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*Committee on Transport and Tourism*

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**2009/0170(COD)**

30.3.2010

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# **DRAFT REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
on investigation and prevention of accidents and incidents in civil aviation  
(COM(2009)0611 – C7-0259/2009 – 2009/0170(COD))

Committee on Transport and Tourism

Rapporteur: Christine de Veyrac

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* alerts the relevant departments to parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act which the draft act seeks to amend includes a third and fourth line identifying respectively the existing act and the provision in that act affected by the amendment. Passages in a provision of an existing act that Parliament wishes to amend, but the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...].

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on investigation and prevention of accidents and incidents in civil aviation (COM(2009)0611 – C7-0259/2009 – 2009/0170(COD))**

**(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2009)0611),
  - having regard to Article 251(2) and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C7-0259/2009),
  - having regard to the Communication from the Commission to the European Parliament and the Council entitled ‘Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures’ (COM(2009)0665),
  - having regard to Article 294(3) and Article 100(2) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee,
  - having regard to the opinion of the Committee of the Regions,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Transport and Tourism (A7-0000/2010),
1. Adopts the position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the parliaments of the Member States.

### **Amendment 1**

#### **Proposal for a regulation**

##### **Recital 1**

*Text proposed by the Commission*

(1) A high general level of safety should be ensured in civil aviation in Europe and all efforts should be made to reduce the number of accidents and incidents to

*Amendment*

(1) A high general level of safety should be ensured in civil aviation in Europe and all efforts should be made to reduce the number of accidents and incidents to

ensure *consumer* confidence in air transport.

ensure *public* confidence in air transport.

Or. fr

*Justification*

*More appropriate term*

**Amendment 2**

**Proposal for a regulation**

**Recital 7**

*Text proposed by the Commission*

(7) The European Aviation Safety Agency carries out on behalf of the Member States the functions and tasks of the State of Design, Manufacture and Registry when related to design approval, as specified in the Chicago Convention and its Annexes, and therefore should be represented during a safety investigation to contribute to its efficiency and to ensure safety of aircraft design, without affecting the independent status of the investigation.

*Amendment*

(7) The European Aviation Safety Agency carries out on behalf of the Member States the functions and tasks of the State of Design, Manufacture and Registry when related to design approval, as specified in the Chicago Convention and its Annexes, and therefore, ***in accordance with Annex 13 of the Chicago Convention***, should be represented during a safety investigation to contribute to its efficiency and to ensure safety of aircraft design, without affecting the independent status of the investigation.

Or. fr

**Amendment 3**

**Proposal for a regulation**

**Recital 8**

*Text proposed by the Commission*

(8) Given its increasing safety responsibilities, the European Aviation Safety Agency should also participate in the exchange of data in the framework of the occurrence reporting systems; *this* data should be adequately protected from

*Amendment*

(8) Given its increasing safety responsibilities, the European Aviation Safety Agency should also participate in the exchange ***and analysis*** of data in the framework of the occurrence reporting systems, ***in cooperation with the Member***

unauthorised use or disclosure.

**States;** *these data should be adequately protected from unauthorised use or disclosure.*

Or. fr

*Justification*

*Occurrence reports must be analysed. The analysis process can potentially detect patterns of incident recurrence and enable accident risk to be reduced through the introduction of safety recommendations to remedy the shortcomings identified.*

**Amendment 4**

**Proposal for a regulation  
Recital 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***(10a) The safety investigation authorities play the core role in the investigation process. Their work is of the utmost importance in determining the causes of an accident or incident. It is therefore essential that they should be able to conduct their investigations free of any form of pressure and entirely independently of regulatory or judiciary authorities, and also that they should possess the financial and human resources required for effective, efficient investigation.***

Or. fr

*Justification*

*The key role of safety investigation authorities in the process of investigating air accidents needs to be underscored. These authorities must have the resources and the scope to conduct efficient, independent investigations.*

## Amendment 5

### Proposal for a regulation Recital 12

*Text proposed by the Commission*

(12) The coordination role of safety investigation authorities should be recognised in a European context, by taking into account the already existing cooperation between them and the investigation resources available in the Member States which should be used in the most cost-efficient manner; this could be best achieved by establishing a European Network of Civil Aviation Safety Investigation Authorities ('the Network').

*Amendment*

(12) The coordination role of safety investigation authorities should be recognised ***and reinforced*** in a European context, by taking into account the already existing cooperation between them and the investigation resources available in the Member States which should be used in the most cost-efficient manner; this could be best achieved by establishing a European Network of Civil Aviation Safety Investigation Authorities ('the Network').

Or. fr

## Amendment 6

### Proposal for a regulation Recital 12 a (new)

*Text proposed by the Commission*

*Amendment*

***(12a) The Network needs to generate real added value in aviation safety. In order for it to do so, its missions and tasks must be laid down at European level in this regulation.***

Or. fr

## Amendment 7

### Proposal for a regulation Recital 17

*Text proposed by the Commission*

(17) The civil aviation safety system is based on feedback and lessons learned

*Amendment*

(17) The civil aviation safety system is based on feedback and lessons learned

from accidents and incidents which require strict application of confidentiality to ensure the future availability of valuable sources of information; in this context sensitive safety information should not be used for purposes other than prevention of accidents and incidents ***unless there is an overriding public interest in its disclosure.***

from accidents and incidents which require strict application of confidentiality to ensure the future availability of valuable sources of information; ***in this regard, the principle of a ‘just culture’ ought to be followed, whereby ‘front line operators or others are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but where gross negligence, wilful violations and destructive acts are not tolerated’.*** In this context sensitive safety information should not be used for purposes other than prevention of accidents and incidents. ***However, while some types of data need to be kept strictly confidential, it is important, both for the families of accident victims and for the smooth functioning of the justice system, that the courts should have access to certain data and facts useful to judicial inquiries.***

Or. fr

#### *Justification*

*The ‘just culture’ principle needs to be mentioned. It is recognised as being beneficial to aviation safety.*

*While there should not be a complete lack of transparency between safety investigations and judicial inquiries, only certain data should be transmissible to the judicial authorities. The types of data concerned must be clearly defined.*

### **Amendment 8**

#### **Proposal for a regulation Recital 19 a (new)**

*Text proposed by the Commission*

*Amendment*

***(19a) A number of accidents have highlighted the technical difficulties of recording the position of aircraft in real time, particularly over oceans. Moreover, the data held in flight recorders can currently be obtained only after the***

*recorders have been found and the recordings analysed. Progress on research into both the real-time tracking of aircraft and the possibility of accessing flight-recorder data without the flight recorder being physically present would significantly improve the tools available to investigators in determining the causes of accidents and would also enhance capabilities for preventing recurrent incidents. This would be an important step forward in aviation safety. Accordingly, the OPTIMI (Oceanic Position Tracking Improvement & Monitoring) project, managed by the SESAR joint undertaking, should be encouraged and adequate funding should be allocated to it.*

Or. fr

#### *Justification*

*This initiative – which could significantly improve aircraft tracking as well as access to the information held in ‘black boxes’ – must be encouraged.*

#### **Amendment 9**

##### **Proposal for a regulation Recital 20**

###### *Text proposed by the Commission*

(20) Experience has shown that reliable lists of people on board an aircraft are sometimes difficult to obtain in a rapid manner **and that** the data contained on such lists should be protected from unauthorised use or disclosure.

###### *Amendment*

(20) Experience has shown that reliable lists of people on board an aircraft are sometimes difficult to obtain in a rapid manner **but also that it is important to establish a deadline after which an airline can be required to produce such a list. In addition,** the data contained on such lists should be protected from unauthorised use or disclosure.

Or. fr

*Justification*

*A number of recent accidents have highlighted the need to provide for and set such a deadline at European level.*

**Amendment 10**

**Proposal for a regulation  
Recital 20 a (new)**

*Text proposed by the Commission*

*Amendment*

***(20a) It is not easy to identify rapidly the right person to inform when a passenger is missing after an accident. Solutions to this problem need to be proposed in the interests of both victims' families and airlines.***

Or. fr

*Justification*

*The period of uncertainty for families could thus be reduced.*

**Amendment 11**

**Proposal for a regulation  
Recital 21 a (new)**

*Text proposed by the Commission*

*Amendment*

***(21a) The manner in which an accident and its consequences are dealt with is crucially important. Member States and airlines ought to be capable of coping with major air disasters: logistically, financially and in terms of relations with victims and their families. Safety investigation authorities should also be particularly attentive to communication with victims and their families. In addition, the role of associations of air accident victims' families ought to be recognised.***

*Justification*

*Each Member State and each airline should have an adequate crisis-response plan for coping with aviation accidents. Communication between victims' families and investigating offices also needs to be improved.*

**Amendment 12****Proposal for a regulation  
Recital 22***Text proposed by the Commission*

(22) Directive 95/46/EC should apply to the processing of personal data pursuant to this Regulation.

*Amendment*

(22) Directive 95/46/EC should apply to the processing of personal data pursuant to this Regulation. ***Attention should be paid, in this regard, to the protection of personal data whether obtained in the course of the investigation or relating to passengers, victims or their relatives.***

**Amendment 13****Proposal for a regulation  
Recital 24***Text proposed by the Commission*

(24) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. ***In particular the Commission should be empowered to decide on the rules of procedures and the work program of the Network established under this Regulation.***

*Amendment*

(24) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.

## Amendment 14

### Proposal for a regulation Article 1

*Text proposed by the Commission*

This Regulation aims to improve aviation safety by ensuring a high level of efficiency and quality of European civil aviation safety investigations, the sole objective of which is the prevention of future accidents and incidents without apportioning blame or liability.

*Amendment*

This Regulation aims – ***notably through the establishment of a Network of Civil Aviation Safety Investigation Authorities*** – to improve aviation safety by ensuring a high level of efficiency, ***diligence*** and quality of European civil aviation safety investigations, the sole objective of which is the prevention of future accidents and incidents without apportioning blame or liability.

***It also aims to establish rules on the availability of lists of all persons on board aircraft involved in accidents and to improve the assistance given to air accident victims and their families.***

Or. fr

*Justification*

*The regulation's aims extend beyond safety investigations. The amendment takes into account the further matters of availability of passenger lists and assistance to victims and their families, as provided for in Articles 22 and 23.*

## Amendment 15

### Proposal for a regulation Article 2 – point 16 a (new)

*Text proposed by the Commission*

*Amendment*

***(16a) 'deliberate act' means an intentional act carried out with the aim of causing an aviation accident or serious incident;***

Or. fr

## Amendment 16

### Proposal for a regulation Article 2 – point 16 b (new)

*Text proposed by the Commission*

*Amendment*

***(16b) ‘act of unlawful interference’ means an act or attempted act such as to jeopardise the safety of civil aviation and air transport, i.e.: unlawful seizure of an aircraft in flight; unlawful seizure of an aircraft on the ground; hostage-taking on board aircraft or on aerodromes; forcible intrusion on board an aircraft, at an airport or on the premises of an aeronautical facility; introduction on board an aircraft or at an airport of a weapon or hazardous device or material intended for criminal purposes; communication of false information such as to jeopardise the safety of an aircraft in flight or on the ground, of passengers, crew, ground personnel or the general public, at an airport or on the premises of a civil aviation facility;***

Or. fr

*Justification*

*Official International Civil Aviation Organisation (ICAO) definition.*

## Amendment 17

### Proposal for a regulation Article 2 – point 16 c (new)

*Text proposed by the Commission*

*Amendment*

***(16c) ‘families’ means persons closely related to the victims of an accident or serious incident;***

Or. fr

## Amendment 18

### Proposal for a regulation Article 4 – paragraph 2

*Text proposed by the Commission*

2. The extent of safety investigations referred to in *paragraph 1* and the procedure to be followed in carrying out such safety investigations shall be determined by the safety investigation authority, taking into account the lessons it expects to draw from such investigations for the improvement of safety.

*Amendment*

2. The extent of safety investigations referred to in *paragraphs 1 and 3* and the procedure to be followed in carrying out such safety investigations shall be determined by the safety investigation authority, taking into account the lessons it expects to draw from such investigations for the improvement of safety.

Or. fr

*Justification*

*This paragraph must apply to all investigations, obligatory or otherwise, carried out by air safety investigation authorities.*

## Amendment 19

### Proposal for a regulation Article 5 – paragraph 5 – point (c)

*Text proposed by the Commission*

(c) the safety investigation authority shall comprise at least one investigator able to perform the function of the investigator-in-charge in the event of a major aircraft accident;

*Amendment*

(c) the safety investigation authority shall comprise at least one **available** investigator able to perform the function of the investigator-in-charge in the event of a major aircraft accident;

Or. fr

*Justification*

*The formulation ‘one investigator’ is not precise enough because the investigator in question may be on leave or uncontactable; ‘one available investigator’ is more useful.*

## Amendment 20

### Proposal for a regulation Article 6 – paragraph 3

*Text proposed by the Commission*

3. For the purpose of the application of paragraphs 1 and 2, safety investigation authorities **shall** be assisted by the Network referred to in Article 7.

*Amendment*

3. For the purpose of the application of paragraphs 1 and 2, safety investigation authorities **may** be assisted by the Network referred to in Article 7. ***Specifically, the Network should supply to a safety investigation authority, at its request, a list of investigators and equipment available in the other Member States for potential use by the authority conducting an investigation.***

Or. fr

*Justification*

*Enabling an authority, at its request, to identify resources that exist in the other Member States' safety investigation authorities enhances transparency and enables the investigating authority to approach the counterpart authority best placed to meet its needs.*

## Amendment 21

### Proposal for a regulation Article 7 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. The Network shall seek to improve the quality of investigations conducted by safety investigation authorities and to strengthen their independence. It should help to make air transport safer by setting high standards in relation to investigation methods and investigator training.***

Or. fr

*Justification*

*The Network should help the authorities of the 27 Member States to conduct high-quality investigations and should set high standards in the EU. Rather than concentrating on the*

*most effective authorities, the aim should be to raise standards generally so that every authority is capable of conducting safety investigations efficiently and entirely independently.*

## **Amendment 22**

### **Proposal for a regulation Article 7 – paragraph 2**

*Text proposed by the Commission*

***2. The Network shall coordinate and strengthen cooperation and exchange of information among the safety investigation authorities of the Member States, and facilitate cooperation between them and the Commission and the European Aviation Safety Agency (hereinafter ‘EASA’), including through the establishment of a number of central functions.***

*Amendment*

2. To achieve the objectives set out in paragraph 1a, the Network has responsibility in particular for:

(a) preparing recommendations and advising the European institutions on all aspects of developing and implementing European policies and rules relating to civil aviation investigations and accident prevention and assistance to the victims of air accidents and their families;

***(b) developing the sharing of information useful to the improvement of safety standards and actively promoting structured cooperation between the authorities responsible for safety investigations on the one hand and these authorities and the Commission, the European Aviation Safety Agency (hereinafter the EASA) and the national civil aviation authorities on the other hand;***

(c) coordinating the training courses for investigators;

***(d) establishing a register of good practice and developing a European safety investigation methodology;***

(e) Strengthening the investigating capacities of the safety investigation

authorities, in particular by developing and managing a framework for sharing resources.

Or. fr

### *Justification*

*The Network's tasks and activities need to be defined, in order to produce real value added compared with the current situation. Thus the Network should not only promote the exchange of information but also improve training for investigators, audit the safety investigation authorities and advise European legislators on the investigation of civil aviation accidents. This list of tasks is non-exhaustive.*

### **Amendment 23**

#### **Proposal for a regulation Article 7 – paragraph 3**

*Text proposed by the Commission*

**3. The Network shall advise the national and Community institutions and may issue recommendations on all aspects related to the development and implementation of civil aviation accident investigation policy and regulation.**

*Amendment*

**3. When the Network prepares recommendations for the Commission on an aspect of the development and implementation of civil aviation accident investigation policy and regulation *and assistance to the victims of air accidents and their families*, the Commission shall refer the matter to the committee referred to in Article 24.**

Or. fr

### **Amendment 24**

#### **Proposal for a regulation Article 7 – paragraph 5**

*Text proposed by the Commission*

**5. The Network shall submit an annual report on its activities to the European Parliament, the Council and the Commission. The report shall be made public.**

*Amendment*

**5. The Network shall *publish* an annual report on its activities and *forward it* to the European Parliament, the Council and the Commission *for information*. *This report must set out the results of the***

*implementation of the annual work programme referred to in Article 8(4) and its impact on improving aviation safety in the European Union. The annual report must also include, for the European institutions, recommendations on issues that the Network considers essential for improving aviation safety, whether at European or international level. The report shall be made public.*

Or. fr

*Justification*

*The Network's annual report must enable the European institutions to be informed of the Network proposals on aviation security and to take action if need be.*

**Amendment 25**

**Proposal for a regulation  
Article 8 – paragraph 1**

*Text proposed by the Commission*

1. The work of the Network shall be organised according to its rules of procedure. The Network shall elect a ***chairperson from among its members***, for a period ***no longer than five*** years. ***The term of the office of the chairperson shall be renewable.***

*Amendment*

1. The work of the Network shall be organised according to its rules of procedure. ***The Network shall be chaired by each of its members in turn under a rotating chairmanship that matches the presidency of the Council.*** The Network shall elect a ***coordinator*** for a ***renewable*** period ***of three*** years. ***The coordinator may be a member of the Network, an authority responsible for safety investigations in a Member State or a person with recognised experience in civil aviation safety investigation.***

Or. fr

*Justification*

*The present version of the Network, the Council of European Air Safety Investigation Authorities (CEASIA), is chaired by each safety investigation authority in turn, in accordance with the six-monthly presidency of the Council. This enables each authority, whether large or small, to play a role in the Network. However, to counterbalance this rotating chairmanship,*

*there is a need for a more permanent position: the coordinator, who could play a full role in carrying out the Network's tasks.*

## **Amendment 26**

### **Proposal for a regulation**

#### **Article 8 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The coordinator shall draw up the agenda for the Network's meetings in agreement with the chairperson.***

Or. fr

## **Amendment 27**

### **Proposal for a regulation**

#### **Article 8 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. The Commission and EASA shall be invited and may be represented at all the meetings of the Network and its expert working groups, unless the chairperson of the Network decides, on the basis of the criteria specified in the rules of procedure, that such participation would create a conflict of interest with the tasks of the safety investigation authorities.

2. The Commission and EASA shall be invited and may be represented at all the meetings of the Network and its expert working groups, unless the chairperson ***or the coordinator*** of the Network decides, on the basis of the criteria specified in the rules of procedure, that such participation would create a conflict of interest with the tasks of the safety investigation authorities.

Or. fr

## **Amendment 28**

### **Proposal for a regulation**

#### **Article 8 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

5. Civil aviation safety investigation authorities from European third countries,

5. Civil aviation safety investigation authorities from European third countries,

which apply the principles set out in this Regulation, shall be entitled to participate in the work of the Network. The Network may also invite observers from civil aviation safety investigation authorities of third countries and other experts to attend its meetings.

which apply the principles set out in this Regulation, shall be entitled to participate in the work of the Network, ***unless the chairperson or the coordinator of the Network decides otherwise***. The Network may also invite observers from civil aviation safety investigation authorities of third countries and other experts to attend its meetings.

Or. fr

## Amendment 29

### Proposal for a regulation Article 8 – paragraph 8

*Text proposed by the Commission*

*Amendment*

***8. The provisions of this Regulation shall apply without prejudice to Regulation (EC) No 1049/2001 of the European Parliament and of the Council.***

***deleted***

Or. fr

*Justification*

*A specific new article has been added (Article 23a), which incorporates this point.*

## Amendment 30

### Proposal for a regulation Article 8 – paragraph 9

*Text proposed by the Commission*

*Amendment*

9. The rules of procedure of the Network and its work programme shall be decided in accordance with the procedure referred to in Article 24. ***The chairperson*** of the Network shall present the ***draft of the*** rules of procedure and ***of*** the work programme to the Commission.

9. The rules of procedure of the Network and its work programme shall be decided in accordance with the ***tasks assigned to the Network under Article 7(2) and in accordance with the*** procedure referred to in Article 24. ***The coordinator*** of the Network shall present the rules of procedure and the ***draft*** work programme

to the Commission.

Or. fr

*Justification*

*The Network's work programme must be largely based on the tasks assigned to the Network.*

**Amendment 31**

**Proposal for a regulation**

**Article 9 – title**

*Text proposed by the Commission*

Participation of EASA in safety investigations

*Amendment*

Participation of EASA **and national civil aviation authorities** in safety investigations

Or. fr

**Amendment 32**

**Proposal for a regulation**

**Article 9 – paragraph 1 – introductory sentence**

*Text proposed by the Commission*

1. Safety investigation authorities of the Member States shall invite EASA to be represented and to participate, within the scope of its competence:

*Amendment*

1. **Within the scope of their competence, EASA and the national civil aviation authorities shall be invited by the** safety investigation authorities of the Member States to be represented and to participate:

Or. fr

**Amendment 33**

**Proposal for a regulation**

**Article 9 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) in any safety investigation carried out in

*Amendment*

(a) in any safety investigation carried out in

the territory of a Member State; the safety investigation authority in charge of the investigation shall release to EASA information available to it, in accordance with paragraph 2;

the territory of a Member State; the safety investigation authority in charge of the investigation shall release to **them** information available to it, in accordance with paragraph 2;

Or. fr

## Amendment 34

### Proposal for a regulation

#### Article 9 – paragraph 1 – point (b)

##### *Text proposed by the Commission*

(b) as an **expert** in any safety investigation carried out in a third country to which a safety investigation authority of a Member State is invited to designate an accredited representative; the accredited representative shall release to EASA, information available to him/her, in accordance with paragraph 2;

##### *Amendment*

(b) as an **adviser** in any safety investigation carried out in a third country to which a safety investigation authority of a Member State is invited to designate an accredited representative; the accredited representative shall release to EASA **and the national civil aviation authorities, within the scope of their competence, the** information available to him/her, in accordance with paragraph 2;

Or. fr

##### *Justification*

*The term ‘adviser’ is the appropriate term, used in ICAO’s Annex 13.*

## Amendment 35

### Proposal for a regulation

#### Article 9 – paragraph 2 – introductory sentence

##### *Text proposed by the Commission*

2. The rights of EASA referred to in paragraph 1, shall confer entitlement to participate, in all aspects of the investigation, under the control of the investigator-in-charge, and in particular to:

##### *Amendment*

2. The rights of EASA **and the national civil aviation authorities** referred to in paragraph 1, shall confer entitlement to participate, under the control of the investigator-in-charge:

**Amendment 36****Proposal for a regulation  
Article 9 – paragraph 3***Text proposed by the Commission*

3. EASA shall support the investigation in which it is entitled to participate by supplying information, experts and equipment requested by the safety investigation authority in charge of the investigation referred to in paragraph 1(a) or by the accredited representative referred to in paragraph 1(b).

*Amendment*

3. EASA ***and the national civil aviation authorities*** shall support the investigation in which ***they are*** entitled to participate by supplying information, experts and equipment requested by the safety investigation authority in charge of the investigation referred to in paragraph 1(a) or by the accredited representative referred to in paragraph 1(b). ***EASA and the national civil aviation authorities may not make public, without the agreement of the safety investigation authority in charge of the investigation, information that they obtain in the course of the investigation, or use it for purposes other than improving aviation security.***

**Amendment 37****Proposal for a regulation  
Article 11 – paragraph 2***Text proposed by the Commission*

2. The safety investigation authority shall notify without delay the Commission, EASA and the ***Member*** States concerned of the occurrence of all accidents and serious incidents of which it has been notified.

*Amendment*

2. The safety investigation authority shall notify without delay the Commission, EASA and the states concerned of the occurrence of all accidents and serious incidents of which it has been notified.

## Amendment 38

### Proposal for a regulation Article 12 – paragraph 3

*Text proposed by the Commission*

3. The investigator-in-charge **shall** extend to its experts and advisers as well as to the accredited representatives, their experts and advisers the entitlements listed in paragraph 2, to the extent necessary to enable them effective participation in the safety investigation. This is without prejudice to the rights of the investigators and experts designated by the authority in charge of the judicial inquiry.

*Amendment*

3. The investigator-in-charge **is authorised to** extend to its experts and advisers as well as to the accredited representatives, their experts and advisers the entitlements listed in paragraph 2, to the extent necessary to enable them effective participation in the safety investigation. This is without prejudice to the rights of the investigators and experts designated by the authority in charge of the judicial inquiry.

Or. fr

*Justification*

*This paragraph contradicts Article 9 as it gives advisers different rights from those conferred on the adviser in Article 9(2). It is preferable that this should be an option and not a requirement.*

## Amendment 39

### Proposal for a regulation Article 13 – paragraph 2

*Text proposed by the Commission*

2. If, in the course of the safety investigation, the safety investigation authority suspects that an act of unlawful interference was involved in the accident or incident, the investigator-in-charge shall immediately inform the judicial authorities thereof, at the request of which the control of the accident site shall be transferred to these authorities. Subject to Articles 15 and 16, the relevant information collected in the safety investigation shall be also transferred to these authorities upon their request. This shall be without prejudice to

*Amendment*

2. If, in the course of the safety investigation, the safety investigation authority suspects that an act of unlawful interference **or a deliberate act** was involved in the accident or incident, the investigator-in-charge shall immediately inform the judicial authorities **or the aviation safety authorities as appropriate** thereof, at the request of which the control of the accident site shall be transferred to these authorities. Subject to Articles 15 and 16, the relevant information collected in the safety investigation shall be also

the right of the safety investigation authority, in coordination with the authorities to which the control of the site was transferred, to continue the safety investigation.

transferred to these authorities upon their request. This shall be without prejudice to the right of the safety investigation authority, in coordination with the authorities to which the control of the site was transferred, to continue the safety investigation.

Or. fr

## **Amendment 40**

### **Proposal for a regulation**

#### **Article 15 – paragraph 2 – subparagraph 2**

##### *Text proposed by the Commission*

However, the competent authority for the administration of justice in a Member State may decide that the benefits of the disclosure of the records referred to in **paragraphs 1 and 2** for any other purposes permitted by law outweighs the adverse domestic and international impact that such action may have on that or any future investigation and on the management of civil aviation safety and that there is an overriding public interest in their disclosure.

##### *Amendment*

However, the competent authority for the administration of justice in a Member State may decide that the benefits of the disclosure of the records referred to in **paragraph 2(a), (b) and (c)** for any other purposes permitted by law outweighs the adverse domestic and international impact that such action may have on that or any future investigation and on the management of civil aviation safety and that there is an overriding public interest in their disclosure.

Or. fr

##### *Justification*

*Some data should be given greater protection and judicial access to certain aspects should not be authorised.*

## Amendment 41

### Proposal for a regulation Article 15 – paragraph 3

*Text proposed by the Commission*

*Amendment*

**3. EASA shall participate in the exchange and analysis of information covered by Directive 2003/42/EC and shall have online access to all information contained in the central repository established under Commission Regulation (EC) No 1321/2007. Such access shall cover information which directly identifies the operator and the aircraft subject to an occurrence report. EASA shall ensure the confidentiality of such information, and shall limit its use to what is strictly necessary to discharge its safety related obligations.** **deleted**

Or. fr

#### *Justification*

*This is not the right place to deal with the question of occurrence reporting. A specific new article (Article 21a) has been proposed. It incorporates the provisions of this paragraph.*

## Amendment 42

### Proposal for a regulation Article 16 – paragraph 1

*Text proposed by the Commission*

*Amendment*

**1. Except with the consent of all crew members concerned, cockpit voice and image recordings and their transcripts shall not be made available or used for purposes other than safety investigation.**

1. Cockpit voice and image recordings and their transcripts shall not be made available or used for purposes other than safety investigation **unless the safety investigation authority establishes that the accident was caused by a deliberate act or an act of unlawful interference.**

Or. fr

*Justification*

*It should be pointed out that the judicial procedure takes priority if an act of unlawful interference or a deliberate act is carried out.*

**Amendment 43**

**Proposal for a regulation  
Article 16 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Information not relevant to the safety investigation, particularly information with a bearing on personal privacy, that is derived from cockpit voice and image recordings and their transcripts shall be subject to full protection and may not be forwarded or disclosed.***

Or. fr

*Justification*

*It is important to ensure that only information relevant to the safety investigations may be used, and that no personal information may be forwarded to the judicial authority for instance or be made public.*

**Amendment 44**

**Proposal for a regulation  
Article 16 – paragraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

(b) de-identified; ***or***

(b) de-identified; ***and***

Or. fr

*Justification*

*This offers a better guarantee for the protection of sensitive data.*

## Amendment 45

### Proposal for a regulation Article 18 – paragraph 2

*Text proposed by the Commission*

2. The head of the safety investigation authority in charge of the safety investigation shall communicate information, pertinent to the prevention of an accident or serious incident, to authorities responsible for civil aviation safety, persons responsible for aircraft or aircraft equipment manufacture or maintenance, and to individuals or legal entities responsible for operating aircraft or for training of personnel.

*Amendment*

2. The head of the safety investigation authority in charge of the safety investigation shall communicate information, pertinent to the prevention of an accident or serious incident, to authorities responsible for civil aviation safety, **particularly EASA**, persons responsible for aircraft or aircraft equipment manufacture or maintenance, and to individuals or legal entities responsible for operating aircraft or for training of personnel.

Or. fr

## Amendment 46

### Proposal for a regulation Article 18 – paragraph 3

*Text proposed by the Commission*

3. The head of the safety investigation authority is authorised to **inform victims and their families or their associations or**, make public any information on the factual observations and the proceedings of the safety investigation and possibly preliminary conclusions and/or recommendations, provided that it does not compromise the objectives of the investigation.

*Amendment*

3. The head of the safety investigation authority is authorised to make public any information on the factual observations and the proceedings of the safety investigation and possibly preliminary conclusions and/or recommendations, provided that it does not compromise the objectives of the investigation.

Or. fr

## **Amendment 47**

### **Proposal for a regulation Article 18 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Before making public the information referred to in paragraph 3, the head of the safety investigation authority shall inform the victims, the families or their associations of this information. It must in particular forward to them the interim reports and the final report, in so far as the persons concerned have provided contact details.***

Or. fr

*Justification*

*Victims' families should not be informed by the media. They should be given privileged access to information before it is made public.*

## **Amendment 48**

### **Proposal for a regulation Article 21 a (new) – title**

*Text proposed by the Commission*

*Amendment*

***Article 21a  
Occurrence reporting***

Or. fr

*Justification*

*The question of occurrence reporting is important and must be paid particular attention. Currently, the data contained in ECCAIRS are not analysed at European level. Analysing those data could make it possible to detect trends and to take action to prevent an accident.*

## Amendment 49

### Proposal for a regulation

#### Article 21 a (new) – paragraph 1 (new)

*Text proposed by the Commission*

*Amendment*

***1. EASA shall, in collaboration with the Member States, participate regularly in the exchange and analysis of information covered by Directive 2003/42/EC and shall have online access to all information contained in the central repository established under Regulation (EC) No 1321/2007. Such access shall cover information that directly identifies the operator and the aircraft subject to an occurrence report. EASA shall ensure the confidentiality of such information, in line with the applicable legislation, and shall limit its use to what is strictly necessary to discharge its safety-related obligations. This information may be used only for the prevention of future accidents and incidents without apportioning blame or liability.***

Or. fr

#### *Justification*

*The question of occurrence reporting is important and must be paid particular attention. Currently, the data contained in ECCAIRS are not analysed at European level. Analysing those data could make it possible to detect trends and to take action to prevent an accident.*

## Amendment 50

### Proposal for a regulation

#### Article 21 a (new) – paragraph 2 (new)

*Text proposed by the Commission*

*Amendment*

***2. EASA, in collaboration with the Member States, must analyse regularly the information referred to in paragraph 1, particularly as regards identifying major trends in the development of***

*aviation safety. Where analysis of this information shows the presence of a significant number of repeated events, there must be deeper analysis of those events, making it possible, if necessary, to take adequate safety measures and, in particular, to establish airworthiness directives.*

Or. fr

*Justification*

*The question of occurrence reporting is important and must be paid particular attention. Currently, the data contained in ECCAIRS are not analysed at European level. Analysing those data could make it possible to detect trends and to take action to prevent an accident.*

**Amendment 51**

**Proposal for a regulation  
Article 21 a (new) – paragraph 3 (new)**

*Text proposed by the Commission*

*Amendment*

***3. The findings of the analyses referred to in paragraph 2 must be sent to all aviation safety authorities in the Union and to the Commission.***

Or. fr

**Amendment 52**

**Proposal for a regulation  
Article 21 a (new) – paragraph 4 (new)**

*Text proposed by the Commission*

*Amendment*

***4. With regard to paragraphs 1 and 2, EASA may request any necessary supplementary information from the Network or from Member State authorities.***

Or. fr

## Amendment 53

### Proposal for a regulation Article 22 – title

*Text proposed by the Commission*

Availability of passenger lists

*Amendment*

Availability of passenger lists ***and contact with families***

Or. fr

## Amendment 54

### Proposal for a regulation Article 22 – paragraph 1

*Text proposed by the Commission*

1. Community airlines and airlines departing from an airport located in the territory of a Member State to which the Treaty applies, shall implement procedures allowing to produce a list of all the persons on board an aircraft within one hour of the notification of the occurrence of an accident to this aircraft.

*Amendment*

1. Community airlines and airlines departing from ***or arriving at*** an airport located in the territory of a Member State to which the Treaty applies, shall implement procedures allowing to produce a list of all the persons on board an aircraft within one hour of the notification of the occurrence of an accident to this aircraft.

Or. fr

### *Justification*

*There is no reason why only flights departing from the EU should be concerned; flights to the EU should also be included.*

## Amendment 55

### Proposal for a regulation Article 22 – paragraph 1

*Text proposed by the Commission*

***1. Community airlines and airlines departing from an airport located in the***

*Amendment*

***(Does not affect English version.)***

***territory of a Member State to which the Treaty applies, shall implement procedures allowing to produce a list of all the persons on board an aircraft within one hour of the notification of the occurrence of an accident to this aircraft.***

Or. fr

*Justification*

*(Does not affect English version.)*

**Amendment 56**

**Proposal for a regulation  
Article 22 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. In order to allow passengers' families to obtain information quickly concerning the presence of their relatives on board an aircraft involved in an accident, airlines and travel agencies shall offer travellers the opportunity to give the name and contact details of a person to be contacted in the event of an accident. This information may be used only in the event of an accident; it shall not be communicated to third parties and it may not be sold.***

Or. fr

*Justification*

*When an accident occurs, the airline receives thousands of calls and it often takes a long time to identify the appropriate person to be informed of a passenger's death. This period of uncertainty is extremely distressing for the victims' families. An obligation on airlines to ask passengers, at the time of booking a flight, to provide details of a person to be contacted in the event of an accident could shorten this waiting period. It must, however, be accompanied by guarantees concerning the protection of personal data.*

## Amendment 57

### Proposal for a regulation Article 22 – paragraph 3

*Text proposed by the Commission*

3. The list shall not be publicly available before all families of the passengers have been informed by the relevant authorities. Member States may decide to keep the list confidential.

*Amendment*

**3. *If a passenger has given details of a contact person as provided for under paragraph 2a, it is that contact person who must be informed of the passenger's presence on board the aircraft involved in an accident.*** The list shall not be publicly available before all families of passengers have been informed by the relevant authorities. Member States may decide to keep the list confidential.

Or. fr

## Amendment 58

### Proposal for a regulation Article 22 – paragraph 4

*Text proposed by the Commission*

**4. *Processing of the data contained in the list shall be without prejudice to Directive 95/46/EC.***

*Amendment*

***deleted***

Or. fr

*Justification*

*A specific new article has been added on this matter (Article 23a), which incorporates this point.*

## Amendment 59

### Proposal for a regulation Article 23 – paragraph 1

*Text proposed by the Commission*

1. The Member States shall ensure that a

*Amendment*

1. The Member States shall ensure that ***an***

plan for the assistance of the victims of civil aviation accidents and *their families is set up at national level.*

*aviation accident emergency plan is set up at national level. This emergency plan shall include in particular a plan for the assistance of the victims of civil aviation accidents and a plan for the rapid activation of airport emergency services in the event of an accident at take-off or landing in a Member State.*

Or. fr

*Justification*

*The national emergency plan must take particular account of the speed and efficiency of airport-based emergency services in the event of an accident at the airport. This is of great importance and may save passengers' lives.*

**Amendment 60**

**Proposal for a regulation  
Article 23 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*1a. The Member States shall ensure that all airlines established on their territory have a plan for the assistance of victims and their families. These plans must take particular account of psychological support for victims and their families and allow the airline to react to a major accident. The Member States shall audit the assistance plans of the airlines established on their territory. Third-country airlines providing services in the Union must also have a plan that meets the needs of victims and of their families and must forward this plan to the relevant authorities of the Member States where they provide services.*

Or. fr

*Justification*

*When an accident occurs, the airline is the first point of contact for passengers' families. Member States must therefore check that the airlines established on their territory also have*

*an appropriate crisis-response plan. Third-country airlines, too, must have such a plan.*

## **Amendment 61**

### **Proposal for a regulation**

#### **Article 23 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. When an accident occurs, the Member State that is in charge of the investigation, or where the airline whose aircraft was involved in the accident is established, or that had a large number of nationals on board the aircraft involved in the accident, shall provide for the appointment of a reference person as a point of contact and information for the victims and their families. That person may belong to the national safety investigation authority.***

Or. fr

#### *Justification*

*This reference person must be the primary point of contact for victims' families and friends. The contact person may coordinate the information obtained from the different bodies involved, forward it to passengers' families and also inform them of the various procedures that follow.*

## **Amendment 62**

### **Proposal for a regulation**

#### **Article 23 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Airlines that provide services in the Union must apply the provisions of the Montreal Convention for the Unification of Certain Rules for International Carriage, even in the event that the state where they are established has not ratified that Convention.***

*Justification*

*European travellers must be protected by the Montreal Convention irrespective of the company they fly with.*

**Amendment 63**

**Proposal for a regulation**  
**Article 23 a (new) – title**

*Text proposed by the Commission*

*Amendment*

**Article 23a**

***Access to documents and protection of  
personal data***

*Justification*

*Particular attention must be paid to the protection of personal data.*

**Amendment 64**

**Proposal for a regulation**  
**Article 23 a (new) – paragraph 1**

*Text proposed by the Commission*

*Amendment*

***1. The provisions of this Regulation shall  
apply without prejudice to Regulation  
(EC) No 1049/2001 of the European  
Parliament and of the Council<sup>1</sup>.***

<sup>1</sup> OJ L 145, 31.5.2001, p. 43.

## **Amendment 65**

### **Proposal for a regulation Article 23 a (new) – paragraph 2**

*Text proposed by the Commission*

*Amendment*

**2. The provisions of this Regulation shall apply in accordance with Directive 95/46/EC and Directive 2001/45/EC of the European Parliament and of the Council<sup>2</sup>.**

<sup>1</sup> OJ L 8, 12.1.2001, p. 1.

Or. fr

*Justification*

*Particular attention must be paid to the protection of personal data.*

## **Amendment 66**

### **Proposal for a regulation Article 26 a (new) – title**

*Text proposed by the Commission*

*Amendment*

**Article 26 a**

**Amendment of the Regulation**

Or. fr

## **Amendment 67**

### **Proposal for a regulation Article 26 a (new) – paragraph 1 (new)**

*Text proposed by the Commission*

*Amendment*

**1. If this Regulation should be amended, the Network referred to in Article 7 shall be responsible for issuing a preliminary opinion. The opinion of the Network shall be forwarded to the Commission, the Member States and the European**

*Parliament.*

Or. fr

## EXPLANATORY STATEMENT

### **1. Background**

Air traffic has steadily increased in recent years.

Despite significant improvements in safety standards, this increase tends to bring with it a greater risk of air accidents.

It is therefore essential that independent investigations be conducted into such accidents to detect any safety flaws and enable measures to be taken to remedy the problems.

The European legislation which currently governs accident investigations is a 1994 Directive<sup>1</sup>.

The aviation market has significantly evolved and become more complex since this text was introduced.

The emergence of new bodies, such as the European Aviation Safety Agency (EASA), responsible for aircraft certification in the EU, and the disparities in the Member States' investigating capacities have made it necessary to bring forward new legislation<sup>2</sup>.

### **2. The network of safety investigation authorities**

The establishment of a network of national investigation offices should make it possible to reduce current disparities in investigating capacities in the EU.

It could also help to improve the quality of investigations and provide a legal framework for cooperation between national safety investigation authorities.

This should, as a result, contribute to improving aviation safety.

While the establishment of a European safety investigation office would not appear to be feasible under the present circumstances, your rapporteur nevertheless wishes to go further than the Commission proposal: the network's tasks<sup>3</sup> would need to be defined, thus providing the safety plan with a genuine added value.

Its tasks could include:

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<sup>1</sup> Council Directive 94/56/EC of 21 November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents (OJ L 319, 12.12.1994, p. 14).

<sup>2</sup> Account should also be taken of new aspects in Annex 13 ('Aircraft accident and incident investigation') to the Chicago Convention on International Civil Aviation (7300/9), which sets out the international rules governing aircraft accident and incident investigation.

<sup>3</sup> These tasks could be defined on the basis of the proposals contained in the Commission's impact assessment (SEC(2009)1477, p. 43) and the existing maritime transport provisions under the permanent cooperation framework (Article 10 of Directive 2009/18/EC of the European Parliament and of the Council of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Council Directive 1999/35/EC and Directive 2002/59/EC of the European Parliament and of the Council (OJ L 131, 28.5.2009, p. 114)).

- providing a framework for and facilitating the sharing of resources between investigation offices and the supply of inspectors<sup>1</sup>;
- promoting the sharing of information useful to the improvement of safety standards;
- setting up training courses for investigators;
- establishing a register of good practice and developing a European accident investigation methodology;
- organising audits of safety investigation authorities.

Consideration should also be given to the appropriate framework for implementing at European level any proposals made by the network with a view to improving aviation safety or investigation procedures.

### **3. The European Aviation Safety Agency (EASA)**

EASA<sup>2</sup> is responsible, on behalf of the Member States, for certifying aircraft in the Community. It plays a major role in aviation safety.

Directive 94/56/EC<sup>3</sup> could not take account of EASA since it was adopted before the Agency's establishment. This is creating unacceptable safety risks<sup>4</sup>.

It is therefore justified for the new regulation to provide for a clear legal framework for the Agency's involvement in safety investigations.

Your rapporteur wishes to address two specific issues:

#### **(a) Independence of safety investigations**

The regulation should under no circumstances allow EASA the possibility of influencing a safety investigation or conducting another inquiry alongside that investigation.

As the body responsible for aircraft certification, the Agency cannot be both judge and party. There should be no room for ambiguity in the text.

#### **(b) Designation**

As air transport is often international, a safety investigation may involve non-European states. Bearing this in mind and with a view to ensuring legal certainty, it is important that the term used to define EASA's role in investigations be clearly set out in Annex 13 to the Convention on International Civil Aviation<sup>5</sup>, which governs international investigations.

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<sup>1</sup> One example of a measure to facilitate exchanges would be the establishment of a register of facilities and equipment available to each national investigation authority and, where necessary, accident inspectors specialised in specific areas (sea, mountains etc.).

<sup>2</sup> Created by Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1).

<sup>3</sup> Cited above.

<sup>4</sup> As confirmed by an audit of EASA by the International Civil Aviation Organisation (ICAO).

<sup>5</sup> Cited above.

Given that the term ‘expert’ used in the proposal for a regulation<sup>1</sup> does not meet this criterion, there is a risk of uncertainty arising.

It would therefore be preferable to use a clear designation, ensuring that the Agency’s involvement in investigations cannot be called into question.

‘Adviser’<sup>2</sup> is the term commonly used to refer to the certification authority<sup>3</sup>.

Your rapporteur therefore proposes that EASA be defined in the regulation as ‘adviser’ with regard to its involvement in safety investigations and that it enjoy the rights conferred on advisers under Annex 13.

#### (c) EASA access to safety information

With a view to ensuring air safety, the Agency should have access throughout investigations to any relevant information and safety recommendations which will allow it to establish airworthiness directives with delay<sup>4</sup>.

However, information is not forwarded as systematically to EASA as to national civil aviation authorities.

Rules are therefore required for this flow of information and as a means of encouraging investigation authorities to cooperate more closely with the Agency.

### **4. Coordination between investigations**

In many cases, one or more legal actions are in progress at the same time as the safety investigations<sup>5</sup>.

#### (a) Independence

Steps must be taken to ensure that those responsible for safety investigations are allowed to do their work without having to ask the courts for authorisation to have access to or to examine evidence.

Obviously, in the case of an unlawful act, the circumstances are different and judicial investigations must be given precedence<sup>6</sup>.

#### (b) Access to sensitive information

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<sup>1</sup> In Article 9(1) of the proposal for a regulation (COM(2009)611). The term ‘expert’ appears twice in Annex 13 to the ICAO Convention, but is not defined.

<sup>2</sup> Chapter 1 of Annex 13 to the Chicago Convention on International Civil Aviation.

<sup>3</sup> This is the case in the United States, where the Federal Aviation Administration (FAA) is ‘adviser’ to the National Transportation Safety Board (NTSB), pursuant to Annex 13 of the Chicago Convention, on safety investigations relating to aviation accidents.

<sup>4</sup> Article 20 of Regulation (EC) No 216/2008, cited above.

<sup>5</sup> Such inquiries are independent of one another. However, although technical investigations are only concerned with safety aspects and do not seek to establish who was responsible, the facts established by technical investigation authorities and their findings do have a major impact on judicial inquiries.

<sup>6</sup> Article 13(2) of the proposal for a regulation, cited above.

It is essential that persons involved in an accident<sup>1</sup> cooperate with the safety investigation in order to establish the causes of the accident.

Any refusal by such persons to reply to the safety investigation for fear of seeing their testimony transferred to the courts without their consent creates an air safety risk.

On the other hand, the courts must be allowed to do their work, and families have a right to expect the courts to establish who was responsible.

To do this, the judicial authorities must have access to the relevant information.

The Commission is proposing that certain records be protected, but that the judicial authorities may be allowed access to them where this is justified by ‘an overriding public interest’<sup>2</sup>.

However, the concept of ‘an overriding public interest’ is fairly vague and may differ from one Member State to another. Moreover, an accident which causes a person’s death is often considered as a case of overriding public interest.

Sensitive information is therefore no longer protected in such cases.

Your rapporteur is proposing that any information relating to the establishment of the facts and analysis of the evidence be forwarded to the courts, but that any other information remain confidential.

## **5. Rights of victims and their families**

### **(a) Passenger lists**

The Commission is proposing that airlines be required to be able to produce the list within an hour of the notification of an accident.

Your rapporteur endorses this idea but believes that it should not apply only to Community airlines and to those that fly from the EU but also to all airlines that come to Europe.

There is no reason to create discrimination between passengers bound for the Union on the basis of the airline they use.

### **(b) Information on the death of a passenger**

When an accident occurs, the airline receives thousands of calls<sup>3</sup>, and it often takes a long time to identify the appropriate person to be informed of a passenger’s death.

This period of uncertainty is extremely distressing for the victims’ families.

Your rapporteur wishes to introduce an obligation on airlines<sup>4</sup> to ask passengers to provide

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<sup>1</sup> Surviving personnel, air traffic controllers, aircraft operators etc.

<sup>2</sup> Article 15(2) of the proposal for a regulation, cited above.

<sup>3</sup> Air France received over 20 000 calls in one day following the disappearance of flight AF 447 from Rio to Paris on 31 May 2009.

<sup>4</sup> As is already the case in the United States.

details, at the time of booking a flight, of a person to be contacted in the event of an accident<sup>1</sup>.

### (c) Assistance to families

The Commission's proposal states that 'the Member States shall ensure that a plan for the assistance of the victims of civil aviation accidents and their families is set up at national level'<sup>2</sup>.

However, when an accident occurs, the airline is the first point of contact for passengers' families.

Your rapporteur therefore considers that Member States should be required, in addition, to check that airlines established on their territory also have their own crisis-response plan<sup>3</sup>.

The state responsible for the safety investigation should also be required to appoint a main contact person for the families of passengers.

The contact person could coordinate the information obtained from the different bodies involved, forward it to passengers' families and also inform them of the various procedures that follow<sup>4</sup>.

This would provide important support for families of victims, who often feel lost when faced with a huge number of contacts and procedures when they are already having to cope with the loss of a loved one.

Moreover, steps should be taken to enable families to have special access to information on the progress of the safety investigation, and in particular to receive interim reports and the final investigation report before they are made public.

### (d) Montreal Convention<sup>5</sup>

Your rapporteur considers that European travellers should be protected by these rules, irrespective of the company they fly with, and that the regulation should make it compulsory for all airlines wishing to provide services in the European Union to comply with the provisions of the Montreal Convention.

## **6. Civil aviation occurrence reports**

The Commission has decided not to revise Directive 2003/42/EC<sup>1</sup> because it considers that such a change would be premature. However, the proposal for a regulation does refer to the matter<sup>2</sup>.

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<sup>1</sup> This information would be distinct from the details of the person to be contacted in the event of a change of flight schedule or of flight cancellation.

<sup>2</sup> Article 23 of the proposal for a regulation, cited above.

<sup>3</sup> Such crisis-response plans could be based on ICAO circular 285/AN/166 and should be audited.

<sup>4</sup> Safety investigation, possibly judicial inquiry, compensation payments, identification of bodies etc.

<sup>5</sup> The Montreal Convention for the Unification of Certain Rules for International Carriage, which entered into force on 28 June 2004, lays down rules governing the civil liability of air carriers in respect of victims of aviation accidents and their families. Ninety-three states are currently parties to the Convention.

It must be said that the way in which the occurrence report system works is far from ideal.

Not all Member States feed data into the ECCAIRS central repository<sup>3</sup>, which is intended to group together all events which occur in the EU.

Moreover, nobody is responsible for analysing the data contained in ECCAIRS at European level.

An analysis of this information would surely be extremely useful to aviation safety<sup>4</sup>.

Your rapporteur would like to expand the provisions in the present proposal for a regulation, in particular to ask EASA, in cooperation with states, to analyse and classify the information contained in ECCAIRS.

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<sup>1</sup> European Parliament and Council Directive 2003/42/EC of 13 June 2003 on occurrence reporting in civil aviation (OJ L 167, 04.07.2003, p. 23).

<sup>2</sup> Article 15(3) of the proposal for a regulation, cited above.

<sup>3</sup> Created by Commission Regulation (EC) No 1321/2007 of 12 November 2007 laying down implementing rules for the integration into a central repository of information on civil aviation occurrences exchanged in accordance with Directive 2003/42/EC of the European Parliament and of the Council (OJ L 294, 13.11.2007, p. 3).

<sup>4</sup> This would make it possible to detect the recurrence of incidents and to reduce the risk of accidents by establishing safety recommendations to remedy the shortcomings identified.