



Brussels, 23.7.2015
COM(2015) 360 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**2014 ANNUAL REPORT ON THE IMPLEMENTATION OF REGULATION (EC) N°
300/2008 ON COMMON RULES IN THE FIELD OF CIVIL AVIATION SECURITY**

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2014 ANNUAL REPORT ON THE IMPLEMENTATION OF REGULATION (EC) N° 300/2008 ON COMMON RULES IN THE FIELD OF CIVIL AVIATION SECURITY

This report covers the period 1 January – 31 December 2014

INTRODUCTION

The year 2014 was marked by the entry into force of the first phase of technology-based controls of liquids, gels and aerosols (LAGs) carried by passengers in their cabin baggage as well as the end of the transitional phase for the implementation of the EU inbound cargo and mail requirements. Both issues were much debated prior to their entry into force and subject to an intense preparatory phase, which allowed for a smooth and timely implementation.

In continuation of the consolidation process initiated in 2013, the Commission adopted in June 2014 a further legislative package aiming at clarifying, harmonising and simplifying the existing aviation security measures. Member States and stakeholders welcomed the changes which improve legal clarity, so as to avoid diverging interpretations of the legislation and further ensure the best implementation of the common basic standards on aviation security. The package also included an alignment of the customs' authorised economic operator programme and the aviation security regime for regulated agents and known consignors. This alignment allows for mutual recognition of certain activities carried out by the respective authorities, facilitating the concerned industry and government authorities, while at the same time maintaining current security levels.

Following the outcome of the EU risk assessment focusing on passenger related risks, intense work to further increase the explosive detection capability was carried out throughout the year 2014. The work resulted in legislation defining the use of explosive trace detection (ETD) equipment for the screening of passengers, baggage and cargo. The use of ETD in the passenger and cabin baggage screening processes will become mandatory as of September 2015. In parallel, two further rounds of air cargo risk assessments were carried out.

On the international scene, the Commission participated effectively in all relevant International Civil Aviation Organization (ICAO) events and fora where it continued to play an important role in the coordination of the EU's position and strategy as regards aviation security policy internationally. The Commission fully engaged with key third country partners and regional organisations, and during 2014 organised and participated in several bilateral and multi-lateral meetings. A particular emphasis was put on awareness raising activities in the African region in order to facilitate the smooth implementation of the inbound cargo and mail requirements.

Monitoring the implementation of aviation security measures by Member States and relevant operators through EU inspections is another area in which close cooperation between Member States and the Commission took place throughout the year. Compliance levels remained stable and did not require any suspension of the EU's One Stop Security System in 2014.

PART ONE

THE INSPECTIONS

1. GENERAL

The Commission is required, under the terms of Regulation (EC) No 300/2008, to conduct inspections of Member States' aviation security administrations (the 'appropriate authorities') and of EU airports. Switzerland is also covered by the Union programme, while Norway and Iceland are inspected against parallel provisions by the EFTA Surveillance Authority (ESA). To carry out its inspection work, the Commission has a team of nine full time aviation security inspectors. This inspection work is supported by a pool of some 100 national auditors nominated by Member States, Iceland, Norway and Switzerland who qualify for participation in Commission inspections through a training provided by the Commission. A chart summarising all Commission and ESA compliance monitoring activities to date is attached in Annex 1.

2. INSPECTIONS OF NATIONAL APPROPRIATE AUTHORITIES

The Commission completed the third cycle of inspections of appropriate authorities in 2014 and started with the fourth cycle. This report covers results from all inspections carried out during the course of 2014 under both cycles. In total, nine appropriate authority inspections were carried out during 2014. For most Member States, these inspections showed significant improvements from previous inspections.

The deficiencies most commonly found in 2014 were similar to those identified throughout the third cycle and mainly related to minor discrepancies in the full alignment of the National Aviation Security Programmes and limitations in the implementation of the National Quality Control Programmes. As regards the latter, some Member States did not sufficiently monitor known suppliers of airport and in-flight supplies mainly due to a lack of resources resulting from the pressure on public budgets and the high number of entities concerned. The regular and adequate monitoring of foreign air carriers also required improvement in several Member States inspected. Finally, a limited number of Member States did not ensure that the minimum frequency for inspecting security measures at airports is fully respected.

On the positive side, for most Member States inspected in 2014 the rectification process when deficiencies were identified was adequate and enforcement measures were available to all Member States.

3. INITIAL INSPECTIONS AT AIRPORTS

Twenty-five initial inspections of airports were conducted during 2014, a similar number to those carried out in 2013. All chapters were covered (although not during each inspection). The overall percentage of core measures found to be in compliance in 2014 was 81%; roughly the same as in previous years.

Most of the deficiencies found still stem, like in the past, from human factor issues. These mainly occur in the areas of screening and aircraft security as well as in the implementation of certain cargo security requirements. These human factor issues should be addressed through increased training and supervision.

On the other hand, 2014 saw improvements in the compliance with requirements relating to security controls for airport and in-flight supplies when compared to the previous years. This improvement

can be explained by increased awareness following information campaigns by the Commission as well as the revision of the concerned legislation which improved clarity and consistency of the measures.

4. FOLLOW-UP INSPECTIONS

In accordance with Article 13 of Commission Regulation (EU) No 72/2010¹, the Commission routinely carries out a limited number of follow-up inspections. A further visit will be scheduled where several serious deficiencies have been identified during the initial inspection, but also on a random basis to verify the accuracy of national compliance monitoring activities and reporting. Four such activities were carried out during 2014 and confirmed the adequate rectification of most identified deficiencies. However, two follow-up inspections still required close monitoring of the rectification process for a limited number of shortcomings that persisted and therefore confirm the importance of such follow-up activities.

5. ASSESSMENTS

In the course of the year, an assessment of one US airport was conducted in the framework of the Working Arrangement with the Transportation Security Administration of the USA established under the EU-US Air Transport Agreement².

In addition, the reports of the assessments carried out on Guernsey, Jersey and on the Isle of Man were examined by the Regulatory Committee for aviation security, which resulted in the inclusion of the airports located in those territories in the EU's One Stop Security system³.

6. OPEN FILES, ARTICLE 15 CASES AND LEGAL PROCEEDINGS

Inspection files remain open until the Commission is satisfied that appropriate rectification action has been implemented. Thirty-five files (twenty-six airport and nine appropriate authorities) were closed during 2014. This means that for every new inspection carried out during the year an existing inspection file was closed and therefore no backlog was created in 2014. In all, inspection files related to nine appropriate authorities and sixteen airports remained open at the end of the year.

If identified deficiencies in the implementation of security measures at an airport are considered to be so serious as to have a significant impact on the overall level of civil aviation security in the Union, the Commission will activate Article 15 of Commission Regulation (EU) No 72/2010. This means that all other appropriate authorities are alerted to the situation and compensatory measures would have to be considered in respect of flights from the airport in question. No Article 15 case had to be initiated in 2014.

Regardless of whether or not Article 15 is applied, another possible measure, particularly in cases of prolonged non-rectification or reoccurrence of deficiencies, is for the Commission to open infringement proceedings. In 2014, one infringement proceeding was initiated following the inspection of a national administration. In the view of the Commission, the concerned Member State failed to ensure regular compliance monitoring in respect of certain security measures at a number of airports in its territory. This case was still pending at the beginning of 2015.

¹ Commission Regulation (EU) No 72/2010 of 26 January 2010 laying down procedures for conducting Commission inspections in the field of civil aviation security, OJ L23 of 27.1.2010, p.1

² OJ L134 of 25.5.2007, p.4

³ Commission Implementing Regulation (EU) No 687/2014 of 20 June 2014 amending Regulation (EU) No 185/2010 as regards clarification, harmonisation and simplification of aviation security measures, equivalence of security standards and cargo and mail security measures

Furthermore, one infringement procedure initiated in 2013 for lack of national monitoring activities in respect of air carriers operating in the Member State concerned could be closed in the course of 2014 following verifications that the Member State has significantly increased its number of inspections.

7. MEMBER STATES' OWN EVALUATIONS

Point 18.1 of Annex II to Regulation (EC) No 300/2008, as amended by Commission Regulation (EU) No 18/2010⁴, obliges Member States to submit an annual report to the Commission by the end of March each year, covering the results of their national compliance monitoring activities for the period January to December of the preceding year. The Member States' contributions for the reporting period January to December 2013 were submitted on time and all followed the Commission template. The main issues identified during the analysis of these reports were similar to previous years and related to the fact that some Member States seemed to have difficulties to inspect all security measures, to carry out covert testing in all required areas and to ensure adequate follow-up activities. The Commission therefore continued to put particular emphasis on these issues during its inspections of appropriate authorities.

PART TWO

THE LEGISLATION AND SUPPLEMENTARY TOOLS

1. LEGISLATION

Civil aviation remains to be targeted by terrorist groups and to counter this threat requires ensuring the implementation of appropriate, risk based protection measures. The Commission and Member States are therefore constantly adjusting the mitigation measures in order to achieve the highest level of security while minimising adverse effects on operations. New aviation security implementing legislation adopted in the year 2014 will further refine the legal framework under Regulation (EC) No 300/2008 and its implementing rules.

One of the main changes adopted in 2014 concerns the use of dedicated means for detecting explosives hidden on passengers⁵. This will be achieved through a mandated requirement to use ETD equipment in the screening process at EU airports in order to improve the explosive detection capability. Alternatively, airports may deploy security scanners or explosive detection dogs to achieve the same objective. The deadline for the mandatory use of ETD in the screening process for passengers has been set for 1 September 2015. These changes also clarified the use of ETD for different applications like the screening of passengers, baggage and cargo in order to ensure its effectiveness.

In June 2014, the Commission also adopted new implementing rules that further clarify, harmonise and simplify certain aviation security measures and rules⁶. Experience on the implementation of EU rules on aviation security showed the need to provide better legal clarity to standardise the

⁴ Commission Implementing Regulation (EU) No 18/2010 of 8 January 2010, amending Regulation (EC) 300/2008, OJ L7 of 12.1.2010, p.3

⁵ Commission Implementing Regulation (EU) No 278/2014 amending Regulation EU No 185/2010 as regards clarification, harmonisation and simplification of the use of explosive trace detection, OJ L82 of 30.3.2014

⁶ Commission Implementing Regulation (EU) No 687 of 20 June 2014 amending Regulation (EU) No 185/2010 as regards clarification, harmonisation and simplification of aviation security measures, equivalence of security standards and cargo and mail security measures.

interpretation of the legislation and further ensure effective implementation of the common basic standards. The changes mainly concerned measures relating to aircraft security, cargo, mail, in-flight and airport supplies and security equipment. At the same time, the Commission included the airports of Guernsey, the Isle of Man and Jersey into the EU One Stop Security regime as it was verified that they apply equivalent security standards to the EU common basic standards. Another important element of this amendment was the alignment of the requirements for approved regulated agents/known consignors and the customs' authorised economic operators. This alignment will allow for mutual recognition to facilitate the concerned industry and government authorities.

A list of all adopted legislation is provided in Annex 2. These acts were finalised during five regular meetings of the Regulatory Committee for Civil Aviation Security, five meetings of the Stakeholders' Advisory Group on Aviation Security and a number of focussed working group sessions, in which both Member States and industry were involved. The changes related to air cargo carried into the EU were also based on two further rounds of air cargo risk assessments.

2. UNION DATABASE ON SUPPLY CHAIN SECURITY (UDSCS)

The database of regulated agents and known consignors⁷ has been the only legal primary tool to be used by regulated agents for consultation when accepting consignments from another regulated agent or from a known consignor since 1 June 2010. Since 1 February 2012, it has additionally been extended to include the list of air carriers authorised to carry cargo and mail into the EU from third country airports (ACC3). In 2013, this database was legally extended to also contain the list of EU aviation security validators approved by the Member States. It was also renamed "Union database on supply chain security"⁸ to better reflect the extended scope of its use. At the end of 2014, the database contained approximately 14,000 records of regulated agents, known consignors, independent validators and ACC3 entities. Its target availability rate of 99.5% was continuously met in 2014 as well.

3. EU AIRPORT INSPECTIONS – HANDBOOKS

Regulation (EC) No 300/2008 and Commission Regulation (EU) No 72/2010 require that inspections by the Commission services of civil aviation security requirements be objective and use a standard methodology.

To contribute to this aim, the Commission has drawn up and maintains two comprehensive handbooks with detailed prompts and guidance for EU inspectors in the field. One handbook covers inspections in the field of air cargo security while the other one deals with airport inspections. In November 2014, both handbooks were revised to take account of the latest changes introduced to the implementing rules and to add additional prompts and guidance for inspectors. In order to assist Member States in the implementation of the common basic standards, these handbooks are also made available to national auditors.

⁷ The Commission set up this database, the use of which is mandatory for actors in the supply chain through Regulation (EU) No 185/2010 and Decision C(2010) 774.

⁸ Commission Regulation (EU) No 1116/2013 of 6 November 2013, amending Regulation (EU) No 185/2010, OJ L 299 of 9.11.2013, p.1

PART THREE

TRIALS, STUDIES AND NEW INITIATIVES

1. TRIALS

A 'trial' in the sense of the EU aviation security legislation is conducted when a Member State agrees with the Commission that it will use a particular means or method not recognised under the terms of the legislation to replace one of the recognised security controls, for a limited period of time on condition that such trial does not impact negatively on the overall levels of security. The term does not, in the legal sense, apply when a Member State or entity is conducting an evaluation of a new security control deployed in addition to one or more of those already covered by the legislation.

In the course of 2014, trials and evaluations were conducted in France, Sweden and the Netherlands. These concerned the use of shoe metal detectors in combination with walk-through metal detection equipment, the use of new generation screening equipment for cabin baggage that do not require the removal of laptops, large electrical items and liquids before screening as well as the use of software in screening equipment that can automatically clear bags that do not contain any threat items. All trials delivered positive results and provided valuable input to future legislative amendments.

2. STUDIES AND REPORTS

In May 2014, the Commission received a study⁹ assessing the impact of the first phase of the implementation of liquids screening, which started on 31 January 2014. As of that date passengers have been able to carry duty free liquids, liquid medicines and liquids needed for special dietary requirements provided they are screened by dedicated equipment. It analysed operational data, such as the number of passengers screened and the number of liquids carried per passenger to see if operations were affected. The study concluded that there was no operational impact from this first phase of lifting the liquids restrictions and that the legislation was successfully implemented.

At the end of November 2014, the Commission received the results of an additional study assessing a possible second phase for lifting of the liquid restrictions. This study was carried out by the consultant ICF International. It assessed the possibility of permitting passengers to carry bottled water through a series of airport trials and also checked the findings of the previous study, in relation to the operational impact of the first phase. Also, this study concluded that the first phase had no negative operational impact on EU airports, even during the summer peak of operations at the EU airports involved in this study. It however also concluded that there may be a significant impact on throughput and cost for EU airports should the restrictions be further lifted to permit passengers to also carry bottled water. This is mainly due to the expected high number of bottles that would need to be screened and which would require significantly more liquids screening equipment. The outcome of this study led the Commission, in concertation with Member States, stakeholders and its international partners, to postpone the introduction of the second phase of lifting the liquid restrictions.

⁹ The study was carried out by the consultant Leigh Fisher.

3. NEW INITIATIVES

Significant progress was made in one of the most important and challenging files, namely the roadmap for the development of technologies in aviation security. The roadmap sets various activities covering all aspects of security technology and methods and serves as reference for all European stakeholders involved in aviation security research.

In relation to cargo, the Commission continues to work closely with Member States in order to negotiate the implementation of a regime for advance cargo information (ACI) analysis. In this context, cooperation with customs continued as regards pre-loading advance cargo information (PLACI) where an international exercise has commenced within an ICAO/WCO Joint Working Group on ACI where the Commission plays an active role. Together with States and stakeholders, this exercise aims at reaching common agreed principles and possible standards and recommended practices to be adopted and implemented should a State or a Region decide to apply such concept in one or all business models in the field air of cargo and mail.

PART FOUR

DIALOGUE WITH INTERNATIONAL BODIES AND THIRD COUNTRIES

1. GENERAL

The Commission is fully engaged with international bodies and key third country partners and is regularly represented at international meetings, generally co-ordinating the EU position and often making presentations or submitting papers. Dialogues are also held, as appropriate, with individual third countries and regional organisations on issues of local concern or shared interest. Such contacts enable the EU to both keep abreast of and disseminate good practices as well as to influence global decision making.

2. INTERNATIONAL BODIES

The Commission participated in the annual meeting of the ICAO Aviation Security Panel which took place in Montreal on 17 to 21 March 2014. With regard to reporting on developments in aviation security, the Commission presented three papers outlining the views of the EU (two papers addressed the issue of security measures related to liquids and one paper addressed the issue of security measures related to air cargo). These papers were well received and widely supported.

The Commission also undertook major efforts in providing information on EU aviation security validation in the area of cargo and mail being carried into the EU. This was achieved through the active participation in several international fora, including under the auspices of ICAO and other international and regional organisations. In particular, an EU-AFCAC (African Civil Aviation Commission) joint workshop on air cargo and mail security was organised in Dakar, Senegal in March 2014. This event offered the opportunity for the Commission to explain and clarify all the aspects related to the EU rules on in-bound cargo and mail (ACC3) to African States' administrations and operators. In addition to that, the meeting fostered dialogue and cooperation between the two Regions and an important initiative by the Commission on capacity building and assistance in the field of civil aviation security in Africa and the Middle-East to be implemented in the period 2015-2018.

The Commission also regularly takes part in meetings of the ECAC Security Forum and its related task forces. Conclusions drawn by each of these groups have subsequently formed the basis of

discussions during meetings of the Regulatory Committee for Civil Aviation Security and its associated working groups. Within the framework of a Cooperation Arrangement signed in 2012, activities in the field of aviation security have been reinforced between ECAC and the Commission.

Under the Memorandum of Understanding signed in 2013 between the Commission and the EFTA Surveillance Authority (ESA) that carries out aviation security compliance monitoring in Iceland, Liechtenstein and Norway, ESA and the Commission continued exchanging their respective reports on inspections.

Finally, an interface between Eurocontrol's IT platform and the "Union Database on the Supply Chain Security" has been established. This interface enables an alert system to inform Member States in time about aircraft arriving from airports located in third countries where the air carrier has not been designated as an ACC3.

3. THIRD COUNTRIES

The Commission actively continued the dialogue with aviation security issues with the United States in a number of fora, in particular the EU-US Transportation Security Cooperation Group (TSCG). The TSCG aims at fostering co-operation in a number of areas of mutual interest and ensure the continued functioning of one-stop security arrangements¹⁰ and of the mutual recognition of the respective air cargo and mail regimes of the EU and the US.

The Commission furthermore intervened on a number of occasions when Member States raised particular concerns about requests made to their air carriers to apply additional security measures for flights to certain third countries. The Commission and the Member States worked together to ensure that the implementation of these measures took consideration of the existing EU aviation security measures to reduce the operational impact. Examples included additional security measures issued by the United States and by Canada with regard to the threat to civil aviation associated with improvised explosive devices disguised as electronic items which air carriers were required to implement at short notice and without prior consultation, thus often causing significant operational difficulties.

CONCLUSION

A high level of aviation security continues to be ensured in the EU in order to protect civil aviation against acts of unlawful interference.

Commission inspections have confirmed a stable level of compliance with EU requirements in aviation security. Deficiencies identified tended, by and large, to stem from human factor issues. Commission recommendations for corrective action were overall followed up satisfactorily, but the inspections' findings confirm the importance of a robust EU inspection regime and of adequate quality assurance at Member State level. The Commission will continue its efforts to ensure that all legal requirements are fully and correctly implemented, initiating infringement proceedings if necessary.

On the legislative side, the adoption and implementation of legislative implementing acts including those aimed at further improving the clarity and consistency of EU requirements, enhanced measures on explosive detection, and facilitating the carriage of certain categories of liquids, has shown benefits both in ensuring that EU security measures continue to deliver the highest level of

¹⁰ Applicable as from 1.4.2011 for aircrafts, passengers and their cabin baggage and hold baggage arriving from the US – Commission Regulation (EU) No 983/2010 of 3 November 2010, amending Regulation (EU) 185/2010, OJ L286 of 4.11.2010, p.1

security in the face of evolving threats to civil aviation while delivering convenience to passengers and minimising adverse effects on airport and airline operations.