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

**2015 ANNUAL REPORT ON THE IMPLEMENTATION OF REGULATION (EC) N°  
300/2008 ON COMMON RULES IN THE FIELD OF CIVIL AVIATION SECURITY**

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

## 2015 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 2015

### INTRODUCTION

In 2015 measures came into force which are expected to considerably strengthen the explosive detection capability at passenger security checkpoints of airports in respect of cabin baggage<sup>1</sup>.

The end of the year was marked by increased security alert levels in several Member States due to the Metrojet incident over Sinai and the Paris attacks. The impact on different transport modes, including aviation, was significant. This risk situation confirmed the Commission's policy choices and the ongoing work on enhancing the explosive detection capability at passenger security checkpoints and air cargo screening facilities.

A further aim of the EU aviation security policy is to ensure a proper balance between the highest possible level of security and other important factors, such as travel convenience, privacy and protection of personal data and facilitation of operational factors. This risk-based approach will continue to be followed in the future.

In this context, the Commission extended One-Stop-Security to Canada and Montenegro and continued its efforts regarding the establishment of harmonized rules at international level through cooperation with the United States and other likeminded aviation security partners. The Commission participated effectively in all relevant events of the International Civil Aviation Organization (ICAO) and air cargo related meetings of the Worlds Customs Organization (WCO). In close cooperation with the departments for development cooperation and neighbouring policy of the EU, programmes for capacity building in aviation security in third countries have been established and will be implemented as of 2016. Assistance will focus on countries in Africa and the Middle East as well as EU Neighbouring countries and States in Central Asia. The European Civil Aviation Conference (ECAC) will manage these programmes on the Commission's behalf.

Clarification, harmonization and simplification of aviation security legislation is a regular exercise in line with the better regulation objectives of the EU. The implementing acts for aviation security, Commission Regulation (EU) No 185/2010<sup>2</sup> and Commission Decision C(2010)774<sup>3</sup>, had been subject to numerous amendments since their entry into force in April 2010. The Commission therefore adopted in 2015 two consolidated and updated legal acts, Commission Implementing Regulation (EU) 2015/1998<sup>4</sup> and Commission Implementing Decision C(2015)8005<sup>5</sup>, effectively replacing both acts.

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<sup>1</sup> Commission Implementing Regulation (EU) 2015/187 of 6 February 2015 amending Regulation (EU) No 185/2010 as regards the screening of cabin baggage (OJ L 31, 7.2.2015, p. 18) and Commission Implementing Decision C(2015) 561 final of 6 February 2015 amending Commission Implementing Decision C(2010) 774 as regards the screening of cabin baggage, not published in the OJ

<sup>2</sup> Commission Regulation (EU) No 185/2010 of 4 March 2010 laying down detailed measures for the implementation of the common basic standards on aviation security (OJ L 55, 5.3.2010, p. 1).

<sup>3</sup> Decision C(2010)774 final, adopted on 13 April 2010 and notified to all Member States thereafter; not published in the OJ

<sup>4</sup> 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 (OJ L299 of 14.11.2015)

And last but not least the Commission continued to monitor the implementation of aviation security measures by Member States through EU inspections in close cooperation with Member States throughout the year. Compliance levels remained stable and did not require in 2015 temporary exclusions of any EU airport from the EU's One Stop Security System to rectify serious deficiencies.

## **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 continued the fourth cycle of inspections of appropriate authorities in 2015. This report covers results from all inspections carried out during the course of 2015. In total, eleven appropriate authority inspections were carried out during the year. For most Member States, these inspections showed significant improvements from previous inspections.

The deficiencies most commonly found in 2015 related to minor shortcomings 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 still not sufficiently monitor the adequacy and implementation of the security programmes of foreign air carriers and regulated entities, mainly due to limited resources and the high number of entities concerned. Most Member States did, however, ensure that the minimum frequency for inspecting security measures at airports is fully respected. For most Member States inspected in 2015 the rectification process when deficiencies were identified was also satisfactory and adequate enforcement measures were available to all Member States. Through its peer review system the Commission continues to work closely with those Member States that face difficulties in discharging their obligations under EU law, to find solutions and assist them.

#### **3. INITIAL INSPECTIONS AT AIRPORTS**

Twenty initial inspections of airports were conducted during 2015. All chapters were covered (although not during each inspection). The overall percentage of core measures found to be in compliance in 2015 was 80%; roughly the same as in previous years.

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<sup>5</sup> Commission Implementing Decision C(2015) 8005 final 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; not published in the OJ

Most of the deficiencies found continue to stem from human factor issues. These mainly occur in the practical implementation of certain reinforced screening measures for cabin baggage and also in the screening of staff and cargo. Aircraft security searches is another area where further efforts are necessary. These issues should be addressed through increased national quality control activities in the areas concerned.

On the other hand, 2015 showed further increased compliance levels in relation to regulated suppliers of in-flight supplies, after already relatively good results in 2014. This improvement can be explained by further increased awareness and practical experience with the revised implementing legislation which improved clarity and consistency of the measures.

#### **4. FOLLOW-UP INSPECTIONS**

In accordance with Article 13 of Commission Regulation (EU) No 72/2010<sup>6</sup>, 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. One such activity was carried out during 2015 and confirmed rectification of all identified deficiencies.

#### **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 Agreement<sup>7</sup>.

In addition, the reports of the assessments carried out at two airports in Montenegro were examined by the Regulatory Committee for aviation security, which resulted in the inclusion of these two airports in the EU's One Stop Security system.

#### **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-seven files (twenty-eight airport and nine appropriate authorities) were closed during 2015. 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 2015. In all, inspection files related to ten appropriate authorities and thirteen 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 2015.

Regardless of whether or not Article 15 is applied, another available measure, particularly in cases of prolonged non-rectification or reoccurrence of deficiencies, is for the Commission to open infringement proceedings. In 2015, one infringement proceeding, initiated in 2014 following the inspection of a national administration, was referred to the European Court of Justice. In the view of the Commission, the concerned Member State continued to fail ensuring regular compliance

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<sup>6</sup> 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

<sup>7</sup> OJ L134 of 25.5.2007, p.4

monitoring in respect of certain security measures at a number of airports in its territory. This case was still pending at the end of 2015.

## **PART TWO**

### **THE LEGISLATION AND SUPPLEMENTARY TOOLS**

#### **1. LEGISLATION**

Civil aviation remains to be an attractive target for terrorist groups and countering 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.

In November 2015 the Commission adopted Implementing Regulation (EU) 2015/1998 and Implementing Decision C(2015)8005 both laying down detailed measures for the implementation of the common basic standards on aviation security. Both legal acts apply from 1 February 2016 and replace the previous implementing acts, which were each amended 20 times since their adoption in 2010. Decision C(2015)8005 contains security sensitive information and is therefore not published but only addressed to Member States who shall make available the relevant parts to those persons with a clear need to know. These new acts consolidate the previous ones and all their amendments and at the same time clarify and update certain requirements in light of the practical experiences gained and taking account of relevant technological developments. They therefore increase clarity and legal certainty.

#### **2. UNION DATABASE ON SUPPLY CHAIN SECURITY (UDSCS)**

The database of regulated agents and known consignors<sup>8</sup> 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 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"<sup>9</sup> to better reflect the extended scope of its use. At the end of 2015, 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 2015 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. With

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<sup>8</sup> 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.

<sup>9</sup> 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

the adoption of the revised implementing legislation in November 2015, work started to revise these handbooks in order to take account of the changes introduced and to make them available to all Commission inspectors and to Member States in time for the application date of the new implementing rules in February 2016.

## **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 2015, 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 ('auto clear software'). In addition, the use of a new type of threat image projection was trialled. All trials delivered positive results and some of them provided valuable input to the legislative amendments adopted in November 2015 which now permit the use of shoe metal detection equipment, auto clear software and threat image projection using new types of threat images.

#### **2. STUDIES AND REPORTS**

In September 2015, the Commission received a study<sup>10</sup> regarding the question of outsourcing aviation and maritime security inspections to existing or new agencies. The study analyzed the status quo of inspections and compared it to possible alternatives. The consultant also assessed views expressed by Agency staff, Member States competent authorities and stakeholders concerned. It came to the conclusion that the current system works very satisfactorily and that there is no objective reason to change the current approach.

#### **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

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<sup>10</sup> The study was carried out by the consultant Steer Davies Gleave.

(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 engages with international bodies and key trading partners and participation in associated international meetings, such as the annual meeting of the ICAO Aviation Security Panel, ensures that co-ordination of EU positions can be undertaken. Bilateral dialogue is held with certain third countries, such as the United States, which enable the Commission to build up a good understanding and high level of trust with countries taking a like-minded approach to aviation security.

#### **2. INTERNATIONAL BODIES**

The Commission participated in the annual meeting of the ICAO Aviation Security Panel which took place in Montreal on 13 to 17 April 2015, and presented a paper on developments in aviation security that detailed the successful implementation of the rules applicable in the European Union as regards the screening of liquids, aerosols and gels (LAGs). The paper was co-sponsored by key trading partners, Australia, Canada, and the United States, who had undertaken similar screening arrangements for LAGs, and was supported by key industry stakeholders, the Airports Council International and the International Air Transport Association, thus demonstrating wide support for this initiative benefitting air passengers.

The Commission participates in meetings organised by the European Civil Aviation Conference (ECAC), notably the ECAC Security Forum and its related working groups. Participation is important as these groups often provide useful foundations for the development of future security rules that can be considered by the EU Regulatory Committee for Civil Aviation Security and its associated working groups. Under the framework of a Cooperation Arrangement signed in 2012 between ECAC and the Commission, activities in the field of aviation security have been further reinforced.

The Commission undertakes capacity building activities in third countries in order to enhance the level of aviation security globally. The Civil Aviation Security in Africa and the Arabian Peninsula (CASE) Project, funded by the European Union (EU), was officially launched on 1 November 2015 and will run for four years. The Project is implemented by the European Civil Aviation Conference (ECAC).

#### **3. THIRD COUNTRIES**

The Commission actively engaged on 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 arrangements and of the mutual recognition of the respective air



cargo and mail regimes of the EU and the U.S. Both initiatives save air transport operators time, cost, and operational complexity.

The Commission worked intensively with Canada and Montenegro to conduct a thorough analysis of their aviation security regimes for the purpose of recognising them as equivalent to the aviation security regime of the EU. Following that co-operation, new implementing legislation was brought forward in December 2015 to allow passengers and baggage arriving from Canada and Montenegro into the EU to connect without being subject to further security controls under One Stop Security arrangements. The arrangements in place were established with reciprocal treatment being accorded by Canada and Montenegro, thus allowing passengers and baggage arriving in those countries from the EU to transfer onto a connecting flight without further security controls. In the case of Montenegro, cargo was also covered by these reciprocal arrangements.