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Aviation security with a special focus on security scanners

European Parliament resolution of 6 July 2011 on aviation security, with a special focus on security scanners (2010/2154(INI))

The European Parliament,

- having regard to the communication from the Commission to the European Parliament and the Council on the use of security scanners at EU airports (COM(2010)0311),
- having regard to its resolution of 23 October 2008 on the impact of aviation security measures and body scanners on human rights, privacy, personal dignity and data protection¹,
- having regard to Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security²,
- having regard to Commission Regulation (EC) No 272/2009 of 2 April 2009 supplementing the common basic standards on civil aviation security laid down in the Annex to Regulation (EC) No 300/2008³,
- having regard to Commission Regulation (EU) No 185/2010 of 4 March 2010 laying down measures for the implementation of the common basic standards on aviation security⁴,
- having regard to the fifth report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation of Regulation (EC) No 2320/2002 establishing common rules in the field of civil aviation security (COM(2010)0725),
- having regard to its position of 5 May 2010 on the proposal for a directive of the European Parliament and of the Council on aviation security charges⁵,
- having regard to Council Recommendation 1999/519/EC of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz)⁶,
- having regard to Directive 2004/40/EC of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding exposure of workers to the risks arising from physical agents (electromagnetic fields) (18th individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)⁷,
- having regard to Directive 2006/25/EC of the European Parliament and of the Council of 5

¹ OJ C 15 E, 21.1.2010, p. 71.

² OJ L 97, 9.4.2008, p. 72.

³ OJ L 91, 3.4.2009, p. 7.

⁴ OJ L 55, 5.3.2010, p. 1.

⁵ OJ C 81 E, 15.3.2011, p. 164.

⁶ OJ L 199, 30.7.1999, p. 59.

⁷ OJ L 184, 24.5.2004, p. 1.

April 2006 on the minimum health and safety requirements regarding exposure of workers to the risks arising from physical agents (artificial optical radiation) (19th individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)¹,

- having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data²,
- having regard to Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation³,
- having regard to the opinion of the European Economic and Social Committee's Section for Transport, Energy, Infrastructure and the Information Society on the communication from the Commission to the European Parliament and the Council on the use of security scanners at EU airports,
- having regard to Rule 48 of its Rules of Procedure,
- having regard to the report of the Committee on Transport and Tourism and the opinions of the Committee on the Environment, Public Health and Food Safety and the Committee on Civil Liberties, Justice and Home Affairs (A7-0216/2011),

Security scanners

- A. whereas security scanner is the generic term used for a technology that is capable of detecting metallic and non-metallic objects hidden in clothing; whereas detection performance lies in the scanner's ability to detect any prohibited object that the person screened may be carrying concealed in their clothing,
- B. whereas the EU's legal framework for aviation security provides for various screening methods and technologies that are considered capable of detecting prohibited items hidden in clothing, from which the Member States choose one or more; whereas security scanners do not currently figure on that list,
- C. whereas a number of Member States are currently using security scanners on a temporary basis - for a maximum of 30 months - at their airports, thereby exercising their right to conduct trials with new technologies (Chapter 12.8 of the annex to Commission Regulation (EU) No 185/2010),
- D. whereas Member States are entitled to apply more stringent measures than the common basic standards required by European legislation and may thus introduce security scanners on their territory; whereas, in this case, they must act on the basis of a risk assessment and in compliance with EU law; whereas these measures must be relevant, objective, non-discriminatory and proportional to the risk that is being addressed (Article 6 of Regulation (EC) No 300/2008),

¹ OJ L 114, 27.4.2006, p. 38.

² OJ L 281, 23.11.1995, p. 31.

³ OJ L 159, 29.6.1996, p. 1.

- E. whereas the introduction of security scanners by the Member States in either of the above two cases makes genuine one-stop security impossible; whereas if the present situation continues the operating conditions that apply to the Member States will not be uniform and will therefore not benefit passengers,
- F. whereas the discussion about security scanners should not be held separately from the general debate on an integrated overall security policy for Europe's airports,
- G. whereas health is an asset to be preserved and a right to be protected; whereas exposure to ionising radiation represents a risk that should be avoided; whereas, therefore, scanners using ionising radiation whose effects are cumulative and harmful to human health should not be permitted in the European Union,
- H. whereas both EU legislation and the laws of the Member States already lay down rules on protection against health hazards that may arise from the use of technologies emitting ionising radiation and on limits for exposure to such radiation; whereas, therefore, scanners using ionising radiation should be prohibited in the European Union,
- I. whereas the Commission consulted the European Data Protection Supervisor, the Article 29 Working Party and the European Fundamental Rights Agency, and their replies contain significant elements regarding the conditions under which the use of security scanners at airports could comply with the protection of fundamental rights,
- J. whereas concerns over health and the right to privacy, freedom of thought, conscience and religion, non-discrimination and data protection need to be addressed in terms of both the technology involved and its use before the introduction of security scanners can be considered,
- K. whereas security scanners, in addition to ensuring a greater level of security than current equipment, should help speed up checks on passengers and cut waiting times,

Financing aviation security

- L. whereas the Council has not yet stated its standpoint on Parliament's position on the directive on aviation security charges,

Security measures for cargo

- M. whereas the most recent terrorist plots uncovered by the intelligence services aimed to use cargo to carry out attacks,
- N. whereas not only passengers but also cargo and mail are and must be subject to the appropriate security measures,
- O. whereas cargo and mail loaded on to passenger planes present a target for terrorist attacks; whereas, given that the level of security for cargo and mail is much lower than for passengers, security measures must be tightened for mail and cargo which is loaded on to passenger planes,
- P. whereas security measures concern not only airports but the entire supply chain,
- Q. whereas postal operators play an important role in the field of aviation security in managing

mail and parcels, and whereas, pursuant to European legislation, they have invested significant sums of money and introduced new technologies to guarantee compliance with international and European security standards,

International relations

- R. whereas international coordination on aviation security measures is needed in order to guarantee a high level of protection, whilst avoiding a situation where passengers are subjected to successive checks, with the restrictions and additional costs these entail,

Training of security staff

- S. whereas initial and further training for security staff is crucial in order to guarantee a high level of aviation security, which must in turn be compatible with a way of treating passengers that preserves their dignity as individuals and protects their personal data,
- T. Whereas social, education and training standards for security staff should be integrated into the review of Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports¹,

General considerations

1. Takes the view that an integrated approach to aviation security is needed, with one-stop security so that passengers, luggage and cargo arriving at an EU airport from another EU airport do not need to be screened again;
2. Takes the view that some scanning methods that are effective and quick for passengers, given the time taken at checkpoints, constitute added value in the field of aviation security;
3. Calls on the Commission to research the use of other techniques for detecting explosives, including solid materials, in the field of aviation security;
4. Calls on the Commission and Member States to develop an integrated risk-analysis system for passengers who may with good reason be suspected of being a security threat and for checks on luggage and cargo, based on all available, reliable information, in particular that provided by the police, intelligence services, customs and transport undertakings; takes the view that the entire system should be informed by the search for effectiveness, and in full compliance with Article 21 of the EU Charter of Fundamental Rights on Non-discrimination and in line with EU legislation on data protection;
5. Calls on the Commission and Member States to ensure effective cooperation, security management and exchange of information among all the authorities and services involved, and between the authorities and security and air transport undertakings, at both European and national level;
6. Calls on the Commission to revise regularly the list of authorised screening methods and the conditions and minimum standards for their implementation, to take account of possible problems, practical experience and technological progress, in order to provide a high level of detection performance and protection of passengers' and workers' rights and interests, in

¹ OJ L 272, 25.10.1996, p. 36.

keeping with that progress;

7. Emphasises the importance of the fight against terrorism and organised crime, which constitute threats to the security of the European Union, as already identified in the Stockholm Programme, and to that end supports, in this context only, the use of security measures designed to prevent terrorist incidents that are prescribed by law, effective, necessary in a free and open democratic society, proportionate to the aim pursued and fully consistent with the EU Charter of Fundamental Rights and the European Convention on Human Rights (ECHR); recalls that the confidence of citizens in their institutions is essential and that a fair balance must therefore be struck between the need to ensure security and the safeguarding of fundamental rights and freedoms;
8. Stresses, in that connection, that any counterterrorism measure should be fully consistent with fundamental rights and the obligations of the European Union, which are necessary in a democratic society, and must be proportionate, strictly necessary, prescribed by law and thus restricted to their specified purpose;

Security scanners

9. Calls on the Commission to propose adding security scanners to the list of authorised screening methods, under the condition that it will be accompanied with appropriate rules and common minimum standards for their use, as set out in this resolution, only if the impact assessment that the European Parliament requested in 2008 has first been carried out which demonstrates that the devices do not constitute a risk to passenger health, personal data, the individual dignity and privacy of passengers and the effectiveness of these scanners;
10. Believes that the use of security scanners must be regulated by common EU rules, procedures and standards that not only lay down detection performance criteria, but also impose the necessary safeguards to protect the health and fundamental rights and interests of passengers, workers, crew members and security staff;
11. Believes that security scanners should serve to speed up the pace and tempo of checks at airports and reduce inconvenience to passengers, and thus calls on the Commission to take this aspect into account in its proposed legislation;
12. Proposes, more specifically, that the Commission, having established common rules on the use of security scanners, should revise these rules on a regular basis and when necessary, to adapt the provisions on the protection of health, privacy, personal data and fundamental rights to technological progress;

Necessity and proportionality

13. Believes that the escalating terrorist threat means that public authorities must take the protective and preventive measures demanded by democratic societies;
14. Considers that the detection performance of security scanners is higher than that offered by current metal detectors, particularly with regard to non-metallic objects and liquids, whilst full hand-search is more likely to cause more irritation, waste more time and face more opposition than a scanner;

15. Takes the view that the use of security scanners, provided that the appropriate safeguards are in place, is preferable to other less demanding methods which would not guarantee a similar degree of protection; recalls that, in the area of aviation security, the use of intelligence in a broad sense and well-educated airport security staff should remain our core priorities;
16. Takes the view that concerns and demands regarding privacy and health can be resolved with the technology and methods available; considers that the technology now being developed is promising and that the best available technology ought to be used;
17. Takes the view that the installation of security scanners, or the decision not to install them, falls within the responsibility and freedom of decision of the EU Member States; considers, however, that further harmonisation of the use of scanners is needed in order to create a coherent European aviation security area;
18. Takes the view that when Member States install security scanners, they must comply with the minimum standards and requirements set by the EU for all the Member States, without prejudice to the latter's right to apply more stringent measures;
19. Considers that Member States should supplement control points and security staff in order to ensure that passengers are not affected by the deployment of security scanners;
20. Takes the view that people undergoing checks should be given a choice as to whether use security scanners whereby if they refuse, they would be obliged to submit to alternative screening methods that guarantee the same level of effectiveness as security scanners and full respect for their rights and dignity; stresses that such a refusal should not give rise to any suspicion of the passenger;

Health

21. Points out that European and national legislation must be applied in accordance with the ALARA (As Low As Reasonably Achievable) principle in particular;
22. Calls on the Member States to deploy technology which is the least harmful to human health and which offers acceptable solutions to the public's privacy concerns;
23. Takes the view that exposure to doses of cumulative ionising radiation cannot be acceptable; believes, therefore, that any form of technology using ionising radiation should be explicitly excluded from use in security screening;
24. Calls on the Commission to examine the possibility, under the next research framework programme, of using technology that is completely harmless to all members of the public and which at the same time guarantees aviation security;
25. Calls on the Member States to periodically monitor the long-term effects of exposure to security scanners, taking new scientific developments into account, and to check that the equipment has been correctly installed and is properly used and operated;
26. Insists that proper account be taken of specific cases and that fair and personalised treatment be given to passengers who are vulnerable in terms of health and the ability to communicate, such as pregnant women, children, elderly people, people with disabilities,

and people with implanted medical devices (e.g. orthopaedic prostheses and pacemakers), as well as all persons having with them the medicines and/or medical devices they need to maintain their health (e.g. syringes, insulin);

Body images

27. Believes that only stick figures should be used and insists that no body images may be produced;
28. Stresses that data generated by the scanning process must not be used for purposes other than that of detecting prohibited objects, may be used only for the amount of time necessary for the screening process, must be destroyed immediately after each person has passed through the security control and may not be stored;

Prohibition of discrimination

29. Takes the view that the operating rules must ensure that a random process of selection is applied and passengers must not be selected to pass through a security scanner on the basis of discriminatory criteria;
30. Stresses that any form of profiling based on, for example, sex, race, colour, ethnicity, genetic features, language, religion or belief is unacceptable as part of the procedure concerning selection for or refusal of a security scan;

Data protection

31. Considers that all security scanners should make use of a stick figure to protect passengers' identities and to ensure that they cannot be identified through images of any part of their body;
32. Stresses that the technology used must not have the capacity to store or save data;
33. Recalls that the use of security scanners must comply with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
34. Emphasises that those Member States which decide to use security scanners should be able, in keeping with the principle of subsidiarity, to apply more rigid standards than those defined in the European legislation on the protection of citizens and their personal data;

Information for people scanned

35. Takes the view that people undergoing checks should receive comprehensive information in advance, particularly regarding the operation of the scanner concerned, the conditions in place to protect the right to dignity, privacy and data protection and the option of refusing to pass through the scanner;
36. Calls for Commission information campaigns on air passenger rights to include a section which also details passengers' rights regarding security screening and security scanners;

Treatment of people scanned

37. Calls on the Commission and Member States to ensure that security staff receive special training in the use of security scanners in such a way as to respect passengers' fundamental rights, personal dignity, data protection and health; in that connection, considers that a code of conduct could be a very useful tool for the security staff in charge of scanners;

Financing aviation security

38. Recalls its position of 5 May 2010 on aviation security charges;

39. Takes the view that security charges should be transparent, that they should be used only to cover security costs and that Member States which decide to apply more stringent measures should finance the ensuing additional costs;

40. Urges the Council to immediately adopt a position on aviation security charges at first reading, given that legislation on aviation security and legislation on aviation security charges are closely linked;

41. Recommends that every passenger's ticket should show the cost of security measures;

Ban on liquids, aerosols and gels (LAG)

42. Reiterates and upholds its standpoint that the ban on carrying liquids should come to an end in 2013, as laid down in EU law; therefore urges all parties concerned, the Commission, the Member States and the industry, to work closely together in order to ensure that the restrictions on the carriage of liquids on board aircraft are removed, for the benefit of passengers;

43. Invites Member States and airports to take all necessary action to ensure that adequate technology is available in good time so that the scheduled end of the ban on carrying liquids does not have the effect of undermining security;

44. Takes the view, in this context, that all those involved should take the necessary action to make the transition from a ban on carrying liquids, aerosols and gels to checks on those items as satisfactory and uniform as possible, guaranteeing passengers' rights at all times;

Security measures for cargo

45. Takes the view that, on the basis of a risk analysis, checks on cargo and mail should be proportional to the threats posed by their transport and that adequate security should be guaranteed, particularly where cargo and mail are carried in passenger planes;

46. Recalls that 100% scanning of cargo is not practicable; asks the Member States to continue their efforts to implement Regulation (EC) No 300/2008, and the corresponding Commission Regulation (EU) No 185/2010, in order to enhance security throughout the entire supply chain;

47. Takes the view that the level of security for cargo still varies from one Member State to another and that, with a view to achieving one-stop security, the Member States should ensure that the existing measures relating to European cargo and mail are correctly applied and that regulated agents approved by another Member State are recognised;

48. Believes that the Member States' security measures for air cargo and mail and the

Commission's inspection of these measures have been stepped up, and therefore considers it absolutely essential to draw up a technical report with a view to identifying the weaknesses of the current cargo system and possible ways of remedying them;

49. Calls on the Commission and Member States to strengthen screening and inspections concerning air cargo, including those relating to the validation of regulated agents for known consignors; stresses the need, to this end, to have more inspectors available at national level;
50. Stresses the potential of customs information for calculating the risk associated with specific consignments, and asks the Commission to continue its work on the possible use of customs-related electronic systems for aviation security purposes; in particular by making use of the EU's Import Control System to improve cooperation between customs authorities;
51. Asks the Commission to take all the necessary steps to ensure the safe transport of cargo originating in third countries, starting at the airport of origin, and to lay down criteria for determining high-risk cargo, identifying the responsibility of each of the various agents;
52. Asks the Commission to ensure that the security programme takes account of the specific characteristics of all the players affected and reconciles security measures relating to the exchange of mail and cargo with the need to ensure a dynamic economy that continues to encourage trade, service quality and the development of e-commerce;
53. Calls on the Commission to propose a harmonised system for the initial and further training of security staff in relation to cargo, in order to remain abreast of the latest technical developments in the field of security;

International relations

54. Calls on the Commission and Member States to work with the International Civil Aviation Organisation (ICAO) and third countries on risk assessment and intelligence systems in the field of aviation security;
55. Calls on the Commission and Member States to promote global regulatory standards within the framework of the ICAO in order to support the efforts made by third countries to implement those standards, move towards the mutual recognition of security measures and pursue the objective of effective one-stop security;

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56. Believes that the comitology procedure is inappropriate in the aviation security sector, at least for measures having an impact on citizens' rights, and calls for Parliament to be fully involved through codecision;
57. Expects the Commission to submit a legislative proposal in the course of the current parliamentary term on adapting Regulation (EC) No 300/2008, taking account of the Commission's own statement of 16 December 2010 in the context of the adoption of the regulation of the European Parliament and of the Council laying down the rules and general

principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers;

58. Instructs its President to forward this resolution to the Council and the Commission.