



Council of the
European Union

Brussels, 19 October 2023
(OR. en)

14445/23

Interinstitutional File:
2023/0361(COD)

TRANS 435
AVIATION 195
CODEC 1940

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	17 October 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 591 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EC) No 80/2009, (EU) No 996/2010 and (EU) No 165/ 2014 as regards certain reporting requirements in the fields of road transport and aviation

Delegations will find attached document COM(2023) 591 final.

Encl.: COM(2023) 591 final



EUROPEAN
COMMISSION

Brussels, 17.10.2023
COM(2023) 591 final

2023/0361 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulations (EC) No 80/2009, (EU) No 996/2010 and (EU) No 165/ 2014 as regards certain reporting requirements in the fields of road transport and aviation

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

In its Communication on ‘Long-term competitiveness of the EU: looking beyond 2030’ ⁽¹⁾, the Commission has emphasised the importance of a regulatory system that ensures that objectives are reached at minimum costs. It has committed therefore to a fresh push to rationalise and simplify reporting requirements, with the ultimate aim to reduce such burdens by 25%, without undermining the related policy objectives.

Reporting requirements play a key role in ensuring correct enforcement and proper monitoring of legislation. Their costs are overall largely offset by the benefit they bring, in particular in monitoring and ensuring compliance with key policy measures. Reporting requirements can however also impose disproportionate burdens on stakeholders, particularly affecting SMEs and micro-companies, also given organisational and technological developments that call for original reporting requirements to be adjusted. Their cumulation over time can result in redundant, duplicating or obsolete obligations, inefficient frequency and timing, or inadequate methods of collection.

Streamlining reporting obligations and reducing administrative burdens is therefore a priority. In this context, the present proposal aims to simplify initiatives in the policy area of transport and affecting in particular transport by road and aviation.

The proposal will remove or streamline specific reporting obligations for public authorities as follows:

- The proposal removes the obligation under Regulation (EC) No 80/2009 of the European Parliament and of the Council² for vendors of computerised reservation systems (CRSs) to submit reports detailing the ownership structure and governance models every four years and upon Commission’s request. This reporting obligation is meant to monitor the application of Article 10 of that Regulation, laying down specific rules for parent carriers, which are in particular meant to prevent these carriers from discriminating against competing CRSs, and prevent CRSs owned by these carriers from discriminating against the parent carriers of other CRSs. The 2020 evaluation of this Regulation³ suggested that this provision appears to be redundant as airlines do not own CRSs anymore and the submission of the audited report is thus no longer justified. The Commission should nonetheless retain its existing power to request for such reports, in order to be able to effectively enforce Article 10, should an airline take a stake in a CRS in the future. The provision requiring vendors to inform the Commission of the identity of the auditor before confirming its appointment and allowing the Commission to ask for its replacement is also removed.

¹ COM(2023)168.

² Regulation (EC) No 80/2009 of the European Parliament and of the Council of 14 January 2009 on a Code of Conduct for computerised reservation systems and repealing Council Regulation (EEC) No 2299/89, OJ L 35, 4.2.2009, p. 47

³ [https://ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2020\)9&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2020)9&lang=en)

- The obligation under Regulation (EU) No 996/2010 of the European Parliament and of the Council⁴ to publish a safety review at national level is deleted. This obligation is now redundant in view of the annual safety review published by the European Union Aviation Safety Agency (EASA).
- The obligation under Regulation (EU) No 165/2014 of the European Parliament and of the Council⁵ for Member States to report to the Commission the list of workshops which may carry out installations, checks and repairs of tachographs and the obligation for the Commission to publish these lists are removed. These lists had the disadvantage of only providing a snapshot of the approved workshops. They are replaced by an obligation for Member States to publish this information on a publicly available website and to update it on a continuous basis and for the Commission to publish the list of these websites.

- **Consistency with existing policy provisions in the policy area**

The proposal is part of a first package of measures to rationalise reporting requirements. This is a step in a continuous process looking comprehensively at existing reporting requirements, with a view to assess their continued relevance and to make them more efficient.

The rationalisation introduced by these measures will not affect the achievement of objectives in the policy area, as they do not interfere with the compliance of the Member States with the underlying obligations.

- **Consistency with other Union policies**

Under the Regulatory Fitness and Performance Programme (REFIT), the Commission ensures that its legislation is fit for purpose, targeted to the needs of stakeholders and minimizes burdens while achieving its objectives. These proposals are therefore part of the REFIT programme, reducing the complexity of reporting burdens arising from the EU legal environment.

While certain reporting requirements are essential, they need to be as efficient as possible, avoiding overlaps, removing unnecessary burdens and using as much as possible digital and interoperable solutions.

The current proposals rationalise reporting requirements thus making the achievement of the objectives of legislation more efficient and less burdensome for public authorities and for companies.

⁴ Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC, OJ L 295 12.11.2010, p. 35.

⁵ Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport, OJ L 60, 28.2.2014, p.1.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis of Regulation (EC) No 80/2009 are Articles 71 and 80(2) of the Treaty establishing the European Community, now respectively Articles 91 and 100(2) of the Treaty on the functioning of the European Union (TFEU), that of Regulation (EU) No 165/2014 is Article 91 TFEU and that of Regulation (EU) No 996/2010 is Article 100(2) TFEU. Therefore, the legal basis of the proposed Regulation should be Articles 91 and 100(2) TFEU.

- **Subsidiarity**

The reporting requirements concerned are imposed by EU law. Their rationalisation is therefore best done at EU level to ensure legal certainty and consistency of reporting. This will ensure a level playing field for companies and public administrations across the EU, which will be benefiting from the rationalisation of reporting requirements arising from these proposals.

- **Proportionality**

The rationalisation of reporting requirements simplifies the legal framework by introducing minimum changes to existing requirements that do not affect the substance of the wider policy objective. The proposal is therefore limited to those changes that are necessary to ensure efficient reporting without changing any of the substantial elements of the legislation concerned.

- **Choice of the instrument**

The proposed Regulation amends three Regulations that have a compatible legal basis and does so only in relation to reporting requirements. These amendments are therefore suitable to be included in a single legislative proposal.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

N/A

- **Stakeholder consultations**

N/A

- **Collection and use of expertise**

These proposals have been identified following a process of internal scrutiny of existing reporting obligations and based on the experience from implementation of the related legislation. Since this is a step in the process of continuous assessment of reporting requirements arising from EU legislation, the scrutiny of such burdens and of their impact on stakeholders will continue.

- **Impact assessment**

The proposal concerns limited and targeted changes of legislation in view of rationalising reporting requirements. They are based on experience from implementing legislation. The changes do not have significant impacts on the policy, but only ensure a more efficient and

effective implementation. Their targeted nature and the lack of relevant policy options make an impact assessment not necessary.

- **Regulatory fitness and simplification**

This is a REFIT proposal, aiming to simplify legislation and cut burdens for stakeholders, particularly public authorities.

With the proposal to amend Regulation (EC) No 80/2009, vendors of CRSs will be relieved of the obligation, and thus its related costs, to submit audited reports to the Commission every four years. The obligation to submit such reports in case the Commission requests it remains applicable, but is no longer subject to the obligation for these companies to pre-notify the identity of the auditor to the Commission before the appointment and for the possibility for the Commission to request a change in the auditor, which were both burdensome and potentially costly obligations.

The proposal to remove the obligation for national administrations to produce an annual safety review in the field of aviation is relieving them of an administrative burden.

As regards the reporting obligation in Regulation (EU) No 165/2014 requiring Member States to report on approved workshops that may install, check or repair tachographs – and the cards issued to those workshops – the proposed system is more rational and efficient as the list of such workshops will be continually updated, to the benefit of enforcement authorities and operators. Indeed, the current reporting system only provides a snapshot of the approved workshops, and in particular the cards issued to them. Since the cards issued to workshops are valid only for one year, the lists sent by Member States to the Commission gradually become outdated over the following year, before becoming almost entirely obsolete nearly one year later. Keeping updated lists publicly available reduces implementation and enforcement costs, for drivers and operators, by ensuring that they have access to the approved workshops and fitters, in particular in other Member States, as well as for enforcement authorities, which would otherwise need to check these lists for enforcement purposes. Member States which already have such a website will not see any change in the administrative burden of this proposal.

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

N/A

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

N/A

Detailed explanation of the specific provisions of the proposal

Article 1 amending Regulation (EC) No 80/2009

Article 12 of Regulation (EC) No 80/2009 currently provides that every four years or upon request of the Commission, vendors of CRSs must submit an independently audited report to

detailing the ownership structure and governance model. Moreover, they must inform the Commission of the identity of the auditor and the Commission may request the auditor to be replaced. Under the amended proposal, vendors will only be required to submit an independently audited report upon request of the Commission.

Article 2 amending Regulation (EU) No 996/2010

Article 4(5) of Regulation (EU) No 996/2010 currently requires Member States to publish a yearly safety review. Article 2 of the proposal deletes this provision on the grounds that the annual safety review is now published by the European Union Aviation Safety Agency (EASA).

Article 3 amending Regulation (EU) No 165/2014

Article 24(5) of Regulation (EU) No 165/2014 currently requires Member States to forward to the Commission, on an annual basis, the list of approved workshops and cards issued to them and also requires the Commission to publish these lists. Article 3 of the proposal replaces this paragraph with a paragraph requiring Member States to publish on a publicly available website and continuously update the lists of approved workshops and the cards issued to them. It also requires the Commission to publish the list of such national websites on its website.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Regulations (EC) No 80/2009, (EU) No 996/2010 and (EU) No 165/2014 as regards certain reporting requirements in the fields of road transport and aviation

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
 Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 91 and 100(2) thereof,
 Having regard to the proposal from the European Commission,
 After transmission of the draft legislative act to the national parliaments,
 Having regard to the opinion of the European Economic and Social Committee¹,
 Having regard to the opinion of the Committee of the Regions²,
 Acting in accordance with the ordinary legislative procedure,
 Whereas:

- (1) Reporting requirements play a key role in ensuring proper monitoring and correct enforcement of legislation. However, it is important to streamline those requirements, in order to ensure that they fulfil the purpose for which they were intended and to limit the administrative burden.
- (2) Regulations (EC) No 80/2009³, (EU) No 996/2010⁴ and (EU) No 165/2014⁵ of the European Parliament and of the Council contain a number of reporting requirements in the fields of road transport and aviation, which should therefore be simplified, in line

¹ OJ C , , p. .

² OJ C , , p. .

³ Regulation (EC) No 80/2009 of the European Parliament and of the Council of 14 January 2009 on a Code of Conduct for computerised reservation systems and repealing Council Regulation (EEC) No 2299/89 (OJ L 35, 4.2.2009, p. 47).

⁴ Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC (OJ L 295 12.11.2010, p. 35).

⁵ Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1).

with the Commission's Communication on 'Long-term competitiveness of the EU: looking beyond 2030' ⁶.

- (3) More specifically, Article 12 of Regulation (EC) No 80/2009 requires every system vendor of computerised reservation systems ('CRSs') to submit an independently audited report detailing the ownership structure and governance model every four years, and, in addition, upon request from the Commission.
- (4) That auditing and reporting obligation is intended to allow the Commission to monitor the application of Article 10 of Regulation (EC) No 80/2009, laying down specific rules for parent carriers. Those rules are in particular meant to prevent parent carriers from discriminating against competing CRSs and to prevent CRSs owned by those carriers from discriminating against other carriers. The evaluation of Regulation (EC) No 80/2009 carried out in 2020⁷ suggested that those provisions on parent carriers may be redundant as airlines no longer own CRSs, and there is no evidence that they would seek to acquire them if those rules did not exist. Therefore, the submission of audited reports every four years is no longer justified. The Commission should nonetheless retain the power to request the audited reports when necessary, in order to be able to effectively enforce the parent carrier rules if required.
- (5) Article 4(5) of Regulation (EU) No 996/2010 requires the publication of a safety review at national level on an annual basis, in order to inform the public of the general aviation safety level. That obligation was intended to ensure transparency about the overall state-of-play of aviation safety in the Member States, and notably the contribution of accident investigation activities in that regard considering the context of this Regulation. However, it has become redundant in view of the annual safety review published by the European Union Aviation Safety Agency pursuant to Article 72(7) of Regulation (EU) 2018/1139 of the European Parliament and of the Council⁸ that covers the entire Union aviation system, including accident investigations.
- (6) Article 24(5) of Regulation (EU) No 165/2014 requires the competent authorities of the Member States to forward to the Commission, if possible, electronically, on an annual basis, the lists of approved fitters and workshops which may carry out installations, checks, inspections and repairs of tachographs and the cards issued to them. The Commission is then to publish those lists on its website.
- (7) The combination of the fact that workshop cards are valid for one year with the fact that the communication from Member States to the Commission only provides a snapshot of the approved workshops and valid cards issued to them, means that over the course of the following year, a growing share of the workshop cards published on the Commission's website are no longer valid. Member States should therefore be required to publish that information and to update it on an ongoing basis on a publicly available website. The Commission should publish the list of all Member States' websites where that information can be found. Some Member States already have such websites. This obligation would therefore result in a reduced administrative burden

⁶ COM(2023)168.

⁷ [https://ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2020\)9&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2020)9&lang=en)

⁸ Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212 22.8.2018, p. 1).

both for the Commission and Member States, and reduced enforcement costs for stakeholders, by ensuring a more up-to-date and effective distribution of information -.

- (8) Regulations (EC) No 80/2009, (EU) No 996/2010 and (EU) No 165/2014 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 80/2009

Article 12 of Regulation (EC) No 80/2009 is replaced by the following:

‘Article 12

The Commission may request any system vendor to submit an independently audited report detailing the ownership structure and governance model. Costs related to the audited report shall be borne by the system vendor.’

Article 2

Amendment to Regulation (EU) No 996/2010

In Article 4 of Regulation (EU) No 996/2010, paragraph 5 is deleted.

Article 3

Amendment to Regulation (EU) No 165/2014

In Article 24 of Regulation (EU) No 165/2014, paragraph 5 is replaced by the following:

‘5. The competent authorities of the Member States shall publish the lists of approved fitters and workshops and the cards issued to them on a publicly available website, and shall ensure those lists are kept up to date. The Commission shall publish the list of such national websites on its website.’

Article 4

Entry into force

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President