

Establishing security cooperation among Arab Civil Aviation
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AVIATION SECURITY IN EUROPEAN UNION

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Introduction

I am happy and honoured that you have given me an opportunity both to present the European Union's policy on aviation security and to find out how you approach co-operation in your region. We both face the task of ensuring high levels of security in our regions, while at the same time supporting global initiatives to protect civil aviation against the ever-present threat of terrorism. There is much that we can learn from each other.

Today, I would like to describe European policy on civil aviation security. First its internal side, that is the standards set by the European Union, their implementation over the last few years and the revision of our legislation that is now taking place. And, second, the regional dimension and action at the global level, including co-operation with like-minded countries.

Beginning of Community security policy

To begin at the beginning, 11th. September 2001. The devastating attacks on the World Trade Centre lead an immediate decision by the Union to set its own binding rules on aviation security. Before this, aviation security in Europe was the responsibility of national

governments and of the European Civil Aviation Conference, which drafted and adopted recommendations to national governments. These had a wide influence but ultimately each member of the conference was left to decide the standards that it applied. Perhaps this was understandable as the level of threat often depended on the nationality of an airline and the origin and destination of a flight. No strong need was felt for strict, harmonised, binding rules and so the European Union did not act on aviation security.

The tragic events of 11th. September changed all that. It was clear that the situation had altered radically. Everyone was exposed to the threat of a plane being hijacked and used as a weapon; and everyone was endangered by weak links in the chain. Security standards could no longer be left to the discretion of local or even national authorities. Not only did they need to be raised and harmonised, they had also to be fully and correctly implemented at every airport in the European Union. This could only be achieved through European legislation that was mandatory and enforceable; Within days of the attacks on New York, the transport ministers of the Union met and requested the Commission (the executive organisation for which I work) to propose legislation that would establish harmonised standards for aviation security throughout the Union.

The Commission then had to come up with a proposal rapidly. It took the pragmatic decision to make use of ECAC's valuable work and to base the legislative proposal on its guidelines– the well-known Document 30. It then drafted a regulation incorporating the main elements of ECAC's guidelines and tabled it exactly one month after the attacks on the World Trade Center. This proposal was adopted the following year as Regulation 2320/2002.

Content of Regulation 2320

But, you may ask, what exactly is a regulation adopted by the European Union as a whole? It is a law that lays down obligations that must be respected throughout the European Union and that applies directly, without passing through national legislation. So Regulation 2320/2002 on civil aviation security sets common standards that must be implemented by all twenty-five Member States at all airports located on their territory, the only exemption being those where commercial operations are infrequent or traffic is limited to small aircraft. The regulation guarantees a high and uniform level of security throughout the Union, though it does not prevent Member States from setting more stringent rules, if they wish.

Clearly, then, the European Union has progressed beyond recommendations, guidelines and best practices to binding legislation that must be respected throughout its territory. If a Member State fails to respect the regulation, and the Commission does not succeed in persuading it to do so, it can bring the state before the European Court of Justice, though so far we have not needed to do so, I am pleased to say.

So much for the institutional side. What is the content of this regulation. What rules does it set and what obligations does it lay on Member States and the aviation sector?

First, it establishes certain general requirements. For example, Member States must adopt national programmes for aviation security designed to implement the standards set by the regulation and, in the framework of these national programmes, airports and air carriers must develop security programmes of their own. In this way, it ensures the coherence of action at the different levels.

Second, it lays down common standards to be followed in twelve fields. Among these are control of access to airports, checking and protection of aircraft, screening of passengers and cabin baggage, screening and reconciliation of hold baggage, controls on cargo, courier and express parcels, and training of staff.

The common standards follow ECAC's guidelines quite closely, but sometimes these guidelines are not specific enough, so the regulation provides for more detailed implementing measures to complement the standards. These implementing measures are adopted by a simpler procedure that takes months not years, so we can adapt rapidly and flexibly to new situations.

Finally, the regulation puts a strong emphasis on quality control and compliance with European standards. It requires each Member State to draw up and implement a national quality control programmes and it makes an important innovation. And it mandates the Commission to inspect the national quality control systems. This extra layer, this control of the controllers is something unique to the Union and not found in any other regional arrangement.

Implementation of Regulation 2320?

Once the Regulation was adopted, the Commission had to make sure that it was implemented fully and correctly. It was faced with two concrete tasks, both set by the regulation itself: to adopt detailed implementing measures to complement the common standards and to carry out inspections in the Member States. These required rather different approaches.

When proposing implementing measures, we have worked on proposals with the Member States in a special committee on aviation

security on which they are all represented. It is no exaggeration to say that we have gone through the texts word-by-word with the national representatives, so as to learn from their experiences and take account of the different ways they do things. We have also consulted stakeholders, in particular the association representing European airlines and airports, on each proposal.

And this approach has been successful: so far all the implementing measures have been adapted without dissent. As a result, we can hope for the full support of those responsible for applying the European rules on the ground and a strong commitment to making them work in practice.

To date, the Commission has adopted, with the consent of the national governments, implementing regulations on national quality control programmes, on procedures for Commission inspections, on prohibited articles, critical parts of airports and the screening of airport staff, on x-ray machines, on the searching of passengers and of vehicles and on the evaluation of new technologies. Regulations on technical standards for technical equipment are now being prepared.

Conducting inspections in the Member States is quite different task, requiring rigour and strictness. Regulation 2320 mandates the Commission to conduct inspections in the Member States to check compliance with the common standards. This, I must emphasise, is not just a paper exercise. Our inspectors not only scrutinise national programmes, but also go out and inspect European airports to make sure that the common standards are really followed in the field.

Since operations began in the spring of 2004, the Commission has performed over sixty inspections – both of national programmes and

of a representative sample of airports. Our inspections of airports are rather different from the audits carried out by ECAC and ICAO, in that they are not publicised in advance and that the results are given, on a confidential basis, to all Member States. This helps to make the Commission's system highly effective – indeed the European Union must be the most intensely audited region of the world.

Speaking in general terms, I would say that the Commission has found a sufficiently high level of compliance to be satisfied with the general quality of aviation security in the Union, whilst coming across some deficiencies and variations in performance between airports and carriers. For example, some national authorities Member states do not carry out sufficiently rigorous or frequent checks themselves or have enough inspectors fully to do the job, airports and air carriers should improve their internal quality control, screening of staff needs to be reinforced and standards for security equipment harmonised, which now being done. To be fair, the deficiencies found during inspections at airports are usually swiftly rectified.

This system of inspections has given the Commission great opportunities to learn from the real-world. This has helped us rapidly to develop rules, close loopholes and rectify misinterpretations.

New regulation: learning from experience

The lessons learnt from experience were of great value, when we came to write a proposal for a new regulation to replace Regulation 2320/2002, a proposal that the Commission tabled last September. What we learnt above all from implementing the regulation for three years was that some parts were too prescriptive and specific. Having so much detail in the regulation prevented us from rapidly changing the rules to reflect changes in technology or in operations, or indeed

to respond to new threats. This is because a change to even one article had to be adopted by both the European Parliament and the Council, of ministers from Member States, a process that often takes two years.

So the fundamental change that the Commission proposes is this: the new regulation would lay down what has to be done in general terms, but would leave detailed requirements to implementing measures adopted under the simpler procedure that takes a few months. This would give much more flexibility, so that the Union could respond rapidly to new developments.

That is the essential change that we envisage. It is not the Commission's aim greatly to change the substance and our proposal for a new regulation would not do so. Nevertheless, we have taken the opportunity to propose some changes where experience has shown that the rules need to be harmonised and strengthened.

One change proposed is to strengthen the articles on cargo, which are somewhat weak compared to those concerning passengers and baggage, as in most systems of aviation security. For example the rules on recognising regulated agents would be harmonised and transfer cargo may be made subject to security controls – to be defined by an implementing measure.

Another change proposed is to widen to scope of the regulation to cover in-flight security. After all, the attacks of 11th. September took place in the air not on the ground. A new general article would allow the adoption of in-flight measures, covering for example covering the protection of the cockpit, the deployment of “sky marshals” and the treatment of disruptive passengers. These measures, I would like to

make clear, would apply only to Community carriers. This aspect is now being considered by the Member States.

A third change involves the possibility of exempting from re-screening passengers and baggage coming from third countries and transferring at airports in the European Union. The proposed new regulation makes it clear that Member States may choose, if they wish, to exempt transferring passengers and baggage from re-screening if already screened to equivalent standards in a third country. The regulation also states that this recognition of the equivalence of standards would be achieved through agreements between the European Community and the third country in question. This would be a step towards one-stop-security – with the countries that apply equivalent security standards.

When will the new regulation come into force? A prudent official should never try to forecast how long the Parliament and the Council will take to adopt a proposal, but I will risk a guess and say that they will probably do so in the course of next year. In the meantime the Commission and the Member States are working on the revision of the implementing measures, so that the whole package can come into force at the same time.

International dimension

So far I have talked about the internal side of the Union's policy on aviation security, but its international dimension is also vital.

Let me begin close to home with developments in the European region. When the European Union adopted Regulation 2320/2002, it had fifteen Member states. When the Commission proposed a new regulation last September, it had twenty-five. When the new

regulation comes into force, it will have twenty-seven. All new Member States are obliged to apply European rules on aviation security by the day they join, but in reality do so earlier when preparing for membership. Enlargement of the Union means that our strict, harmonised rules will apply over an ever wider area.

And this process will extend beyond the borders of the Union. A few years ago, the idea was launched of a European Common Aviation Area to include the neighbours of the Union. This would consist of a process, with several steps, under which the neighbouring states would progressively align their aviation legislation on that of the Union and, in parallel, be granted free access to its market. An agreement on this was reached recently with the Balkan countries, which over time can be extended to other states. This will greatly strengthen aviation security in the wider Europe.

Now for co-operation outside our region, a vital dimension of policy as high standards are needed globally – if there is a weak point, everyone is vulnerable. At the same time, we want high standards set at international level and fully respected throughout the world, but without over-complicating the operations of a global industry on which we all depend. The European Union supports the revision of Annex 17 to the Chicago Convention and ICAO's efforts to ensure that international rules are respected. It wishes to see more rapid and effective decision-making at international level, and perhaps we could work together in ICAO to advance this as we have similar views on the necessity of good aviation security.

And outside ICAO, we want to build direct links with like-minded countries and regions that share our general aims and approach. With them we can discuss international developments, share

information, exchange best practices and, when needs be, resolve disagreements at an early stage. The Union has instituted regular meetings with some of our major partners in air transport and in trade. And we would be very happy to share our experiences with ACAC, if it moves towards harmonised standards, and to co-operate on particular initiatives, like improving the training of security staff.

It is up to those who attach high priority to aviation security, like the European Union and the Arab states and their regional organisations, to take the lead and show the way in order to extend high standards throughout the world, both by working through ICAO and building cooperation between states and regions. Here it is evident that we share the same interests and should advance them together.