bring their attention to their right to know the name of the carrier that will actually be flying

them to their destination.

Amendment 45
Article 5, paragraph 2, point (b) (new)

(b) Air carriers shall publish by means of their web-sites or by other far-reaching means of communication any relevant data regarding their safety records and safety policy.

Justification

In order to effectively protect passengers and make them aware so that they make as an informed choice as possible, it is not sufficient that they know about the identity of the air carrier. Other safety-related data of the carrier(s) should be provided to them.

Amendment 46
Article 5, paragraph 2 c (new)

2c. This article shall apply to the provision of air transport services when the flight departs from an airport in the territory of a Member State to which the Treaty applies, from an airport located in a third country, bound for an airport on the territory of a Member State if a Community air carriage contractor is involved, or from an airport located in a third country, bound for another third country if the flight is part of a journey which started in the Community, provided the air carriage contractor has an establishment in the Community, the contract was concluded within the Community or the passenger's normal place of residence is within the Community.

Justification

The provisions on the obligation to provide information should also cover tickets bought from a Community air carriage contractor for flights to a destination within the Community.

The condition that the contractor should have an establishment in the Community is too restrictive because, for example, in a package deal, a local carrier from a third country which

does not have an establishment in the Community could be involved. Including in connection with Internet sales, the scope should therefore be broadened.

Amendment 47
Article 5, paragraph 2 d (new)

2d. This article shall apply regardless of whether the flight is scheduled or non-scheduled, and regardless of whether the flight is part of a package or not.

Justification

The relevant provisions deleted from Article 3 of the proposal should be included within the scope of the obligation to provide information.

Amendment 48
Article 5, paragraph 2 e (new)

2e. This article shall not affect the rights of passengers under Directive 90/314/EEC and Regulation (EEC) No 2299/89.

Justification

See previous amendment.

Amendment 49
Article 5 a (new)

Article 5a

Exercise of the right to compensation

1. Passengers have a right to compensation where, after the reservation has been made, the designated carrier is entered on the Community list referred to in Article 4 of this Regulation or is replaced by another carrier entered on that list. In such cases, the air carriage contractor who is party to the carriage contract shall offer the passenger, at the latter's request, an equivalent travel arrangement or reimbursement of the full cost of the ticket, at no cost to the

passenger.

2. Apart from in the circumstances set out in paragraph 1, the implications of changes to the identity of the operating carrier for the performance of the contract of carriage shall come under the Member States' laws applicable to the contract and under the relevant Community legislation, including Article 4(5) of Council Directive 90/314/EC of 13 June 1990 on package travel, package holidays and package tours ¹ and the rules on unfair terms in consumer contracts covered by Directive 93/13/EC ².

Amendment 50
Article 5 b (new), title

Article 5 b
Violations

Justification

The section dealing with passenger rights should be separate from that dealing with the application of the Regulation.

Amendment 51
Article 5 b, paragraph 1 (new)

1. Member States shall take the necessary steps to ensure that failure to comply with the obligation of information on the identity of the operating air carrier, referred to in Article 5 of this regulation, is subject to penalties in the case where the information held by the air carriage contractor has not been transmitted.

Amendment 52
Article 5 b, paragraph 2 (new)

¹ *OJ L 158, 23.6.1990, p. 59.*

² *OJ L 95, 21.4.1993, p. 29.*

2. The penalties laid down by the Member States for infringement of this Regulation shall be effective, proportionate and deterrent.

Amendment 53

Article 6

No later than **five** years after the entry into force of this Regulation the Commission shall report to the European Parliament and to the Council on the application of this Regulation. The report shall be accompanied, where necessary, by proposals for revision of the Regulation.

No later than **three** years after the entry into force of this Regulation the Commission shall report to the European Parliament and to the Council on the application of this Regulation. The report shall be accompanied, where necessary, by proposals for revision of the Regulation.

Justification

The regulation should be reviewed at an earlier date.

Amendment 54

Article 6 a (new)

Article 6 a

Committee

1. The Commission shall be assisted by the committee referred to Article 10 of Directive 2004/36/EC¹.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC² shall apply, having regard to the provisions of Article 8 thereof.

3. The committee shall adopt its rules of procedure and provide for a fast-track procedure for urgent cases and for the updating of the Community list.

4. The Commission may also consult the committee on any other matter concerning the application of this Regulation.

¹ Directive 2004/36/EC of the European Parliament and of the Council of 21 April 2004 on the safety of third-country aircraft using Community airports, (OJ L 143, 30.4.2004, p. 76).

² Council decision 199/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23).

Justification

The rules of procedure for the committee need to be part of a separate article.

It is the committee on national experts on civil aviation safety referred to in Directive 2004/36/EC, known as the SAFA directive, which is in the best position to assist the Commission in establishing relevant criteria for publication within the framework of the comitology procedure.

EXPLANATORY STATEMENT

The question of air carrier identification and the listing of companies banned from flying to or over EU territory is not new.

On 15 February 1996, following an air disaster off the coast of the Dominican Republic, Parliament adopted a resolution calling on the Commission and the Member States to draw up a list of carriers that were not adhering to international aircraft safety standards with a view to banning them from landing on or taking off from EU territory. That same resolution called on the Commission to propose a directive to improve consumer information on the identity of the operating carrier.

The crash off Sharm el-Sheikh on 3 January 2004 of a Boeing 737 operated by Egyptian charter company Flash Airlines highlighted the same issues, as well as the difficulties of intra-European coordination concerning air safety decisions.

And just recently, a flight ban imposed by the Netherlands on the charter company Onur Air highlighted further shortcomings. Only Germany, France and Switzerland immediately withdrew Onur Air's permits to fly. As a result, many passengers returning to or from Turkey with Onur Air took off from or landed at Brussels or Charleroi airports.

These incidents give rise to three main questions:

1. How to harmonise and extend banning measures in a coherent manner in order to ensure as far as possible the equal and transparent treatment of air carriers and European passengers.
2. How best to inform European passengers about the identity of air carriers, particularly those that are subject to a ban in a Member State.
3. How to ensure air transport safety while reconciling the commercial viability of travel companies and tour operators with the interests of passengers.

The Union has given a partial response to the first of these questions in the SAFA¹ Directive, which from May 2006 provides the possibility for a flight ban imposed on a third-country airline to be extended to the whole of the EU.

However, both in this respect and in respect of the provision of information to passengers on the identity of the air carrier and the publication of some bans on air carriers, which are covered by the proposal currently before us, the Commission's text needs to be substantially improved.

List of companies subject to restriction or banning measures

¹ Directive 2004/36 of 21 April 2004 on the safety of third-country aircraft using Community airports.

The Commission has opted for black lists drawn up by each Member State on which the Member State which initiated the operating ban or traffic rights restrictions would be mentioned each time. However, this solution would be likely to lead to confusion and legal uncertainty among users and operators. Furthermore, different treatment in different Member States could damage the credibility of national decisions concerning air safety and give rise to legal difficulties for those seeking compensation where one or more Member States fail to adopt a restriction measure implemented by another Member State.

The most satisfactory solution both for passengers and in terms of the cogency of common air safety policy would be to publish a single Community black list into which the Member States would feed data but which would cover the whole of the EU, irrespective of the Member State that initiated each measure. This system would enhance coordination between civil aviation authorities in the Member States while enabling them to retain their ability to initiate safety measures.

However, with a view to providing guidance for the Member States, provision should be made for the Commission, assisted by a committee of national experts, to draw up common criteria for the compilation of the Community list for publication. This would both ensure that the measures published really are based on objective security considerations and would make it possible to identify the operating restrictions placed on air carriers on safety grounds that need to be brought to passengers' attention because of their importance.

Given that safety measures are very often implemented for an indefinite period - for example until the fault which led to the measure being imposed is rectified - the common criteria should not cover only the duration of the restriction measure.

Furthermore, in order to guard against carriers being wrongly entered on to the Community list, each Member State should be entitled to object to a measure being published and extended to cover the whole of the EU. The final decision would be taken by the Commission, with the assistance of a committee of national experts.

This proposal for a regulation covers both Community carriers, against which traffic rights restriction measures may be taken in the Member States, and - above all - third-country companies that enjoy traffic rights in the Union.

Nonetheless, the scope of the 'black list' provisions should be broadened to cover other carriers. Some Member States have drawn up national lists of airlines that do not enjoy traffic rights in those Member States but which 'would be refused traffic rights if they requested them' because they are not subject to adequate control by their national authorities (inter alia on the basis of the findings of ICAO audits). Such carriers could lease aircraft to airlines enjoying traffic rights in the EU. Furthermore, EU nationals can use these airlines when they are travelling outside the EU. The Commission and the Member States should therefore be able to propose that such airlines be entered on the Community list.

Lastly, the only provision which the proposal makes for publicising the list is for it to be published by the Commission. Provision could also be made for the Community list to be published by each Member State and made available to passengers by ticket sellers, national civil aviation authorities and airports in the Member States.

The important thing is to ensure that passengers are provided with useful information.

Passenger information on the identity of the operating carrier

Informing passengers of the identity of their operating carrier presents a number of problems owing to the complexity of the different types of air transport (interlining¹, leasing, code sharing, package travel, etc.), which can make it difficult to provide passengers with the relevant information rapidly and efficiently.

For example, the name of the carrier may not be known at the time the reservation is made. In that case, passengers should be given the names of the potential carriers when they make the reservation and of the name of the operating carrier as soon as it becomes known. Use should be made of the latest communications technology (e-mail, sms) in this connection.

Furthermore, should the ticket seller be unable to alert the passenger to a change of air carrier (for instance, if the passenger is on the way to the airport or already on the plane, or is flying back from a third country), it could be arranged for the passenger to be informed, at the latest, at check-in.

Similarly, the obligation to provide information on the identity of the air carrier should be extended to cover, in certain cases, flights outside EU territory. Where a journey starts in the EU and certain connecting factors exist, the obligation to provide information should also extend to the air carriage contractor. To ensure that such a system is effective, carriers should take the necessary practical steps to ensure compliance with the obligation to provide information, particularly under their interlining agreements.

What is more, the obligation to inform passengers of the identity of their air carrier should be included in the contract of carriage (general terms of sale) with a view to informing passengers of their rights and also to clear up the contradiction with point 9 of the IATA terms printed on the ticket².

Lastly, while passengers must not, of course, be given means of action that could lead to abuse, the implications of the regulation for the contract of carriage should also be provided for.

Thus, where the initial carrier is blacklisted after the conclusion of the contract or is replaced by an airline itself subsequently blacklisted, harmonised arrangements for passenger compensation, involving the offer of equivalent transport or cancellation at no cost to the passenger, should be laid down.

¹ Interlining enables passengers to use a single ticket to travel on more than one airline. It covers journeys for which the passenger knows in advance the different carriers operating the different segments as well as journeys for which the passenger has a 'fully flexible' ticket allowing him to change airline at any point in his journey.

² This point states: 'The carrier may, without notice, substitute alternative carriers or aircraft', which could be understood, particularly from the English version, as meaning that the carrier has the right not to inform passengers.

An obligation should also be placed on Member States to introduce penalties for any air ticket sellers failing to comply with their obligation to provide passengers with information on the identity of the operating air carrier.

Other points

- Definitions

Article 2 of the Commission proposal contains a number of definitions which should be improved or clarified; for example, the definition of ‘contracting air carrier’. It would also be useful to state exactly who is obliged to provide information; the use of the term 'ticket seller' would broaden the scope of this obligation while allowing the ticket seller the possibility of bringing an action against the party actually responsible for failing to comply with the obligation to provide information.

- EASA

In the future it might be worth giving thought to the role of the European Aviation Safety Agency in the implementation of safety measures on aircraft operated by third-country carriers. The rapporteur stresses the need to this broaden the EASA's powers in this area and, in future, to give it a leading role in the introduction of such measures. The most effective way of solving the problem of the safety of third-country aircraft would be to give the EASA a driving role in monitoring compliance with international and Community air safety standards by issuing safety certificates for third-country airlines. Parliament should call for the agency to be given such powers in the near future.

PROCEDURE

Title	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		
References	COM(2005)0048 – C6-0046/2005 – 2005/0008(COD)		
Legal basis	Articles 251(2) and 80(2) EC		
Basis in Rules of Procedure	Rule 51		
Date submitted to Parliament	17.2.2005		
Committee responsible Date announced in plenary	TRAN 12.4.2005		
Committee(s) asked for opinion(s) Date announced in plenary	IMCO 12.4.2005		
Not delivering opinion(s) Date of decision	IMCO 18.4.2005		
Enhanced cooperation Date announced in plenary			
Rapporteur(s) Date appointed	Christine De Veyrac 15.3.2005		
Previous rapporteur(s)			
Simplified procedure Date of decision	Rule 43(1) / Rule 43(2)		
Legal basis disputed Date of JURI opinion			
Financial endowment amended Date of BUDG opinion			
European Economic and Social Committee consulted Date of decision in plenary			
Committee of the Regions consulted Date of decision in plenary			
Discussed in committee	15.6.2005	30.8.2005	10.10.2005
Date adopted	11.10.2005		
Result of final vote	for:	43	
	against:	1	
	abstentions:	1	
Members present for the final vote	Inés Ayala Sender, Etelka Barsi-Pataky, Philip Bradbourn, Michael Cramer, Christine De Veyrac, Arūnas Degutis, Armando Dionisi, Petr Duchoň, Saïd El Khadraoui, Robert Evans, Emanuel Jardim Fernandes, Mathieu Grosch, Ewa Hedkvist Petersen, Jeanine Hennis-Plasschaert, Stanisław Jałowiecki, Georg Jarzembowski, Dieter-Lebrecht Koch, Jaromír Kohlíček, Rodi Kratsa-Tsagaropoulou, Jörg Leichtfried, Eva Lichtenberger, Patrick Louis, Erik Meijer, Michael Henry Nattrass, Robert Navarro, Willi Piecyk, Luís Queiró, Reinhard Rack, Luca Romagnoli, Gilles Savary, Renate Sommer, Ulrich Stockmann, Gary Titley, Georgios Toussas, Marta Vincenzi, Corien Wortmann-Kool, Roberts Ziļe		

Substitutes present for the final vote	Luigi Cocilovo, Den Dover, Markus Ferber, Sepp Kustatscher, Pier Antonio Panzeri, Zita Pleštinská, Hannu Takkula
Substitutes under Rule 178(2) present for the final vote	Johan Van Hecke
Date tabled – A6	19.10.2005 A6-0310/2005
Comments	...