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

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (COM(2005)0579 – C6-0403/2006 – 2005/0228(COD))

Committee on Transport and Tourism

Rapporteur: Jörg Leichtfried

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 amending Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (COM(2005)0579 – C6-0403/2006– 2005/0228(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0579)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 (C6-0403/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Budgets (A6-0023/2007),
1. Approves the Commission proposal as amended;
 2. Considers that the reference amount indicated in the legislative proposal must be compatible with the ceiling of heading 1a of the new multiannual financial framework (MFF) and with the provisions of point 47 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management²,
 3. 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;
 4. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

² OJ C 139, 14.6.2006, p. 1.

Amendment 1
RECITAL 2 A (new)

(2a) The Commission should examine the extent to which powers relating to monitoring compliance with the common rules in the field of civil aviation security should also be transferred to the Agency in future.

Justification

It would make sense to involve the Agency particularly in those areas relating both to the technical safety of air transport and to air security.

This amendment reflects Parliament's vote at first reading on 15 June 2006 on common rules in the field of civil aviation security. .

Amendment 2
RECITAL 10 A (new)

(10a) Regulation (EC) No° 2111/2005* imposes a duty on the Agency to communicate all information that may be relevant for the updating of the Community 'black list'. If the Agency refuses to grant certification to an air carrier under the terms of this Regulation, it must pass on all information on which this refusal was based, so that the name of the air carrier may be entered, if necessary, on the Community 'black list'.

**** Regulation (EC) No° 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC.***

Justification

In the interests of the consistency of Community legislation, there should be a link between the certification of air carriers and the banning of those placed on the Community black list.

Amendment 3
RECITAL 16 A (new)

(16a) Member States are called upon to ensure that the budgets of the national authorities and the charges and fees that they levy are reduced in line with the transfer of responsibilities to the Agency.

Justification

Savings made by the Member States on the basis of the transfer of powers to the Agency should be passed on to customers in full, and not used to improve national budgets.

Amendment 4
ARTICLE 1, POINT 2. POINT (A)
Article 3, point (f) (Regulation (EC) No 1592/2002)

(f) 'qualified entity' means ***an accredited*** body which may conduct certification tasks under the control and the responsibility of the Agency or of a national aviation authority;

(f) 'qualified entity' means ***a*** body which may conduct certification tasks under the control and the responsibility of the Agency or of a national aviation authority;

Justification

A qualified body is already covered by the responsibility of the Agency or the National Aviation Authorities and hence does not need an accreditation.

Amendment 5
ARTICLE 1, POINT 2, POINT (B)
Article 3, point (j), point (i) (Regulation (EC) No 1592/2002)

(i) an aeroplane:
- with a maximum certificated take-off mass exceeding 5 700kg or;
- with a maximum approved passenger seating configuration of more than **9** or;
- certificated for operation with a minimum

(i) an aeroplane:
- with a maximum certificated take-off mass exceeding 5 700kg or;
- with a maximum approved passenger seating configuration of more than **19** or;
- certificated for operation with a minimum

crew of at least 2 pilots or;

crew of at least 2 pilots or;

- **equipped with (a) turbojet engine(s); or**

Justification

An aircraft requiring more than one pilot is considered complex. Likewise, 19 passenger seats is exactly the limit for when a cabin attendant is required and therefore is a natural limit for imposing more elaborate organisational requirements.

There is a great risk that limiting access to a specific technology will create a future barrier to the introduction of new, safer and more environmentally friendly technology and will limit the growth of general aviation in Europe. From an operational point of view, a small jet engine is a lot simpler to operate than a large turbo-powered piston engine.

Amendment 6

ARTICLE 1, POINT 2, POINT (B)

Article 3, point (k) (Regulation (EC) No 1592/2002)

(k) '**recreational** operation' means any non commercial operation with **a non complex-motor-powered** aircraft;

(k) '**light aircraft** operation' means any non commercial operation with a **light** aircraft;

Justification

Purely "recreational" operations constitute only a marginal part of all non-commercial general aviation operations taking place in light aircrafts. Term "complex airplane" is used to address things widely ranging from recreational/personal/light aviation to an aviation, requiring complex organisational setup and management

The approval of this amendment should be interpreted as the replacement of the term "recreational operation" and "non complex-motor-powered aircraft" throughout the whole text.

Amendment 7

ARTICLE 1, POINT 2, POINT (B)

Article 3, point (n a) (new) (Regulation (EC) No 1592/2002)

(na) 'light aircraft' means an aircraft:

- with a MTOW not exceeding 2000 kg;

- with a maximum of 5 passenger seats.

Justification

Currently, the term "complex airplane" is used to address things widely ranging from recreational/personal/light aviation to an aviation, requiring complex organisational setup and management. This is unwise, because it may impose insufficient measures on highly

demanding aircraft used on recreational license on one hand, as well as overcomplicate operations involving as little as single person on the other.

Amendment 8

ARTICLE 1, POINT 5

Article 6a, paragraph 7 (Regulation (EC) No 1592/2002)

7. When establishing the implementing rules referred to in paragraph 6, the Commission will take specific care that they reflect the state of the art and **the** best practices in the field of pilots training, and that they allow for immediate reaction to established causes of accidents and serious incidents.

7. When establishing the implementing rules referred to in paragraph 6, the Commission will take specific care that they reflect the state of the art and best practices, **and scientific and technical progress** in the field of pilots training, and that they allow for immediate reaction to established causes of accidents and serious incidents.

Justification

When implementing legislation is developed on pilot licensing, all relevant and most recent technical and scientific data should be taken into account.

Amendment 9

ARTICLE 1, POINT 5

Article 6b, paragraph 3 (Regulation (EC) No 1592/2002)

3. Operators engaged in the non-commercial operation of complex motor-powered aircraft shall **declare** their capability and means to discharge the responsibilities associated with the operation of the aircraft.

3. Operators engaged in the non-commercial operation of complex motor-powered aircraft shall **produce a declaration demonstrating** their capability and means to discharge the responsibilities associated with the operation of the aircraft.

Justification

This amendment is coherent with the amendment on paragraph 5 of this new Article 6 b aiming at a more specific declaration with a more precise content. A too vague wording could create problems with EASA.

Amendment 10

ARTICLE 1, POINT 5

Article 6b, paragraph 4 (Regulation (EC) No 1592/2002)

4. Cabin crew involved in the operation of aircraft referred to in Article 4(1)(b) and

4. Cabin crew involved in the operation of aircraft referred to in Article 4(1)(b) and

(c) shall comply with the essential requirements laid down in Annex IV. ***They shall hold an attestation and a medical certificate appropriate to the operation performed.***

(c) shall comply with the essential requirements laid down in Annex IV. ***Those involved in commercial operations shall hold an attestation as initially described in point (d) of OPS 1.1005 as set out in Regulation (EC) No 1899/2006 of the European Parliament and of the Council on the harmonisation of technical requirements and administrative procedures in the field of civil aviation¹ (EU OPS); at the discretion of the Member State, such attestation may be issued by approved operators or training organisations.***

¹ OJ L 377, 27.12.2006, p. 1.

Justification

This amendment aims at enhancing safety routines at the highest possible and a uniform level and allowing the free movement of cabin crew within the EU. Both air operations (part 7b of Annex IV) and medical fitness shall be covered, not only in the interest of the passengers but also in that of the cabin crew itself. The study on Flight Time limitations should also cover cabin crew.

Amendment 11

ARTICLE 1, POINT 5

Article 6b, paragraph 5, point (d) (Regulation (EC) No 1592/2002)

(d) the conditions and procedures for oversight and inspection ***of operators referred to in paragraph 3.***

(d) ***the contents and means of attestation of the declarations to be made by operators referred to in paragraph 3 and the conditions and procedures for oversight and inspection in relation to the specific operations described in the declaration.***

Justification

This amendment refers to the more specific requirements, as far as the content of the attestation and the way they are issued is concerned (see amendment on point 3 of this article 6 b).

Amendment 12

ARTICLE 1, POINT 5

Article 6b, paragraph 5, point (e) (Regulation (EC) No 1592/2002)

(e) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the cabin crew attestation referred to in paragraph 4.

(e) the conditions for issuing, **mutual recognition**, maintaining, amending, limiting, suspending or revoking the cabin crew attestation referred to in paragraph 4.

Justification

The attestation is following Directive 2005/36/EC on the recognition of professional qualifications the lowest level of a proof of a qualification. Cabin crew has an important part to play, also for security reasons and should consequently be trained and qualified; a certification by an independent body is therefore more appropriate. This will also enable mutual recognition of qualification of cabin crew and therefore increase the mobility of workers.

Amendment 13

ARTICLE 1, POINT 6

Article 7, paragraph 1 a (new) (Regulation (EC) No 1592/2002)

1a. If a Member State or the Agency obtains information proving that a certificate issued by another Member State does not comply with this Regulation or its implementing provisions in a way which could seriously threaten safety, they shall immediately communicate their findings to the other Member States and to the Commission.

Justification

When information emerges calling into question the validity of certificates issued by a Member State, this information must be passed on as quickly as possible so that corrective measures may be taken or penalties imposed if necessary.

Amendment 14

ARTICLE 1, POINT 7, POINT (A)

Article 8, paragraph 2 (Regulation (EC) No 1592/2002)

(a) paragraph 2 is replaced by the following:

"2. Pending adoption of the implementing rules referred to in Articles 5(5) and 6a(6), and without prejudice to Article 2(3) of this Regulation, certificates which cannot be issued in accordance with this

(a) paragraph 2 is replaced by the following:

"2 The Commission, on its own initiative or at the request of a Member State or of an Agency, may initiate the procedure referred to in Article 54(4) to decide whether a certificate issued in accordance

Regulation may be issued on the basis of the applicable national regulations."

with this Regulation effectively complies with it and its implementing rules.

In case of non-compliance or compliance which is not effective, the Commission shall require the issuer of the certificate to take appropriate corrective action and safeguard measures, such as limitation or suspension of the certificate. Moreover, the provisions of paragraph 1 shall cease to apply to the certificate as from the date of the notification of the Commission's decision to the Member States.

2a. When the Commission has sufficient evidence that appropriate corrective action has been taken by the issuer referred to in paragraph 2 to address the case of non compliance or non-effective compliance and that the safeguard measures are no longer necessary, it shall decide that the provisions of paragraph 1 apply to this certificate. These provisions shall apply as from the date of notification of this decision to the Member States.

2b. Pending adoption of the implementing rules referred to in Articles 5(4), 6a(6) and 6c(4), and without prejudice to Article 57(4) of this Regulation, certificates which cannot be issued in accordance with this Regulation may be issued on the basis of the applicable national regulations.

2c. Pending adoption of the implementing rules referred to in Article 6b(5), and without prejudice to Article 57(4) of this Regulation, certificates which cannot be issued in accordance with this Regulation may be issued on the basis of the applicable national regulations or, when applicable, on the basis of the relevant requirements of Regulation (EEC) No 3922/1991.

2d. The provisions of this Article shall be

without prejudice to Regulation (EC) 2111/05 and its implementing rules."

Amendment 15
ARTICLE 1, POINT 9
Article 9 a (Regulation (EC) No 1592/2002)

1. Qualified entities conducting specific certification tasks in accordance with the applicable certification procedures on behalf of the Agency, or on behalf of the Member States when those latter carry out certification tasks in application of this Regulation, shall comply with the criteria laid down in Annex V and shall demonstrate possession of the necessary organisation and expertise. These capabilities and means shall be recognised through the issuance of an accreditation by the Agency.

When allocating a specific certification task to a qualified entity, the Agency or the national aviation authority concerned shall ensure that such entity comply with the criteria laid down in Annex V.

2. With regard to qualified entities, the Agency shall:

- (a) conduct itself or through national aviation authorities, inspections and audits of the entities it accredits;**
- (b) issue and renew the accreditations;**
- (c) amend, limit, suspend or revoke the relevant entity's accreditation when the conditions according to which it was issued by the Agency are no longer fulfilled, or if the entity concerned fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules.**

Justification

If the entity complies with Annex V, all the necessary requirements are fulfilled.

Amendment 16
ARTICLE 1, POINT 12
Article 11a, paragraphs 1 to 3 (Regulation (EC) No 1592/2002)

1. When information referred to in *Article*

1. When information referred to in *Article*

11 has been provided by a natural person on a voluntary basis, ***the reports shall not reveal*** the source of such information.

2. Without prejudice to the applicable rules of penal law, Member States shall refrain from instituting proceedings in respect of unpremeditated or inadvertent infringements of the law which come to their attention only because they have been reported in pursuance of this Regulation and its implementing rules.

This rule shall not apply in cases of gross negligence.

3. ***In*** accordance with the procedures defined in their national laws and practices, Member States shall ensure that employees who provide information in application of this Regulation and its implementing rules are not subjected to any prejudice by their employer, ***except*** in cases of gross negligence.

11(1) has been provided by a natural person on a voluntary basis ***to the Commission or the Agency***, the source of such information ***shall not be revealed. When the information has been provided to a national authority, the source of such information shall be protected in accordance with national legislation.***

2. Without prejudice to the applicable rules of penal law, Member States shall refrain from instituting proceedings in respect of unpremeditated or inadvertent infringements of the law which come to their attention only because they have been reported in pursuance of this Regulation and its implementing rules.

This rule shall not apply in cases of gross negligence.

3. ***Without prejudice to the applicable rules of penal law, and in*** accordance with the procedures defined in their national laws and practices, Member States shall ensure that employees who provide information in application of this Regulation and its implementing rules are not subjected to any prejudice by their employer. ***This rule shall not apply*** in cases of gross negligence.

Amendment 17

ARTICLE 1, POINT (7 A (new))

Article 16 a (new) (Regulation (EC) No 1592/2002)</Article>

(17a) The following Article 16a is inserted:

"Article 16a

Fines

1. When taking the decisions referred to in Article 13(c), the Agency may:

(a) impose, on the persons and undertakings to which it has itself issued a certificate, fines, where, intentionally or negligently, the provisions of this Regulation and its implementing rules have been breached;

(b) impose, on the persons and undertakings to which it has itself issued a certificate, periodic penalty payments, calculated from the date set in the decision, in order to compel them to comply with the provisions of this Regulation or its implementing rules.

2. The fines and periodic penalty payments referred to in paragraph 1 shall be dissuasive and proportionate to both the gravity of the case and the economic capacity of the certificate holder concerned, taking into particular account the extent to which safety has been compromised.

3. Decisions taken pursuant to paragraph 1 shall not be of a criminal law nature.

4. The amount of the fines collected by the Agency shall be deducted from the contribution referred to in Article 48(1)a.

.The Commission shall adopt, in accordance with the procedure laid down in Article 54(3), the rules for the implementation of this Article, specifying in particular:

(a) the provisions of the implementing rules breach of which shall be subject to the application of a fine and a periodic penalty payment;

(b) the maximum amount of fines and periodic penalty payments;

(c) the conditions for the application of fines and periodic penalty payments, including the criteria for the fixation of the amount.

6. When establishing the criteria for the fixation of the amount of the fines, the Commission shall take into account the revenues of persons and undertakings on

whom they are imposed."

Justification

EASA should have the possibility to impose penalty payments in case an organisation or a person does not comply with the requirements.

Amendment 18

ARTICLE 1, POINT 18 A (new)

Article 20, paragraph 1 a (new) (Regulation (EC) No 1592/2002)

(18a) In Article 20 the following paragraph 1a is added:

"1a. Article 12(2)(e) and Article 82(3)(e) of the Conditions of employment of other servants of the European Communities shall not apply until 36 months after the date of recruitment of temporary staff and contract staff."

Justification

Experience with recruitment at the Agency since 2002 has shown that recruitment of an appreciable proportion (approx. 10%) of the highly-qualified and urgently needed staff has failed solely on account of the language requirements that staff of the European Communities must meet, since although many candidates had a thorough knowledge of the Agency's working language (English), they did not have sufficient knowledge of another Community language. This constitutes a substantial hindrance for the EASA in carrying out its tasks. Accordingly, there is a need for an appropriate transitional period, in which the staff concerned can take up their posts at the EASA and gain the requisite language skills by the time the language requirements come into effect.

Amendment 19

ARTICLE 1, POINT 19, POINT (A), POINT (I)

Article 24, paragraph 2, point (b) (Regulation (EC) No 1592/2002)

(b) adopt the annual general report on the Agency's activities and forward it by 15 June at the latest to the European Parliament, the Council, the Commission, the Court of Auditors and the Member States; acting on behalf of the Agency, it shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures;

(b) adopt the annual general report on the Agency's activities and forward it by 15 June at the latest to the European Parliament, the Council, the Commission, the Court of Auditors and the Member States; acting on behalf of the Agency, it shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures ***and in particular information in connection with the effects***

or consequences of changes in the tasks attributed to the Agency;

Justification

Changes in the task list of an agency very often affect the volume of resources needed. In order to allow the budgetary authority to assess whether a request for additional resources may be justified, it needs to get a clear picture of any change in an agency's mandate.

Amendment 20

ARTICLE 1, POINT 20, POINT (A)

Article 25, paragraph 1 (Regulation (EC) No 1592/2002)

1. The Management Board shall be composed of one representative of each Member State and one representative of the Commission. To this effect, the Council shall designate a representative from each Member State as well as an alternate who will represent the member in his/her absence. The Commission shall also designate its representative and alternate. The duration of the terms of office shall be five years. This term of office shall be renewable ***once***.

1. The Management Board shall be composed of one representative of each Member State and one representative of the Commission ***who shall be selected on the basis of their recognized experience in the field of civil aviation and their managerial capabilities***. To this effect, the Council, ***having consulted the European Parliament***, shall designate a representative from each Member State as well as an alternate who will represent the member in his/her absence ***and who shall not be involved in the implementation of this Regulation and of rules adopted for its implementation***. The Commission shall also designate its representative and alternate. The duration of the terms of office shall be five years. This term of office shall be renewable.

Justification

This modification aims at guaranteeing a more balance representation of the tree institutions in the Management Board as well as at solving a possible problem of incompatibility of functions at national/EASA-level.

Parliament must be assigned a role which expresses its importance without rendering the procedure more complicated.

Amendment 21

ARTICLE 1, POINT 22

Article 28, paragraph 2 (Regulation (EC) No 1592/2002)

2. Each member designated *by the Council* shall have one vote. The representative from the Commission shall have an equal number of votes in total to the number of members designated by the Council. Neither the representatives of interested parties nor the Executive Director of the Agency shall vote. In the absence of a member, his or her alternate shall be entitled to exercise his or her right to vote.

2. Each member designated *pursuant to Article 25(1)* shall have one vote. The representative from the Commission shall have an equal number of votes in total to **25% of** the number of members designated by the Council. Neither the representatives of interested parties nor the Executive Director of the Agency shall vote. In the absence of a member, his or her alternate shall be entitled to exercise his or her right to vote.

Amendment 22
ARTICLE 1, POINT 23
Article 28 a, b and c (Regulation (EC) No 1592/2002)

(23) The following Articles 28a to 28c are inserted after Article 28: deleted

“Article 28a

Powers of the Executive Board

1. The Agency shall have an Executive Board.

2. Without prejudice to the powers of the Management Board and to the functions and powers of the Executive Director, the Executive Board shall:

(a) establish its Rules of Procedure;

(b) adopt strategic guidelines on the tasks of the Agency referred to in Article 12, and on its organization and functioning;

(c) prepare, and monitor the implementation of, the decisions of the Management Board;

(d) monitor the implementation of the budget adopted by the Management Board.

Article 28b

Composition of the Executive Board

1. The Executive Board shall be composed of:

(a) three members designated by the Management Board, among its members

appointed by the Council;

(b) three members designated by the Commission;

(c) two observers designated among, and by, the representatives of interested parties sitting on the Management Board.

2. The terms of office of the members and observers of the Executive Board shall expire when their respective membership of the Management Board ceases. Subject to this provision, the duration of their terms of office shall be thirty months, renewable once.

3. The Executive Board shall elect a Chairperson and a Deputy Chairperson from among its members. The Deputy Chairperson shall ex-officio replace the Chairperson in the event of his or her being prevented from attending to his or her duties. The terms of office of the Chairperson and Deputy Chairperson shall expire when their respective membership of the Executive Board ceases.

Article 28c

Meetings of the Executive Board

1. Meetings of the Executive board shall be convened by its Chairperson.

2. The Executive Board shall meet at the instance of the Chairperson or at the request of at least three of its members.

3. The Executive Board may invite any person whose opinion can be of interest to attend its meetings as an observer.

4. The members of the Executive Board may, subject to the provisions of its Rules of Procedure, be assisted by advisers or experts.

5. Meeting facilities and secretariat for the Executive Board shall be provided by the Agency.

6. The Executive Board shall take its decisions by a majority.

7. Each member of the Executive Board shall have one vote. The representatives of interested parties, referred to in point (c) of Article 28b(1), as well as observers, advisers or experts referred to in paragraphs 3 and 4 of this Article, shall not vote.

8. The rules of procedure shall establish the more detailed voting arrangements, in particular, the conditions for a member to act on behalf of another member as well as any quorum requirements, where appropriate.”

Justification

If the aim is to improve procedures, there is no need for a management board, which adds nothing to the current system.

Amendment 23

ARTICLE 1, POINT 30

Article 46a, paragraph 1 (Regulation (EC) No 1592/2002)

The annual programme of work shall comply with the objectives, mandates and tasks of the Agency, as defined in this Regulation.

The annual programme of work shall comply with the objectives, mandates and tasks of the Agency, as defined in this Regulation. ***It shall clearly indicate which mandates and tasks of the Agency have been added, changed or deleted in comparison with the previous year.***

Justification

Changes in the task list of an agency very often affect the volume of resources needed. In order to allow the budgetary authority to assess whether a request for additional resources may be justified, it needs to get a clear picture of any change in an agency's mandate.

Amendment 24

ARTICLE 1, POINT 30

Article 46b, paragraph 1 (Regulation (EC) No 1592/2002)

The annual general report shall describe the way in which the Agency has implemented its annual programme of work.

The annual general report shall describe the way in which the Agency has implemented its annual programme of work. ***It shall clearly describe any effects or***

***consequences of changes in the tasks
attributed to the Agency.***

Justification

Changes in the task list of an agency very often affect the volume of resources needed. In order to allow the budgetary authority to assess whether a request for additional resources may be justified, it needs to get a clear picture of any change in an agency's mandate.

Amendment 25

ARTICLE 1, POINT 32, POINT (A)

Article 48, paragraph 1, subparagraph 2 (Regulation (EC) No 1592/2002)

The Agency may ***also*** receive financial contribution from Member States, third countries or other entities.

The Agency may ***not*** receive ***any*** financial contribution from Member States, third countries or other entities.

Justification

It is important to preserve carefully the Agency's material, organisational and political independence, in the long term too.

Amendment 26

ARTICLE 1, POINT 32, POINT (A A) (new)

Article 48, paragraph 5 a (new) (Regulation (EC) No 1592/2002)

(aa) the following paragraph 5a is inserted:

"(5a) Regulatory budgets and the fees set and collected for certification activities must be decided separately and dealt with separately in the Agency's budget."

Justification

Transparency must be a fundamental principle.

Amendment 27

ARTICLE 1, POINT 33

Article 53 (Regulation (EC) No 1592/2002)

(33) In Article 53(4), the second subparagraph is deleted.

(33) In Article 53, paragraphs 2 to 4 are replaced by the following:

"2. The fees and charges regulation shall determine in particular the matters for which fees and charges pursuant to Article 48(1) (c and d) are due, the amount of the fees and charges and the way in which they are to be paid.

3. Fees and charges shall be levied for:

(a) the issuing and renewal of certificates, as well as the related continuing oversight functions of organisation, except for continuing airworthiness of products;

(b) the provision of services; they shall reflect the actual cost of each individual provision;

(c) the processing of appeals.

All fees and charges shall be expressed, and payable, in euro.

4. The amount of the fees and charges shall be fixed at such a level as to ensure that the revenue in respect thereof is in principle sufficient to cover the fullcost of the services delivered."

Justification

This amendment fines a clearer more explicite division of the different revenue categories and puts a ceiling on the revenues from fees.

Amendment 28

ARTICLE 1, POINT 34 A (new)

Article 56, paragraph 3 a (new) (Regulation (EC) No 1592/2002)

(34a) The following paragraph 3a shall be added to Article 56:

"3a. Fees for type certification and other fees must not be disproportionately higher than before the establishment of the EASA."

Justification

From the point of view of competition, it is not permissible that the fees resulting from centralised fee-setting by the Agency should discriminate purely on the grounds of differences in purchasing power between Member States or should make it impossible to conduct aviation and aviation-related activities in some Member States.

Amendment 29

ANNEX, POINT 2

Annex IV, point 8.g a (new) (Regulation (EC) No 1592/2002)

8. ga. Implementing rules for the requirements specified under points 8.a to 8.f must be based on a risk assessment and must be proportional to the scale and scope of the operation.

Justification

The regulation covers very broad span of activities and aircraft - from 1 person to hundreds. The new paragraph above specifies that implementing rules must be proportional and based on assessment of risk, associated with particular operation.

EXPLANATORY STATEMENT

I Introduction

Regulation 1592/2002, which entered into force in September 2002, gave the Community exclusive competence for regulating the airworthiness and environmental compatibility of aeronautical products, parts and appliances, as well as of organisations and personnel involved in their design, manufacturing and maintenance.

The Regulation set up EASA, the European Safety Aviation Agency, to assist the Commission in establishing a consistent set of standards for its implementation. As centralised implementation of such standards is more efficient in these cases, EASA is also responsible for the type-certification of products, parts and appliances (i.e. the airplanes, motors and propellers) and the oversight of organisations located outside the EU, while the National Aviation Authorities are responsible for the individual certification of products and the oversight of organisations and persons under their jurisdiction. Last but not least, EASA supervises Member States to ensure uniform implementation of Community standards.

II The Commission proposal

Based on the same article 80, par. 2 of the Treaty and in particular on Article 7 of Regulation 1592/2002, the Commission proposes now to extend the scope of Community competence to several fields co-ordinated until now by the Joint Aviation Authorities (JAA) but on a non compulsory and often non-uniform basis. These are:

1- Pilot licensing: The new article 6a stipulates that pilots, as well as flight synthetic training devices, organisations and persons involved in training, testing or medical checking of pilots have to comply with essential safety requirement specified in Annex III of the proposed modified Regulation. For all the licensing, approvals of personnel and organisations on their territory, the Member States are responsible under supervision of EASA. Concerning third countries, EASA is directly responsible (Art.15, par.1, b i).

Some remarks can be made in this respect:

The standards to be used for the implementation of this article are to be adopted via the regulatory procedure (Article 5) of the "comitology decision" (1999/468/EC).

It is proposed to facilitate access to light aviation by tailoring the standards for issuing private pilot licences to this type of activities and by allowing non-governmental assessment bodies, such as pilot federations, to issue such "recreational private pilot licences". The necessary inspections and audits of these assessment bodies can be conducted by EASA itself or by National Aviation Authorities.

According to the proposal, certificates for personnel training organisations, aero-medical centres and synthetic flight training devices under the regulatory oversight of a Member state, may be issued by EASA on the request of that Member State. This could be an opportunity for some Member State, which are lacking the inspection or certification capacity to delegate some of those tasks directly to EASA.

2- Air operations: According to the proposal, the regulation of air operations will also fall within the remit of EASA (Article 6b) and the operation of aircraft will have to comply with essential safety requirement specified in Annex IV of the text. Commercial operators will need a certificate proving that they are able to take on the responsibilities conferred upon them. Non-commercial operators of a complex aircraft (see definition in Article 3 j) shall "declare" themselves their capability to comply with operational rules for their category of airplane. In paragraph 4 of Article 6b, it is proposed that cabin crew should hold an appropriated attestation and a medical certificate. Also here, the standards to be used for the implementation of this article are to be adopted via the same comitology procedure as for the pilot licensing and have to reflect the state art and the best practises in the sector.

3- Third-country aircraft: Third country aircraft operating in the EU, an area recently included into EU legislation is proposed to be added to EASA's fields of competence. The objective is to establish, as some majors countries as the United States of America have already done, an ex ante verification that foreign operator meet safety standards before the can operate to, from and within the Community. It is obvious that such standards will have to be consistent with the obligations of Member states imposed by the Chicago Convention (Articles 5 (1), 5 (4) (j), 5(5) (d), (6 a (1), 6 b (1).

4- Collective oversight (Article 7): Another feature of the proposal, which can be considered as the logical consequence of the creation of one large EU-aviation area, is the establishment of a co-operative obligation, shared between EASA and the Member States, to ensure the effective implementation of this Regulation and of the related standards

5- Qualified entities (Article 9a) in charge with certification tasks on behalf of EASA or National Aviation Authorities need to comply with essential requirements specified in Annex V of the proposal. Compliance is attested by an accreditation issued by EASA.

6- Non punitive safety culture (Article 11a): Sources of information, including whistleblowers, are proposed to be given an adequate protection inn order to encourage the reporting of events whose analysis can improve safety by preventing the occurrence of accidents.

7- International co-operation (Article 18): It is clear that as far as international relations are concerned, the Commission and EASA will play an important role although it must be pointed out that the lack of representation of the EU in ICAO is an anomaly: the EU as such is no member of this organisation but at the same time on the basis of EU-law shares or even has exclusive competence in most fields governed by the Chicago Convention.

8- EASA's structure and working methods:

The Commission proposes that representative of member states in the Management Board be appointed by the Council. It also suggests that the same member of votes be given to the

Commission representative as all the Member States' representatives together (Article 28). This is a drastic change compared to the original text where the Commission representative had only one vote. Last it proposes the establishment of an Executive Board to prepare the work and decisions of the management Board.

9- EASA's funding: In Article 48, the Commission proposes additional possible budget resources, i.e. contributions from Member States third countries and "other entities". It might be worthwhile to define this concept in order to avoid that. entities with direct commercial interests in aviation would contribute to fund EASA's budget and in doing so, endanger its independence.

III Comments

- The Rapporteur wants to point out that he has a very positive view of this proposal which is a logical step following the adoption and entry into force of Regulation No 1592/2002. The Commission proposes to extend the competences of EASA and after some years of functioning tries to correct and fine-tune some management ,budget and other procedures. All of the matters now falling or proposed to fall within the remit of EASA have been previously dealt with by the Joint Aviation Authorities ,a coordinating body with no legislating power. Their decisions were of a non -binding nature leaving in some cases too much scope for the interpretation and the implementation of safety requirements.
- EASA has been set up to play the different and complex roles described in the first and second part of this explanatory statement and the Rapporteur strongly recommends to confer upon the Agency not only the theoretical but also real, practical powers to carry out the tasks it is entrusted with. Aviation is becoming a more and more complex matter and requires for the limited geographical area the EU and Europe is, often one single response were uniform safety standards at the highest possible level should be the our objective. EASA shall now be equipped with a structure, staff and a budget which prepares it for the future. For the Rapporteur, the safety issue is here the most prominent feature and with air traffic increasing for many years ahead it is important to have one strong body which is capable to cope with all the necessary tasks. Safety is the foremost objective and should not be jeopardized by conflicts of competence with the national aviation authorities. These authorities to some extent lose some competences but on the other hand also increase with the proposed new article 7 on collective oversight and the mutual recognition of certificates.
- It has been signalled to the Rapporteur that EASA encounters some problems in recruiting the experienced staff it wants to recruit because of different problems such as: linguistic skills (EASA staff being EU - officials they are required to have the command of at least 2 foreign languages, whereas in international aviation the lingua franca is English; several potential senior staff members do not meet this criterion), salary (the EU -salaries are not always competitive enough to convince potential senior staff members to move or to change their actual job). The

rapporteur urges EASA and the Commission to tackle this problem with the necessary creativity using the possibilities the Statute of EU - officials offer. Another worrying element is the fact that over the years it will be more and more difficult to recruit experienced staff from outside because the necessary competent staff within the national administrations partially will disappear. This is because the associated competences have been transferred to EASA. The Rapporteur would like to stress the importance for EASA to create in-house the possibilities to transfer skills and give the necessary training to younger generations.

- The Rapporteur fully supports the objective to extend the scope of the Regulation (EC) 1592/2002 also to Flight Crew Licencing which is also an important part of all the safety rulemaking activities now proposed to be performed by one single authority. This will streamline activities but also here budget problems should not hamper EASA's activities and initiatives in this field. A licence will be the expression and acknowledgment of flight crew's safety proficiency, will give them the necessary motivation and respect for their professional skills.
- A problem of legal nature arises however with the more prominent role EASA will play in international relations. At this moment EASA or the European Commission is not a member of ICAO (a UN - body dealing with global aviation matters). Only the EU -Member States are member of these bodies, so there is a contradiction between the Commission and through the Commission EASA getting more responsibilities in matters on which they only can negotiate in international fora via the EU- Member States.
- Finally, the Rapporteur wishes to point out that in the future it could be envisaged to extend further the scope of EASA's competences to areas such as air port security, flight security and ATM (Air Traffic Management) at this moment performed by EUROCONTROL.

27.9.2006

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Transport and Tourism

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (COM(2005)0579 – C6-0403/2005 – 2005/0228(COD))

Draftswoman: Jutta D. Haug

SHORT JUSTIFICATION

General background

The purpose of the current Commission proposal is to broaden the European Aviation Safety Agency's scope by extending its remit to air operations, pilot licensing and third country aircraft and to amend Regulation 1592/2002 accordingly.

This proposal seeks to address the following anomaly: while aircraft now enjoy complete freedom within a unified market, safety standards continue to vary between the Member States. Currently, responsibility for regulating air traffic standards in Europe falls on a number of bodies including the European Civil Aviation Conference (ECAC), the Joint Aviation Authority, the International Civil Aviation Organisation (ICAO) and Eurocontrol. These organisations are inter-governmental in nature and the rules decided are only applied if the States concerned wish to apply them. They do not have any binding regulatory powers and the differences in standards can be considerable.

Regulation 1592/02 has addressed the issue of standards in that it awards the EU exclusive responsibility for the airworthiness and environmental compatibility of aeronautical products, parts and appliances. The European Aviation Safety Agency was set up by the Regulation to assist the Commission in this task. The scope of the Regulation is quite specific in that it limits the Regulation's span to aeronautical products.

When the Regulation was first adopted in 2002, however, it was acknowledged that the Regulation's range may at some future point need to be extended. Given that the main objective of the Regulation is to guarantee a high, uniform level of safety and provide a level playing field for Community air operators, there has always been a need to widen the scope of the Regulation. Indeed, both the legislator and the Council gave the Commission an explicit

mandate to submit a proposal to this end and to reconsider the question of third country aircraft. The present proposal responds to this mandate, aiming at extending the scope of the Regulation. If it is adopted, the EASA will be able to produce standards that can be uniformly applied throughout the EU.

Financial implications

The current Commission proposal concerns budget lines 06 02 01 01 and 06 02 02 02 - European Aviation Safety Agency - Subsidies to Titles 1, 2 and 3. The total reference amount given by the Commission is EUR 17 972 million in commitments and payments:

Expenditure type	Year n	n + 1	n + 2	n + 3	n + 4	n+5 and later	Total
Operational expenditure							
Commitment Appropriations (CA)	2,365	2,412	2,461	2,510	2,560	2,611	14,919
Payment Appropriations (PA)	2,365	2,412	2,461	2,510	2,560	2,611	14,919
Expenditure type	Year n	n + 1	n + 2	n + 3	n + 4	n+5 and later	Total
Admin. exp. within reference amount¹							
Technical and administrative assistance (NDA)	0,484	0,494	0,504	0,514	0,524	0,534	3,053
Total reference amount							
Commitment Appropriations	2,849	2,906	2,964	3,023	3,084	3,146	17,972
Payment Appropriations	2,849	2,906	2,964	3,023	3,084	3,146	17,972

If the administrative expenditure that is not part of the financial reference amount is included, the total indicative financial cost of the intervention amounts to:

Expenditure type	Year	n + 1	n + 2	n + 3	n + 4	n+5 and later	Total
TOTAL CA including cost of Human Resources	3,009	3,069	3,130	3,192	3,256	3,322	18,978
TOTAL PA including cost of Human Resources	3,009	3,069	3,130	3,192	3,256	3,322	18,978

¹ Expenditure within Article xx 01 04 of Title xx.

The total number of human resources planned is 20 EASA temporary agents.

Assessment

In the interest of safety for all European citizens, your rapporteur is certainly in favour of granting the requested additional resources to the European Aviation Safety Agency so that it can provide high, uniform, and legally binding, aviation safety standards for air operations, pilot licensing and third country aircraft.

You rapporteur considers the amounts involved in the Commission proposal, of approximately additional EUR 3 million per year for the Agency, well justified. The administrative share of the total costs is in proportion.

The reference amount will be compatible with the ceiling of heading 1a of the new multiannual financial framework (MFF) (Amendment 1).

Given the effects and consequences that changes in the task list can have on the resources necessary for an agency, your rapporteur thinks it highly desirable to get a clear picture of which of the agency's tasks and mandates have changed in comparison with the previous years. Changes in the task list should therefore be clearly indicated in the work programme and in the annual general report of the agency (Amendments 2 and 3).

AMENDMENTS

The Committee on Budgets calls on the Committee on Transport and Tourism, as the committee responsible, to incorporate the following amendments in its report:

Draft legislative resolution

Amendment 1 Paragraph 1 a (new)

1a. Considers that the reference amount indicated in the legislative proposal must be compatible with the ceiling of heading 1a of the new multiannual financial framework (MFF) and with the provisions of point 47 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management¹,

Proposal for a regulation

¹ OJ C 139, 14.6.2006, p. 1.

Amendment 2

ARTICLE 1, POINT 19(A)(I)

Article 24, paragraph 2, point (b) (Regulation (EC) No 1592/2002)

(b) adopt the annual general report on the Agency's activities and forward it by 15 June at the latest to the European Parliament, the Council, the Commission, the Court of Auditors and the Member States; acting on behalf of the Agency, it shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures;

(b) adopt the annual general report on the Agency's activities and forward it by 15 June at the latest to the European Parliament, the Council, the Commission, the Court of Auditors and the Member States; acting on behalf of the Agency, it shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures, ***in particular, information in connection with the effects or consequences of changes in the tasks attributed to the Agency;***

Justification

Changes in the task list of an agency very often affect the volume of resources needed. In order to allow the budgetary authority to assess whether a request for additional resources may be justified, it needs to get a clear picture of any change in an agency's mandate.

Amendment 3

ARTICLE 1, POINT 30

Article 46 a, paragraph 1 (Regulation (EC) No 1592/2002)

The annual programme of work shall comply with the objectives, mandates and tasks of the Agency, as defined in this Regulation.

The annual programme of work shall comply with the objectives, mandates and tasks of the Agency, as defined in this Regulation. ***It shall clearly indicate which mandates and tasks of the Agency have been added, changed or deleted in comparison with the previous year.***

¹ Not yet published in OJ.

Justification

Changes in the task list of an agency very often affect the volume of resources needed. In order to allow the budgetary authority to assess whether a request for additional resources may be justified, it needs to get a clear picture of any change in an agency's mandate.

Amendment 4

ARTICLE 1, POINT 30

Article 46 b, paragraph 1 (Regulation (EC) No 1592/2002)

The annual general report shall describe the way in which the Agency has implemented its annual programme of work.

The annual general report shall describe the way in which the Agency has implemented its annual programme of work. ***It shall clearly describe any effects or consequences of changes in the tasks attributed to the Agency.***

Justification

Changes in the task list of an agency very often affect the volume of resources needed. In order to allow the budgetary authority to assess whether a request for additional resources may be justified, it needs to get a clear picture of any change in an agency's mandate.

PROCEDURE

Title	Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency
References	COM(2005)0579 – C6-0403/2005 – 2005/0228(COD)
Committee responsible	TRAN
Opinion by Date announced in plenary	BUDG 13.12.2005
Enhanced cooperation – date announced in plenary	
Drafts(wo)man Date appointed	Jutta Haug 20.9.2004
Previous drafts(wo)man	
Discussed in committee	26.9.2006
Date adopted	26.9.2006
Result of final vote	+: 18 -: 0 0: 0
Members present for the final vote	Reimer Böge, Herbert Bösch, Vito Bonsignore, Brigitte Douay, Salvador Garriga Polledo, Dariusz Maciej Grabowski, Ingeborg Gräßle, Nathalie Griesbeck, Catherine Guy-Quint, Jutta D. Haug, Anne E. Jensen, Janusz Lewandowski, Jan Mulder, Giovanni Pittella, Kyösti Virrankoski, Ralf Walter
Substitute(s) present for the final vote	Albert Jan Maat, Mairead McGuinness
Substitute(s) under Rule 178(2) present for the final vote	
Comments (available in one language only)	...

PROCEDURE

Title	Common rules in the field of civil aviation and establishing a European Aviation Safety Agency				
References	COM(2005)0579 – C6-0403/2006 – 2005/0228(COD)				
Date submitted to Parliament	15.11.2005				
Committee responsible Date announced in plenary	TRAN 13.12.2005				
Committee(s) asked for opinion(s) Date announced in plenary	LIBE 13.12.2005	ITRE 13.12.2005	ENVI 13.12.2005	BUDG 13.12.2005	
Not delivering opinion(s) Date of decision	LIBE 23.1.2006	ITRE 31.1.2006	ENVI 29.11.2005		
Rapporteur(s) Date appointed	Jörg Leichtfried 7.2.2006				
Previous rapporteur(s)					
Simplified procedure – date of decision					
Legal basis disputed Date of JURI opinion					
Financial endowment amended Date of BUDG opinion	BUDG 27.9.2006				
European Economic and Social Committee consulted – date of decision in plenary					
Committee of the Regions consulted – date of decision in plenary					
Discussed in committee	11.7.2006	9.10.2006	23.11.2006		
Date adopted	23.1.2007				
Result of final vote	+	37			
	-	3			
	0	2			
Members present for the final vote	Inés Ayala Sender, Philip Bradbourn, Paolo Costa, Michael Cramer, Christine De Veyrac, Arūnas Degutis, Petr Duchoň, Saïd El Khadraoui, Robert Evans, Emanuel Jardim Fernandes, Roland Gewalt, Luis de Grandes Pascual, Mathieu Grosch, Ewa Hedkvist Petersen, Stanisław Jałowiecki, Georg Jarzembowski, Dieter-Lebrecht Koch, Rodi Kratsa-Tsagaropoulou, Jörg Leichtfried, Bogusław Liberadzki, Eva Lichtenberger, Erik Meijer, Robert Navarro, Seán Ó Neachtain, Josu Ortuondo Larrea, Willi Piecyk, Reinhard Rack, Dirk Sterckx, Ulrich Stockmann, Silvia-Adriana Țicău, Georgios Toussas, Armando Veneto, Marta Vincenzi, Corien Wortmann-Kool				
Substitute(s) present for the final vote	Zsolt László Becsey, Jean Louis Cottigny, Den Dover, Anne E. Jensen, Vladimír Remek, Hannu Takkula, Dominique Vlasto,				
Substitute(s) under Rule 178(2) present for the final vote	Brian Simpson,				
Date tabled	31.1.2007				
Comments (available in one language only)	...				