



ASSEMBLY — 40TH SESSION

EXECUTIVE COMMITTEE

Agenda Item 12: Aviation Security – Policy

EUROPEAN UNION AVIATION SECURITY OVERSIGHT

(Presented by Finland on behalf of the European Union and its Member States¹)

EXECUTIVE SUMMARY

The purpose of this Information Paper is to describe how the European Union (EU) aviation security oversight regime serves the objectives of the Global Aviation Security Plan (GASeP). It outlines how EU aviation security legislation, via Regulation (EC) No 300/2008 on common rules in the field of civil aviation security, and its implementing legislation, requires EU Member States to regularly monitor all airports, operators and other entities applying aviation security standards. As part of an overall architecture of quality control, it presents the role of the European Commission in monitoring the effective implementation by the Member States of the legal requirements, and details the monitoring compliance activities in place. It notes that the regularity and variety of methods to monitor compliance with EU common basic standards of aviation security, combined with enforcement authority, ensures the effective, prompt, and sustainable implementation of security measures, thereby serving the objectives of GASeP.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective <i>Security and Facilitation</i> .
<i>Financial implications:</i>	None
<i>References:</i>	Global Aviation Security Plan (GASeP) A40-WP/25 <i>Implementation of the Global Aviation Security Plan (GASeP)</i>

¹ Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and United Kingdom.

1. INTRODUCTION

1.1 The Global Aviation Security Plan (GASeP) identifies five key priorities, including improved oversight and quality assurance and increased cooperation and support. The GASeP notes that effective quality control and oversight processes globally, nationally, and locally are critical in delivering sustained effective aviation security. Equally, it notes that increased collaboration between and within States will enable the key security objectives to be achieved more quickly and efficiently.

1.2 Regulation (EC) No 300/2008 on common rules in the field of civil aviation security² and its implementing legislation³ requires Member States to regularly monitor all airports, operators and other entities applying aviation security standards and to ensure the swift detection and correction of failures. The legislation designates the European Commission with the role of monitoring the effective implementation by the EU Member States of these legal requirements.

1.3 The architecture of EU aviation security legislation establishes three levels of quality control:

- internal quality control to be implemented by airports, air carriers and entities with security responsibilities;
- national quality control to be implemented by the Member States; and
- European Commission oversight regime.

2. MONITORING ACTIVITIES

2.1 The European Commission's oversight system covers the activities of the EU Member States in setting up, maintaining and applying an effective national civil aviation security programme and an effective national civil aviation quality control programme.

2.2 To this end, and in accordance with GASeP task actions 4.D and 4.E, the European Commission has put in place the following compliance monitoring activities:

- **Inspections of the appointed appropriate authority of every EU Member State.** The aim of these inspections is to verify that the national quality control programme allows for swift detection and swift rectification of potential deficiencies. The European Commission inspection methodology requires a representative sample of verifications that quality control

²-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 security and repealing Regulation (EC) No 2320/2002, OJ L097, 9.4.2008

³-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 300/2008 of the European Parliament and of the Council

- Commission Regulation (EU) No 1254/2009 of 18 December 2009 setting criteria to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures (small airports)
- Commission Regulation (EU) No 18/2010 of 8 January 2010 amending Regulation (EC) No 300/2008 of the European Parliament and of the Council as far as specifications for national quality control programmes in the field of civil aviation security are concerned
- Commission Regulation (EU) No 72/2010 of 26 January 2010 laying down procedures for conducting Commission inspections in the field of aviation security
- Commission Implementing Regulation (EU) 2015/1998 of 5 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security
- Commission Implementing Decision C(2015) 8005 of 16 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security containing information, as referred to in point (a) of Article 18 of Regulation (EC) No 300/2008

measures such as the necessary enforcement powers, the regular monitoring of airports, operators and other entities applying aviation security standards and the availability of a sufficient number of national auditors are effectively implemented in practice.

- **Inspections of a number of airports, operators and other entities in every EU Member State.** The aim of these inspections is to verify if the national civil aviation security programme is effectively implemented. The inspections are unannounced and focus on the real implementation of security measures on the ground. The European Commission inspection methodology requires a representative sample of verifications that the security measures and procedures are being carried out effectively and to the required standard. The methodology includes covert and overt testing.
- **Analysis and assessment of annual reports submitted by the EU Member States.** The EU Member States are legally required to submit an annual report to the European Commission on the quality control measures taken to fulfil their obligations and on the aviation security situation at the airports located in their territory. The content of the reports shall be in accordance with specific requirements using templates provided by the European Commission. The aim of these assessments is to determine if all the required quality control measures are being fully implemented on a continual basis. In addition, they allow the European Commission to monitor the rectification process following Commission inspections. Assessment results are taken into account in the planning of European Commission inspections in a given EU Member State.

2.3 The combined monitoring activities described in paragraph 2.2 above enable the European Commission to obtain a comprehensive overview of the adequacy and effectiveness of national monitoring activities and thereby determine compliance by EU Member States with EU legislation. In addition, these activities provide feedback to policy development as well as on the adequacy, clarity and enforceability of aviation security legislation.

2.4 EU Member States receive a detailed classified presentation on the quantitative and qualitative assessment of the inspection results once a year.

3. COMPLIANCE LEVELS

3.1 To provide the European Commission with the assurance of suitable compliance levels, a multi-annual monitoring approach is used. This is underpinned by criteria establishing the scope and frequency of inspections.

3.2 At a minimum, evidence is requested in a cycle of two years from every Member State on the application of Regulation (EC) No 300/2008 and its implementing legislation. This is accomplished either by means of an inspection of its appropriate authority or an inspection of at least one of its airports. The criteria establishing the frequency of airport inspections takes into consideration, among other factors, the type and volume of operations (passengers, cargo, supplies, maintenance, etc.) and seasonal traffic.

3.3 The scope and frequency of European Commission inspections are also adapted to the results of previous inspections, assessments of national annual reports, security incidents (acts of unlawful interference), threat levels and other factors and assessments which could affect the frequency of monitoring.

3.4 In addition, the inspection programme is supported by a peer review system where qualified national auditors made available by EU Member States participate in Commission inspections. The national auditors have successfully completed relevant training to perform these activities. This system

promotes across EU Member States the harmonisation of compliance monitoring methodologies, classification of compliance, interpretation of the security requirements, as well as the sharing of best practices.

3.5 The European Commission also organises regular inspection working group meetings, as well as meetings with all national auditors to discuss new developments (e.g. policy, technology, test protocols, inspection results, recurrent deficiencies, and interpretation of legislation). These meetings, in addition to the peer review system as described in 3.4 above, are carried out in line with GASeP task actions 5.A.

4. FOLLOW UP/RECTIFICATION MEASURES

4.1 In case of uncertainty over the effective implementation of rectification measures, a follow-up inspection is carried out. Follow-up inspections are also carried out on a random basis in order to ensure that every EU Member State can reasonably expect to be subject to such a follow-up inspection over time.

4.2 Whenever a European Commission inspection identifies non-compliance, the adequacy of all rectification measures and deadlines described in the EU Member State corrective action plan is carefully assessed.

4.3 As EU regulations are binding legislative acts, directly applicable and prevail over national law, the European Commission can launch an infringement procedure consisting of several steps in cases of sustained non-rectification of deficiencies or undue delays in the implementation of remedial actions. As a last resort, the European Commission may decide to refer the matter to the Court of Justice of the European Union.

4.4 In addition, a Member States' appropriate authority is promptly informed if an inspection at an airport on its territory discloses a serious deficiency which is deemed to have a significant impact on the overall level of aviation security in the European Union. This information is also promptly communicated to the appropriate authorities of all other EU Member States and which are then required to take action regarding flights from that airport.

5. CONCLUSION

5.1 Having established three levels of quality control, referred above in point 1.3, deploying regularly a variety of methods to monitor compliance with the EU common basic standards of aviation security, the European Commission ensures the effective implementation of security measures at EU Member States airports, and by operators and other entities applying aviation security standards.

5.2 The frequency and intensity by which security measures in EU Member States are monitored ensures sustainability of aviation security and serves the objectives of GASeP.

5.3 Furthermore, the fact that EU Member States apply common aviation security rules, monitored by the European Commission, allows for one stop security for passengers, their cabin baggage, hold baggage, aircraft as well as for cargo. The existence of such a large one stop security network further contributes to the sustainability of aviation security measures and to raising the bar of aviation security globally, in line with the objectives of GASeP.