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Committee on Transport and Tourism

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DRAFT REPORT

on the proposal for a Regulation of the European Parliament and of the Council on occurrence reporting in civil aviation amending Regulation (EU) No 996/2010 and repealing Directive No 2003/42/EC, Commission Regulation (EC) No 1321/2007 and Commission Regulation (EC) No 1330/2007 (COM(2012)0776 – C7-0418/2012 – 2012/0361(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 is an indication for the relevant departments showing 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 that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in bold. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	53

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Regulation of the European Parliament and of the Council on occurrence reporting in civil aviation amending Regulation (EU) No 996/2010 and repealing Directive No 2003/42/EC, Commission Regulation (EC) No 1321/2007 and Commission Regulation (EC) No 1330/2007 (COM(2012)0776 – C7-0418/2012 – 2012/0361(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2012)0776),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0418/2012),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 17 April 2013¹,
 - after consulting the Committee of the Regions,
 - having regard to the opinion of the European Data Protection Supervisor of 10 April 2013,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A7-0000/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 - 3- Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation
Recital 3 a (new)

¹ OJ C ... /Not yet published in the Official Journal.

Text proposed by the Commission

Amendment

(3a) Some organisations covered by this regulation are subject to other civil aviation occurrence reporting obligations under other European laws, particularly Regulation (EC) No 216/2008 of the European Parliament and the Council and its implementing rules. These various legal obligations are complementary and must all be complied with by the organisations subject to those various legal acts.

Or. fr

Amendment 2

Proposal for a regulation Recital 6

Text proposed by the Commission

Amendment

(6) Mandatory and voluntary reporting systems allowing individuals to report details on occurrences should be set up and the information collected should be ***transferred to the authority competent for taking*** action on the basis of occurrences collected in order to enhance civil aviation safety.

(6) Mandatory and voluntary reporting systems allowing individuals to report details on ***aviation safety*** occurrences should be set up and the information collected should be ***analysed and followed up so that preventive or corrective action may be taken*** on the basis of occurrences collected in order to enhance civil aviation safety. ***This information should be passed on to the competent authority so that larger-scale action may be taken where necessary and so that the authority can monitor that appropriate action is in fact taken.***

Or. fr

Justification

Where the information collecting entity is an organisation, it must be able, as it does at present, to take preventive or corrective action at its own level. Once the competent

authorities have been informed by these organisations, they must assess whether it is appropriate to make corrections or to impose these measures on a larger scale with a view to enhancing air safety throughout their territory.

Amendment 3

Proposal for a regulation Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) While the whole aviation sector should be covered by this regulation, it also needs to be ensured that its obligations are proportionate to the sphere of activity and complexity of the individual aircraft. Accordingly, details of occurrences involving a non-complex aircraft should be collected in accordance with this regulation, but should be subject to specific reporting obligations better suited to this branch of the aviation sector.

Or. fr

Amendment 4

Proposal for a regulation Recital 7

Text proposed by the Commission

Amendment

(7) Various categories of personnel working in civil aviation observe events of interest for the prevention of accidents and should therefore report ***them***.

(7) Various categories of personnel working in civil aviation observe events of interest for the prevention of accidents and should therefore have access to tools enabling them to report such events while also guaranteeing their protection. In order to encourage staff to report occurrences and enable them to appreciate more fully the positive impact of reporting on air safety, they should be regularly informed about action taken under occurrence reporting systems.

Justification

The entire system of rules proposed by this regulation rests on information passed on by staff who witnessed or caused an occurrence. All the necessary tools should therefore be developed to engender a genuine climate of trust, or 'just culture', so as to encourage them to report occurrences.

Amendment 5

Proposal for a regulation
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) It needs to be ensured that occurrences representing a major risk to aviation safety are reported as a matter of course by front-line operators via mandatory reporting systems. To permit the collection of details on all occurrences relevant to aviation safety, voluntary reporting systems should be put in place to collect details of occurrences reported by other air transport operators, as well as occurrences entailing a lower risk than those reported under the mandatory systems.

Amendment 6

Proposal for a regulation
Recital 11

Text proposed by the Commission

Amendment

(11) A common European risk classification scheme should be developed in order to allow support for the identification of necessary quick action when looking at high risk single safety occurrences. It should also allow the

(11) A common European risk classification scheme should be developed in order to allow support for the identification of necessary quick action when looking at high risk single safety occurrences. It should also allow the

identification of key risk areas when looking at aggregated information. Such a scheme should support **Member States** in their assessment of occurrences and in determining where to best focus their efforts. It should also, when looking at aggregated information from a European perspective, allow the identification of key risk areas within the Union and support the work done in the area of the European Aviation Safety Programme and of the European Aviation Safety Plan. Appropriate support should be given to ensure a consistent and a uniform risk classification across Member States.

identification of key risk areas when looking at aggregated information. Such a scheme should support **the relevant operators** in their assessment of occurrences and in determining where to best focus their efforts. It should also, when looking at aggregated information from a European perspective, allow the identification of key risk areas within the Union and support the work done in the area of the European Aviation Safety Programme and of the European Aviation Safety Plan. Appropriate support should be given **by the Commission** to ensure a consistent and a uniform risk classification across Member States.

Or. fr

Amendment 7

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) Occurrence reports should be stored in databases which should be a system compatible with ECCAIRS (the software used by all Member States and the European Central Repository to store occurrence reports) and with the ADREP taxonomy (the ICAO taxonomy, also used for the ECCAIRS software) in order to facilitate information exchange.

Amendment

(12) *Does not affect English text. Linguistic correction to French version.*

Or. fr

Justification

Linguistic amendment

Amendment 8

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) Information on occurrences should be exchanged within the Union. This should notably greatly enhance the detection of actual or potential hazards. In addition, this should allow Member States to receive all necessary information on occurrences occurring in their territory but which are reported to another Member State.

Amendment

(14) Information on occurrences should be exchanged within the Union. This should notably greatly enhance the detection of actual or potential hazards. In addition, this should allow Member States to receive all necessary information on occurrences occurring in their territory but which are reported to another Member State, ***and thus enable the competent national authorities to have precise information about occurrences in their airspace in order, where necessary, to take corrective action to counteract a risk identified on their territory.***

Or. fr

Justification

Under current legislation, national aviation safety authorities in one Member State are neither alerted of nor provided exact information on incidents in their national airspace concerning aircraft belonging to an airline certified in another Member State. Since an airline may, for example, become the number one operator in a Member State but have no reporting obligation there, it would seem essential for the authorities of that country to be made aware of events taking place in their airspace.

Amendment 9

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) Information concerning ***national*** occurrences, stored in the ***national*** databases, should be subject to the present Regulation.

Amendment

(18) Information concerning occurrences, stored in the databases ***of organisations, Member States and EASA***, should be subject to the present Regulation.

Or. fr

Amendment 10

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) Interested parties may request access to certain information contained in the European Central Repository.

Amendment

(20) Interested parties may request access to certain information contained in the European Central Repository, ***subject to the rules of confidentiality of such information and the anonymity of the persons concerned.***

Or. fr

Amendment 11

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) The effectiveness of safety measures adopted should be monitored and, where necessary, additional actions should be taken to ensure that the safety deficiencies have been correctly addressed. Information contained in occurrence reports should also be used in the form of aggregated data to detect trends.

Amendment

(23) The effectiveness of safety measures adopted should be monitored and, where necessary, additional actions should be taken to ensure that the safety deficiencies have been correctly addressed. Information contained in occurrence reports should also be used in the form of aggregated data to detect trends ***and to propose and implement appropriate preventive or corrective action.***

Or. fr

Amendment 12

Proposal for a regulation

Recital 29

Text proposed by the Commission

Amendment

(29) A person who **has reported** an occurrence in application of this Regulation should be adequately protected. In this context occurrence reports should be disidentified and details related to the **reporter** should not be registered into databases.

(29) A person who **is involved in** an occurrence **reported** in application of this Regulation should be adequately protected. In this context occurrence reports should be disidentified and details related to the **persons involved in the occurrence** should not be registered into databases.

Or. fr

Justification

With a view to enhancing staff members' trust in a 'just culture', so as to encourage reporting of events with the sole aim of improving aviation safety, protection for persons reporting an occurrence should be extended to cover anyone involved in the incident rather than merely the individual reporting it.

Amendment 13

Proposal for a regulation

Recital 31

Text proposed by the Commission

Amendment

(31) A 'Just Culture' environment should encourage individuals to report safety related information. It should however not absolve individuals from their normal responsibilities. In this context, employees should not be punished on the basis of information **they have** provided in application of this Regulation, except in case of gross negligence.

(31) A 'Just Culture' environment should encourage individuals to report safety related information. It should however not absolve individuals from their normal responsibilities. In this context, employees should not be punished on the basis of information provided in application of this Regulation, except in case of gross negligence.

Or. fr

Justification

With a view to enhancing staff members' trust in a 'just culture', so as to encourage reporting of events with the sole aim of improving aviation safety, protection for persons reporting an occurrence should be extended to cover anyone involved in the incident rather than merely the individual reporting it.

Amendment 14

Proposal for a regulation Recital 32

Text proposed by the Commission

(32) It is important to clearly set the line which protects the **reporter** from prejudice or prosecution by providing a common understanding of the term gross negligence.

Amendment

(32) It is important to clearly set the line which protects the **person involved in the reported occurrence** from prejudice or prosecution by providing a common understanding of the term gross negligence.

Or. fr

Justification

With a view to enhancing staff members' trust in a 'just culture', so as to encourage reporting of events with the sole aim of improving aviation safety, protection for persons reporting an occurrence should be extended to cover anyone involved in the incident rather than merely the individual reporting it.

Amendment 15

Proposal for a regulation Recital 34

Text proposed by the Commission

(34) Employees should have the possibility to report breaches *to* the principles delimiting their protection as established by this legislation. Member States should define the consequences for those having infringed the principles of protection of **reporter** and should adopt penalties when relevant.

Amendment

(34) Employees should have the possibility to report breaches *of* the principles delimiting their protection as established by this legislation **and should not be penalised for reporting such breaches**. Member States should define the consequences for those having infringed the principles of protection of **persons involved in the reporting** and should adopt penalties when relevant.

Or. fr

Justification

To ensure that a genuine, uniform 'just culture' is engendered within the Union, efforts

should be made to deploy tools for the protection of persons reporting occurrences. A staff member reporting a breach of Article 16 of this regulation must be assured that he cannot be penalised for using this reporting mechanism.

Amendment 16

Proposal for a regulation

Recital 35

Text proposed by the Commission

(35) Individuals may be refrained to report occurrences by the fear of self-incrimination and their potential consequences in terms of prosecution before judicial authorities. In this context Member States should not institute proceeding against a reporter on the basis of its report, except in case of gross negligence. In addition, the cooperation between safety and judicial authorities should be enhanced and formalised by the means of advance arrangements which should respect the balance between the various public interests at stake and notably cover the access and use of occurrence reports contained in the national databases.

Amendment

*(35) Does not affect English text..
Linguistic correction to French.*

Or. fr

Justification

Linguistic amendment

Amendment 17

Proposal for a regulation

Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) To permit an effective response to the increased powers accorded to EASA by this regulation, the Agency should be given sufficient resources to complete the

additional tasks conferred on it.

Or. fr

Amendment 18

Proposal for a regulation Recital 39

Text proposed by the Commission

(39) Penalties should, in particular, allow for the sanctioning of any person or entity who, contrary to this Regulation, misuses information protected by this Regulation; adopt prejudice against the *reporter of an* occurrence except in case of gross negligence; does not establish an environment appropriate for allowing the collection of details on occurrences; does not analyse the information collected and does not act to address the safety or potential safety deficiencies detected; does not share the information collected in application of this Regulation.

Amendment

(39) Penalties should, in particular, allow for the sanctioning of any person or entity who, contrary to this Regulation, misuses information protected by this Regulation; adopt prejudice against the *persons involved in a reported* occurrence except in case of gross negligence; does not establish an environment appropriate for allowing the collection of details on occurrences; does not analyse the information collected and does not act to address the safety or potential safety deficiencies detected; does not share the information collected in application of this Regulation.

Or. fr

Justification

With a view to enhancing staff members' trust in a 'just culture', so as to encourage reporting of events with the sole aim of improving aviation safety, protection for persons reporting an occurrence should be extended to cover anyone involved in the incident rather than merely the individual reporting it.

Amendment 19

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation aims to improve aviation safety by ensuring that relevant

Amendment

1. This Regulation aims to improve aviation safety by ensuring that relevant

civil aviation safety information is reported, collected, stored, protected, exchanged, disseminated, analysed and that safety actions are taken on the basis of the information collected where appropriate. It also provides for rules concerning the integration of information collected into a European Central Repository and concerning their dissemination to interested parties with the objective of providing such parties with the information they need to improve civil aviation safety.

civil aviation safety information is reported, collected, stored, protected, exchanged, disseminated, analysed and that safety actions are taken ***as quickly as possible*** on the basis of the information collected where appropriate. It also provides for rules concerning the integration of information collected into a European Central Repository and concerning their dissemination to interested parties with the objective of providing such parties with the information they need to improve civil aviation safety. ***This regulation also seeks to ensure the continued availability of safety information by means of rules on the confidentiality and appropriate use of information and by harmonised and enhanced protection of persons involved in the reported occurrence. This regulation ensures that aviation safety risks are considered and dealt with at European level too.***

Or. fr

Justification

Since this regulation seeks to engender a genuine 'just culture' in the Union, this objective should be specified in Article 1. It therefore seems necessary and justifiable to refer to the concepts dealt with in Articles 14, 15 and 16.

Amendment 20

Proposal for a regulation Article 2 – paragraph 1 – point 1

Text proposed by the Commission

(1) 'disidentification' means removing from occurrence reports submitted all personal details pertaining to the ***reporter*** and technical details which are leading to the identity of the ***reporter***, or of third parties, being inferred from the

Amendment

(1) 'disidentification' means removing from occurrence reports submitted all personal details pertaining to the ***persons involved in the occurrence*** and technical details which are leading to the identity of the ***persons involved in the occurrence***, or of third parties, being inferred from the

information;

information;

Or. fr

Justification

With a view to enhancing staff members' trust in a 'just culture', so as to encourage reporting of events with the sole aim of improving aviation safety, protection for persons reporting an occurrence should be extended to cover anyone involved in the incident rather than merely the individual reporting it.

Amendment 21

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Text proposed by the Commission

(4) 'gross negligence' means a manifest and wilful violation of the duty of *care* directly causing foreseeable damage to a person or to a property, or which seriously lowers the level of aviation safety;

Amendment

(4) 'gross negligence' means a manifest and wilful violation of the duty of **professional responsibility** directly causing foreseeable damage to a person or to a property, or which seriously lowers the level of aviation safety;

Or. fr

Justification

It would appear essential for all members of staff to be able to count on a uniform interpretation of 'gross negligence' by all competent national courts so as to enjoy the same level of protection throughout the EU. To that end, a clear interpretation of this definition is needed, specifying the nature of the duty of care referred to here.

Amendment 22

Proposal for a regulation

Article 3 – paragraph 1

Text proposed by the Commission

This Regulation shall apply to occurrences which endanger or which, if not corrected, would endanger an aircraft, its occupants or any other person. ***A list of incidents to***

Amendment

This Regulation shall apply to occurrences which endanger or which, if not corrected, would endanger an aircraft, its occupants

be reported is detailed in Annex I.

or any other person.

Or. fr

Justification

By definition the mandatory reporting system is restricted to the incidents listed in Annex I. However, as the scope of the regulation also covers voluntary reporting, the wording proposed here should be clarified.

Amendment 23

Proposal for a regulation

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

A detailed list of the incidents to be reported under the mandatory reporting system referred to in Article 4 appears in Annex 1. That list contains specific reporting obligations concerning the notification of incidents to be reported by the persons referred to in Article 4(3)(a) involving a non-complex aircraft. Any other incident the parties involved may consider relevant should be notified under the voluntary reporting system referred to in Article 5.

Or. fr

Justification

The reporting requirements applicable to light and leisure aircraft should be proportionate and appropriate to that sector.

Amendment 24

Proposal for a regulation

Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. A mandatory reporting system shall be set up by the European Aviation Safety Agency (EASA) to facilitate collection of details on occurrences, including collection of details on occurrences gathered by organisations certified or approved by the Agency.

Or. fr

Justification

As a certifying authority, EASA must establish a mechanism parallel to that of the Member States to collect information reported to the organisations it certifies.

Amendment 25

Proposal for a regulation

Article 4 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

3. The following persons shall report occurrences through the system established by the organisation which employs that person in accordance with paragraph 1 or through the system established by **Member States** in accordance with paragraph 2:

3. The following persons shall report occurrences through the system established by the organisation which employs that person in accordance with paragraph 1 or through the system established by **the Member State of establishment of their organisation or by the state which issued their pilot's licence**, in accordance with paragraph 2, **or through the system established by EASA in accordance with paragraph 2a.**

Or. fr

Justification

Clarification. The occurrence reporting system clearly specifies the Member State to which the person reporting the occurrence has to address his report. Member States may subsequently exchange information via the European Central Repository. The wording therefore needs to be clarified to prevent any misinterpretation.

Amendment 26

Proposal for a regulation

Article 4 – paragraph 3 – point a

Text proposed by the Commission

(a) the pilot-in-command of an aircraft registered in a Member State or an aircraft registered outside the Union but used by an operator for which a Member State ensures oversight of operations or an operator established in the Union;

Amendment

(a) the pilot-in-command **and any other crew member** of an aircraft registered in a Member State or an aircraft registered outside the Union but used by an operator for which a Member State ensures oversight of operations or an operator established in the Union;

Or. fr

Justification

Any member of the aircrew should be able to report an occurrence they have witnessed via the mandatory reporting system.

Amendment 27

Proposal for a regulation

Article 4 – paragraph 3 – point d

Text proposed by the Commission

(d) a person who performs a function which requires him to be authorised by a Member State as an air traffic **controller** or as a flight information officer;

Amendment

(d) a person who performs a function which requires him to be authorised by a Member State as **a staff member of an** air traffic **service provider** or as a flight information officer;

Or. fr

Justification

The role of aerodrome flight information service (AFIS) staff also needs to be taken into account. The use of this more general term makes it possible to extend reporting requirements to such staff and not merely to air traffic controllers.

Amendment 28

Proposal for a regulation

Article 4 – paragraph 3 – point e

Text proposed by the Commission

(e) a **manager** of an airport to which Regulation (EC) No 1008/2008 of the European Parliament and of the Council applies;

Amendment

(e) a **person who performs a function related to the safety management** of an airport to which Regulation (EC) No 1008/2008 of the European Parliament and of the Council applies;

Or. fr

Justification

In practice this task falls to the person in charge of safety management at the airport, who should be clearly identified at this point in the interests of simplification and clarification.

Amendment 29

Proposal for a regulation

Article 4 – paragraph 4

Text proposed by the Commission

4. Every person listed in paragraph 3 shall report occurrences within **the** time-limit **and in accordance with the requirements specified in Annex II point 1.**

Amendment

4. Every person listed in paragraph 3 shall report occurrences within **a** time limit **not exceeding 72 hours.**

Or. fr

Justification

In the interests of simplification and clarification, the obligations should be stated clearly in the body of the regulation and not relegated to an annex.

Amendment 30

Proposal for a regulation

Article 4 – paragraph 5

Text proposed by the Commission

Amendment

5. Each organisation ***certified or approved*** by a Member State shall report to the competent authority of that Member State, as referred to in Article 6(2), the details on occurrences collected in accordance with paragraph 1.

5. Each organisation ***established in a*** Member State ***which is not covered by paragraph 6*** shall report to the competent authority of that Member State, as referred to in Article 6(2), the details on occurrences collected in accordance with paragraph 1 ***within 72 hours***.

Or. fr

Justification

The wording proposed here would not cover occurrences involving organisations that are established but not certified by the Member States referred to in paragraph 3 (ground handling activities, non-certified aerodromes). It also needs to be ensured that the Member States' authorities receive the report of the occurrence within a reasonable time, in line with the time limits that apply to certain organisations under other current European legislation.

Amendment 31

Proposal for a regulation Article 4 – paragraph 6

Text proposed by the Commission

Amendment

6. Each organisation certified or approved by EASA shall report to EASA the details on occurrences collected in accordance with paragraph 1.

6. Each organisation certified or approved by EASA shall report to EASA the details on occurrences collected in accordance with paragraph 1 ***within 72 hours***.

Or. fr

Justification

It needs to be ensured that EASA receives the report of the occurrence within a reasonable time, in line with the time limits that apply to certain organisations under other current European legislation.

Amendment 32

Proposal for a regulation Article 5 – paragraph 1

PE510.864v01-00

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Text proposed by the Commission

1. A voluntary reporting system shall set up by each organisation established in a Member State to facilitate collection of details on occurrences that may not be captured by the mandatory reporting system but which are perceived by the reporter as an actual or potential hazard.

Amendment

1. A voluntary reporting system shall set up by each organisation established in a Member State to facilitate collection of details on occurrences that may not be captured by the mandatory reporting system but which are perceived by the reporter as an actual or potential hazard **to aviation safety**.

Or. fr

Justification

It needs to be clarified that only occurrences linked to aviation safety may be collected under this regulation.

Amendment 33

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

2. A voluntary reporting system shall be set up by each Member State to facilitate collection of details on occurrences that may not be captured by the mandatory reporting system but which are perceived by the reporter as an actual or potential hazard including collection of details on occurrences gathered by organisations in application of paragraph 1.

Amendment

2. A voluntary reporting system shall be set up by each Member State to facilitate collection of details on occurrences that may not be captured by the mandatory reporting system but which are perceived by the reporter as an actual or potential hazard **to aviation safety** including collection of details on occurrences gathered by organisations in application of paragraph 1.

Or. fr

Justification

It needs to be clarified that only occurrences linked to aviation safety may be collected under this regulation.

Amendment 34

Proposal for a regulation

Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. A voluntary reporting system shall be set up by EASA to facilitate collection of details on occurrences that may not be captured by the mandatory reporting system but which are perceived by the person reporting them as an actual or potential hazard to aviation safety, including collection of details on occurrences gathered by organisations certified or approved by the Agency.

Or. fr

Justification

As a certifying authority, EASA must establish a mechanism parallel to that of the Member States to collect information reported to the organisations it certifies.

Amendment 35

Proposal for a regulation

Article 5 – paragraph 4

Text proposed by the Commission

Amendment

4. Each organisation ***certified or approved by a Member State*** shall report to the competent authority of that Member State, as referred to in Article 6(2), the details on occurrences collected in accordance with paragraph 1.

4. Each organisation ***established in a Member State and not covered by paragraph 5*** shall report to the competent authority of that Member State, as referred to in Article 6(2), the details on occurrences collected in accordance with paragraph 1 ***within 72 hours***.

Or. fr

Justification

The wording proposed here would not cover occurrences involving organisations that are established but not certified by the Member States (e.g. ground handling operators, non-

certified aerodromes). It also needs to be ensured that the Member States' authorities receive the report of the occurrence within a reasonable time, in line with the time limits in force for certain organisations under other current European legislation.

Amendment 36

Proposal for a regulation Article 5 – paragraph 5

Text proposed by the Commission

5. Each organisation certified or approved by EASA shall report to EASA the details on occurrences collected in accordance with paragraph 1.

Amendment

5. Each organisation certified or approved by EASA shall report to EASA the details on occurrences collected in accordance with paragraph 1 ***within 72 hours***.

Or. fr

Justification

It needs to be ensured that EASA receives the report of the occurrence within a reasonable time, in line with the time limits that apply to certain organisations under other current European legislation.

Amendment 37

Proposal for a regulation Article 5 – paragraph 6

Text proposed by the Commission

6. Member States and organisations may establish other safety information collection and processing systems to collect details on occurrences that may not be captured by the reporting systems mentioned in Article 4 and in paragraphs 1 and 2 of this Article. These systems may include *the* reporting to other entities than the ones described in Article 6(2) and may involve *an* active participation *of* the industry.

Amendment

6. Member States and organisations may establish other safety information collection and processing systems to collect details on occurrences that may not be captured by the reporting systems mentioned in Article 4 and in paragraphs 1 and 2 of this Article. These systems may include reporting to other entities than the ones described in Article 6(2) and may involve active participation *by* the industry ***and by professional organisations of aviation staff***.

Or. fr

Justification

It seems important to support the establishment of any systems that are likely to increase occurrence reporting with the aim of enhancing air safety in the Union. The tools developed by professional organisations in the aviation sector should therefore also be mentioned in this article.

Amendment 38

Proposal for a regulation Article 6 – paragraph 1

Text proposed by the Commission

1. Each organisation established in a Member State shall designate one or more persons to handle the collection, evaluation, processing, analysis and storage of details on occurrences reported in accordance with Articles 4 and 5. These designated persons shall work separately and independently from other departments of the organisation.

Amendment

1. Each organisation established in a Member State shall designate one or more persons to handle the collection, evaluation, processing, analysis and storage of details on occurrences reported in accordance with Articles 4 and 5. These designated persons shall work separately and independently from other departments of the organisation ***in order to ensure the confidentiality of the information and the anonymity of the person reporting the occurrence.***

Or. fr

Justification

Those responsible for handling the collection, evaluation, processing, analysis and storage of details on occurrences reported should guarantee the confidentiality of the information collected. As the trust of the person making the report is a key element in the proper functioning of the occurrence reporting system, it seems essential to guarantee the confidentiality of his identity from the first level of information processing.

Amendment 39

Proposal for a regulation Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Organisations of the same nature may share the collection, evaluation,

processing, analysis and storage of details on occurrences reported in accordance with Articles 4 and 5, while observing the rules on independence, confidentiality and protection referred to in paragraph 1.

Or. fr

Justification

It seems essential to respect the rules of independence and confidentiality with a view to ensuring the effective protection of the information supplied by the person reporting the occurrence. However, the requirement for the department to be independent of the rest of the organisation could represent a serious burden for small organisations. Accordingly flexibility must be shown by allowing organisations of the same kind to share these departments.

Amendment 40

Proposal for a regulation

Article 6 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Each Member State shall designate one or more competent authorities to put in place a mechanism to collect, evaluate, process, analyse and store details on occurrences reported in accordance with Articles 4 and 5. The designated competent authorities shall work separately and independently from other departments when handling the information reported.

Amendment

Each Member State shall designate one or more competent authorities to put in place a mechanism to collect, evaluate, process, analyse and store details on occurrences reported in accordance with Articles 4 and 5. The designated competent authorities shall work separately and independently from other departments of the organisation when handling the information reported ***in order to ensure the confidentiality of the information and the anonymity of the person reporting the occurrence.***

Or. fr

Amendment 41

Proposal for a regulation

Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. EASA shall designate one or more persons to put in place a mechanism to collect, evaluate, process, analyse and store details on occurrences reported in accordance with Articles 4 and 5. The designated persons shall work separately and independently from other departments of the organisation when handling the information reported in order to ensure the confidentiality of the information and the anonymity of the person reporting the occurrence.

Or. fr

Justification

Seeks to take into account the powers of EASA which, in accordance with Articles 4 and 5, is to receive occurrence reports from organisations.

Amendment 42

Proposal for a regulation

Article 6 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. EASA shall store occurrence reports arising from details of occurrences collected in accordance with Articles 4 and 5 in a database.

Or. fr

Justification

Seeks to take into account the powers of EASA which, in accordance with Articles 4 and 5, is to receive occurrence reports from organisations.

Amendment 43

Proposal for a regulation Article 7 – paragraph 1

Text proposed by the Commission

1. Occurrence reports referred to in Article 6 shall contain at least the information listed in Annex II **point 2**.

Amendment

1. Occurrence reports referred to in Article 6 shall contain at least the information listed in Annex II.

Or. fr

Justification

In line with amendment to Article 4(4).

Amendment 44

Proposal for a regulation Article 7 – paragraph 2

Text proposed by the Commission

2. Each occurrence report referred to in **paragraph 4** of Article 6 shall contain the safety risk classification of the occurrence collected. **The classification shall be determined** in accordance with the common European risk classification scheme laid down in paragraph 5.

Amendment

2. Each occurrence report referred to in **paragraphs 3, 4 and 5a** of Article 6 shall contain the safety risk classification **level** of the occurrence collected. **The competent authorities of the Member States and EASA shall amend, where appropriate, and endorse the risk classification of the occurrence**, in accordance with the common European risk classification scheme laid down in paragraph 5.

Or. fr

Justification

All occurrences must be subjected to a risk classification. In order to ensure that this is applied in a clear and uniform manner, it is important that all occurrences collected in the Union are classified using a common risk classification methodology. However, organisations should remain free to use the internal risk classification mechanism they consider most appropriate to them.

Amendment 45

Proposal for a regulation Article 7 – paragraph 3

Text proposed by the Commission

3. Organisations **and** Member States shall establish data quality checking processes notably to ensure consistency between the different data contained in an occurrence report and the initial details on occurrence reported by the reporter.

Amendment

3. Organisations, Member States **and EASA** shall establish data quality checking processes notably to ensure consistency between the different data contained in an occurrence report and the initial details on occurrence reported by the reporter.

Or. fr

Justification

Seeks to take into account the powers of EASA which, in accordance with Articles 4 and 5, is to receive occurrence reports from organisations. Like the other competent authorities, the Agency is to put in place procedures seeking to monitor the quality of the data it collects under the above-mentioned articles.

Amendment 46

Proposal for a regulation Article 7 – paragraph 4

Text proposed by the Commission

4. The databases mentioned in paragraphs 3 **and** 4 of Article 6 shall use standardised formats to facilitate information exchange and shall be an ECCAIRS and an ADREP-compatible system.

Amendment

4. The databases mentioned in paragraphs 3, 4 **and 5a** of Article 6 shall use standardised formats to facilitate information exchange and shall be an ECCAIRS and an ADREP-compatible system.

Or. fr

Justification

Seeks to take into account the powers of EASA which, in accordance with Articles 4 and 5, is to receive occurrence reports from organisations. Like the other competent authorities, the Agency must ensure compatibility with ECCAIRS.

Amendment 47

Proposal for a regulation Article 7 – paragraph 5

Text proposed by the Commission

5. The Commission shall develop a common European risk classification scheme **in order** to classify occurrences in terms of safety risk. In doing so the Commission shall take into account the need for compatibility with existing risk classification schemes.

Amendment

5. The Commission, **in close cooperation with the Network of Aviation Safety Analysts**, shall develop **within two years** a common European risk classification scheme **to enable the Member States and EASA** to classify occurrences in terms of safety risk. In doing so the Commission shall take into account the need for compatibility with existing risk classification schemes.

Or. fr

Justification

In line with its role as defined in Article 14, the Network of Aviation Safety Analysts needs to be able to participate actively in developing the mechanism. It also seems useful to specify in this article the authorities responsible for using this mechanism. To ensure that the mechanism is developed and deployed within a reasonable time, a time limit should be specified.

Amendment 48

Proposal for a regulation Article 7 – paragraph 8

Text proposed by the Commission

8. The Commission shall support competent authorities of the Member States in their task of data integration, notably, but not limited to, the integration of minimum information referred to in paragraph 1, the risk classification of occurrences referred to in paragraph 2 and the establishment of data quality checking processes referred to in paragraph 3. This support from the Commission, provided notably in the form of guidance material **and** workshops, shall contribute to

Amendment

8. The Commission **and EASA** shall support competent authorities of the Member States in their task of data integration, notably, but not limited to, the integration of minimum information referred to in paragraph 1, the risk classification of occurrences referred to in paragraph 2 and the establishment of data quality checking processes referred to in paragraph 3. This support from the Commission **and EASA**, provided notably in the form of guidance material,

harmonise the data entry process across Member States.

workshops *and appropriate training for staff working in the bodies or entities referred to in Article 6(1), (2) and (2a)*, shall contribute to *harmonising* the data entry process across Member States.

Or. fr

Justification

It seems essential that the staff involved in these tasks should have received training to enable them to operate under the best possible conditions.

Amendment 49

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

3. EASA shall agree with the Commission the technical protocols for transferring into the European Central Repository all occurrence reports collected under Regulation (EC) No 216/2008 of the European Parliament and of the Council and its implementing rules as well as the information collected in application of Articles 4(6) and 5(5).

Amendment

3. EASA shall agree with the Commission the technical protocols for transferring into the European Central Repository all occurrence reports collected under Regulation (EC) No 216/2008 of the European Parliament and of the Council and its implementing rules, *particularly for occurrences contained in the Internal Occurrence Reporting System (IORS)*, as well as the information collected in application of Articles 4(6) and 5(5).

Or. fr

Justification

Account should be taken of the IORS data base held by EASA.

Amendment 50

Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. Member States and EASA shall participate in an exchange of information by making all safety related information stored in their respective reporting databases available to the competent authorities of the other Member States, EASA and the Commission, through the means of the European Central Repository. Occurrence reports shall be transferred to the European Central Repository within **30** days after the initial collection of details on the occurrence. Occurrence reports shall be updated whenever necessary with additional safety related information.

Amendment

1. Member States and EASA shall participate in an exchange of information by making all safety related information stored in their respective reporting databases available to the competent authorities of the other Member States, EASA and the Commission, through the means of the European Central Repository. Occurrence reports shall be transferred to the European Central Repository within **15** days after the initial collection of details on the occurrence. Occurrence reports shall be updated whenever necessary with additional safety related information.

Or. fr

Justification

As this is a simple automatic computerised transfer of collected data, not analysed data, it seems important that this exchange should take place within a reasonable time to improve the flow of shared safety information.

Amendment 51

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

1. Any entity entrusted with regulating civil aviation safety or with investigating civil aviation accidents and incidents within the Union shall have online access to information on occurrences contained in the European Central Repository.

Amendment

1. Any entity entrusted with regulating civil aviation safety or with investigating civil aviation accidents and incidents within the Union shall have online access to information on occurrences contained in the European Central Repository. ***This information shall be used in accordance with the rules referred to in Articles 15 and 16.***

Or. fr

Amendment 52

Proposal for a regulation Article 11 – paragraph 2

Text proposed by the Commission

2. A point of contact which receives a request shall check that it is made by an interested party and that the point of contact is competent to deal with such request.

Amendment

2. A point of contact which receives a request shall check that it is made by an interested party and that the point of contact is competent to deal with such request. ***Should the point of contact not be competent to deal with the request, it shall transfer it to the competent authority as established in Article 10(2).***

Or. fr

Justification

To ensure that requests are dealt with effectively and transparently, the procedure needs to be clarified here taking account of the competences of the various points of contact

Amendment 53

Proposal for a regulation Article 11 – paragraph 4

Text proposed by the Commission

4. If the request is accepted, the point of contact shall determine the amount and the level of information to be supplied. The information shall be limited to what is strictly required for the purpose of the request, without prejudice to Articles 15 and 16. Information unrelated to the interested party's own equipment, operations or field of activity shall be supplied only in aggregated or disidentified form. Information under non aggregated form may be provided to the interested party if it provides a detailed justification.

Amendment

4. If the request is accepted, the point of contact shall determine the amount and the level of information to be supplied. The information shall be limited to what is strictly required for the purpose of the request, without prejudice to Articles 15 and 16. Information unrelated to the interested party's own equipment, operations or field of activity shall be supplied only in aggregated or disidentified form. Information under non aggregated form may be provided to the interested party if it provides a detailed justification. ***This information must be used in accordance with the rules referred to in Articles 15 and 16.***

Amendment 54

Proposal for a regulation Article 13 – paragraph 2

Text proposed by the Commission

2. Each organisation established in a Member State shall, following the identification of actions required to address actual or potential safety deficiencies, implement these actions ***in a timely manner*** and establish a process to monitor implementation and effectiveness of the responses.

Amendment

2. Each organisation established in a Member State shall, following the identification of actions required to address actual or potential safety deficiencies, implement these actions ***as quickly as possible*** and establish a process to monitor implementation and effectiveness of the responses.

Justification

It is important for the corrective action identified to be taken quickly, so a more precise time expression should be used.

Amendment 55

Proposal for a regulation Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Each organisation shall regularly provide its employees with information concerning the analysis of and follow-up to the various occurrences for which preventive or corrective action is taken.

Justification

It seems important to allow all stakeholders, including individuals reporting incidents, to be provided with sufficient feedback to enable them to fully appreciate the benefit that their

notifying an incident has on both aviation safety and their personal safety.

Amendment 56

Proposal for a regulation Article 13 – paragraph 3

Text proposed by the Commission

3. Each organisation ***certified or approved by*** a Member State shall report, ***where required***, to the competent authority Member State, as referred to in Article 6(2), the result of the analysis performed in accordance with paragraph 1 and the actions required in accordance with paragraph 2 within 30 days.

Amendment

3. Each organisation ***established in*** a Member State, ***which is not covered by paragraph 3***, shall report to the competent authority of the Member State, as referred to in Article 6(2), the ***initial*** result of the analysis performed in accordance with paragraph 1 and any action to be taken in accordance with paragraph 2 within 30 days ***from the day of notification of the occurrence. The final result of the analysis must be reported as soon as it is available and no later than three months from the day of notification of the occurrence.***

Or. fr

Justification

The 30 day deadline proposed here in line with the ICAO recommendations is appropriate and will avoid any divergence in the interpretation of the deadline referred to. However, in the interests of flexibility and proportionality, this requirement should relate to the forwarding of the initial results, to enable the bodies in question to complete a final analysis.

Amendment 57

Proposal for a regulation Article 13 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a Each organisation certified or approved by EASA shall report to the Agency the first results of the analysis performed in accordance with paragraph 1 and any action to be taken in accordance with paragraph 2 within 30

days from the day of notification of the occurrence. The final result of the analysis shall be reported as soon as it is available and no later than three months from the day of notification of the occurrence.

Or. fr

Justification

Since powers in this case are shared between the Member States and EASA, the Agency should be mentioned in this paragraph. The 30 day deadline proposed here in line with the ICAO recommendations is appropriate and will avoid any divergence in the interpretation of the deadline referred to. However, in the interests of flexibility and proportionality, this requirement should relate to the forwarding of the initial results, to enable the bodies in question to complete a final analysis.

Amendment 58

**Proposal for a regulation
Article 13 – paragraph 4**

Text proposed by the Commission

4. Each Member State shall develop a process to analyse the details on occurrences ***collected*** in accordance with Articles 4 and 5 in order to identify the safety hazards associated with identified occurrences. Based on this analysis ***it*** shall determine any appropriate corrective or preventive action required for the enhancement of safety.

Amendment

4. Each Member State ***and EASA*** shall develop a process to analyse the details on occurrences ***reported directly to them*** in accordance with Articles 4 and 5 in order to identify the safety hazards associated with identified occurrences. Based on this analysis ***they*** shall determine any appropriate corrective or preventive action required for the enhancement of safety.

Or. fr

Justification

Since powers in this case are shared between the Member States and EASA, the Agency should be mentioned in this paragraph.

Amendment 59

Proposal for a regulation Article 13 – paragraph 5

Text proposed by the Commission

5. Each Member State shall, following the identification of actions required to address actual or potential safety deficiencies, implement these actions ***in a timely manner*** and establish a process to monitor implementation and effectiveness of the responses.

Amendment

5. Each Member State ***and EASA*** shall, following the identification of actions required to address actual or potential safety deficiencies, implement these actions ***as quickly as possible*** and establish a process to monitor implementation and effectiveness of the responses.

Or. fr

Justification

Since powers in this case are shared between the Member States and EASA, the Agency should be mentioned in this paragraph. The reference added at the end of the paragraph will make it possible to avoid any divergence in the interpretation of the time limit referred to and thus to clarify the text. It will also make it possible to put in place an obligation of the same kind as that imposed on organisations in an identical situation.

Amendment 60

Proposal for a regulation Article 13 – paragraph 6

Text proposed by the Commission

6. ***Each*** Member State shall ***also*** monitor the implementation and effectiveness of ***organisations*** responses ***pursuant to paragraph 2***. When a Member State assesses that the responses are inappropriate to address the actual or potential safety deficiencies, it shall ensure that additional appropriate actions are taken and implemented by the relevant organisation.

Amendment

6. ***For each occurrence monitored in accordance with paragraphs 1 and 2, each*** Member State ***shall carry out stringent checks on the analysis made and action taken by the organisations for which it is responsible. In particular it*** shall monitor the implementation and effectiveness of ***the*** responses. When a Member State assesses that the responses are inappropriate to address the actual or potential safety deficiencies, it shall ensure that additional appropriate actions are taken and implemented by the relevant organisation.

Justification

Clarifies the supervisory obligations of the Member States vis-à-vis organisations for which they are responsible.

Amendment 61

Proposal for a regulation

Article 13 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. For each occurrence monitored in accordance with paragraphs 1 and 2, EASA shall carry out stringent checks on the analysis made and action taken by the organisations for which it is responsible. In particular it shall monitor the implementation and effectiveness of the responses. When EASA assesses that the responses are inappropriate to address the actual or potential safety deficiencies, it shall ensure that additional appropriate actions are taken and implemented by the relevant organisation.

Justification

Since powers in this case are shared between the Member States and EASA, the Agency should be mentioned in this paragraph. It also seems necessary to clarify EASA's supervisory obligations vis-à-vis the organisations it certifies or approves.

Amendment 62

Proposal for a regulation

Article 13 – paragraph 7

Text proposed by the Commission

Amendment

7. Information related to the analysis and follow-up of individual occurrences as

7. Information related to the analysis and follow-up of individual occurrences as

described in this Article shall be stored in the European Central Repository *in a timely manner* and no later than two months after their storage in the national database.

described in this Article shall be stored in the European Central Repository *as quickly as possible* and no later than two months after their storage in the national database.

Or. fr

Justification

It seems important that this exchange should take place within a reasonable time to improve the flow of safety information shared between Member States and with EASA.

Amendment 63

Proposal for a regulation Article 13 – paragraph 9

Text proposed by the Commission

9. Member States shall publish, at least annually, a safety review containing information on the type of occurrences collected by their national mandatory and voluntary reporting systems to inform the general public of the level of safety in civil aviation and the actions they have taken to address any safety issue in that context.

Amendment

9. Member States shall publish, at least annually, a safety review containing ***aggregated and disidentified*** information on the type of occurrences collected by their national mandatory and voluntary reporting systems to inform the general public of the level of safety in civil aviation and the actions they have taken to address any safety issue in that context.

Or. fr

Amendment 64

Proposal for a regulation Article 14 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Without prejudice to the obligations of confidentiality established by this regulation, the Network of Aviation Safety Analysts may invite one or two observers on a case-by-case basis if it deems it

necessary.

Or. fr

Justification

In identify safety problems as effectively as possible and carry out appropriate corrective action, exchanges can be organised with representatives of industry or employees on a case-by-case basis, while observing the confidentiality and protection of the persons involved in the reporting of the occurrence under analysis.

Amendment 65

Proposal for a regulation
Article 15 – paragraph 1

Text proposed by the Commission

1. Member States and organisations shall take the necessary measures to ensure appropriate confidentiality of the details on occurrences received by them pursuant to Articles 4, 5 and 10.

Amendment

1. Member States, **EASA** and organisations shall take the necessary measures to ensure appropriate confidentiality of the details on occurrences received by them pursuant to Articles 4, 5 and 10.

Or. fr

Justification

Since powers in this case are shared between the organisations, the Member States and EASA, the Agency should be mentioned in this paragraph.

Amendment 66

Proposal for a regulation
Article 15 – paragraph 2

Text proposed by the Commission

2. The details on occurrences shall only be used for the purpose for which they have been collected. Member States and organisations shall not make available and use the information for another purpose than maintaining or improving aviation safety. The information shall not be used to

Amendment

2. The details on occurrences shall only be used for the purpose for which they have been collected. Member States, **EASA** and organisations shall not make available and use the information for another purpose than maintaining or improving aviation safety. The information shall not be used to

attribute blame or liability.

attribute blame or liability.

Or. fr

Justification

Since powers in this case are shared between the organisations, the Member States and EASA, the Agency should be mentioned in this paragraph.

Amendment 67

Proposal for a regulation
Article 15 – paragraph 4

Text proposed by the Commission

4. Member States shall ensure that their competent authorities referred to in Article 6(2) and their competent authorities for the administration of justice cooperate with each other through advance arrangements. These advance arrangements shall *seek to* ensure the correct balance between the need for proper administration of justice on the one hand, and the necessary continued availability of safety information on the other.

Amendment

4. Member States shall ensure that their competent authorities referred to in Article 6(2) and their competent authorities for the administration of justice cooperate with each other through advance arrangements. These advance arrangements ***shall be put in place no later than 24 months from the entry into force of this regulation.*** They shall ensure the correct balance between the need for proper administration of justice on the one hand, and the necessary continued availability of safety information on the other.

Or. fr

Justification

To enhance a genuine, uniform ‘just culture’ within the Union, time limits should be set for the conclusion of the advance agreements mentioned here.

Amendment 68

Proposal for a regulation
Article 16 – paragraph 1

Text proposed by the Commission

1. Each organisation established in a

Amendment

1. Each organisation established in a

Member State shall ensure that all personal data such as names or addresses of individual persons are only available to the **persons referred to in** Article 6(1). Disidentified information shall be disseminated within the organisation as appropriate. Each organisation established in a Member State shall processes personal data only to such an extent as necessary for the purpose of this Regulation and without prejudice to the national legislations implementing Directive 95/46/EC.

Member State shall ensure that all personal data such as names or addresses of individual persons are only **made** available to **the staff of the competent authorities designated in accordance with** Article 6(1) **and are never recorded in the database of the organisation referred to in Article 6(3)**. Disidentified information shall be disseminated within the organisation as appropriate. Each organisation established in a Member State shall processes personal data only to such an extent as necessary for the purpose of this Regulation and without prejudice to the national legislations implementing Directive 95/46/EC.

Or. fr

Justification

Only staff responsible for aviation safety should have access to personal data and the risk of this information being divulged should be minimised. It seems necessary to improve anonymity protection for persons involved in reporting, in the interest of enhancing a 'just culture'.

Amendment 69

Proposal for a regulation Article 16 – paragraph 2

Text proposed by the Commission

2. Each Member State shall ensure all personal data such as *that* names or addresses of individual persons are never recorded in the national database mentioned in Article 6(4). Disidentified information shall be made available to all relevant parties notably to allow them to discharge their obligations in terms of aviation safety improvement. Each Member State shall processes personal data only to such an extent as necessary for the purpose of this Regulation and without prejudice to the national legislations implementing Directive 95/46/EC.

Amendment

2. Each Member State shall ensure *that* all personal data such as names or addresses of individual persons are **only made available to the staff of the competent authorities designated in accordance with Article 6(2) and are** never recorded in the national database referred to in Article 6(4). Disidentified information shall be made available to all relevant parties notably to allow them to discharge their obligations in terms of aviation safety improvement. Each Member State shall processes personal data only to such an extent as necessary for the purpose of this

Regulation and without prejudice to the national legislations implementing Directive 95/46/EC.

Or. fr

Justification

Only staff responsible for aviation safety should have access to personal data and the risk of this information being divulged should be minimised. It seems necessary to improve anonymity protection for persons involved in reporting, in the interest of enhancing a 'just culture'.

Amendment 70

Proposal for a regulation

Article 16 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. EASA shall ensure that all personal data such as names or addresses of individual persons are only made available to competent staff within the Agency and designated in accordance with Article 6(2a) and are never recorded in the EASA database referred to in Article 6(5a). Disidentified information shall be made available to all relevant parties, particularly to allow them to discharge their obligations in terms of aviation safety improvement. EASA shall process personal data only to the extent necessary for the purpose of this Regulation and without prejudice to Directive 95/46/EC.

Or. fr

Justification

Only staff responsible for aviation safety should have access to personal data and the risk of this information being divulged should be minimised. It seems necessary to improve anonymity protection for persons involved in reporting, in the interest of enhancing a 'just culture'. The amendment adding new paragraphs 2a and 5a to Article 6 makes it necessary to

amend this Article accordingly.

Amendment 71

Proposal for a regulation Article 16 – paragraph 3

Text proposed by the Commission

3. Member States shall refrain from instituting proceedings in respect of unpremeditated or inadvertent infringements of the law which come to their attention only because they have been reported in application of Articles 4 and 5. ***This rule shall not apply*** in cases of gross negligence.

Amendment

3. Member States ***and EASA*** shall refrain from instituting proceedings in respect of unpremeditated or inadvertent infringements of the law which come to their attention only because they have been reported in application of Articles 4 and 5. ***Member States may choose not to apply this rule*** in cases of gross negligence. ***Where a Member State or EASA institutes proceedings, the information contained in the occurrence report may not be used by the Member State or EASA against the person reporting or persons involved in the occurrence.***

Or. fr

Justification

It seems important that the principle of non-incrimination should be reflected here. In addition, national rules affording greater protection than this regulation must not be called into question. Accordingly the principle of non-regression needs to be spelled out in this Article.

Amendment 72

Proposal for a regulation Article 16 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Member States may adopt or maintain in force legislative provisions guaranteeing a higher level of protection for the person reporting or persons involved in the reported occurrence than

those established in this regulation.

Or. fr

Justification

National rules affording greater protection than this regulation must not be called into question. Accordingly the principle of non-regression needs to be spelled out in this Article.

Amendment 73

Proposal for a regulation
Article 16 – paragraph 4

Text proposed by the Commission

4. Employees who report incidents in accordance with Articles 4 and 5 shall not be subject to any prejudice by their employer on the basis of the information **they have** reported, except in cases of gross negligence.

Amendment

4. Employees who report incidents **or are involved in occurrences reported** in accordance with Articles 4 and 5 shall not be subject to any prejudice by their employer **or by the organisation for which the services are provided** on the basis of the information **supplied by the person reporting the occurrence**, except in cases of gross negligence.

Or. fr

Justification

To underpin staff members' trust in a 'just culture', so as to encourage reporting of events with the sole aim of enhancing air safety, protection for persons reporting an incident should be extended to cover anyone involved in the incident reported. Staff should also be guaranteed the same level of protection whether or not they are directly employed by the organisation for which the service is provided.

Amendment 74

Proposal for a regulation
Article 16 – paragraph 5

Text proposed by the Commission

5. Each organisation established in a Member State shall adopt internal rules

Amendment

5. Each organisation established in a Member State shall, **after consulting staff**

describing how Just Culture principles, in particular the principle referred to in paragraph 4, are guaranteed and implemented within their organisation.

representatives, adopt internal rules describing how Just Culture principles, in particular the principle referred to in paragraph 4, are guaranteed and implemented within their organisation. ***The body referred to in paragraph 6 shall approve the internal rules of the organisations established in its Member State before they are implemented.***

Or. fr

Justification

It seems important that the social partners should be consulted in the drafting of internal rules to engender a 'just culture'. The competent body should also ensure the conformity of these internal rules with current legislation.

Amendment 75

Proposal for a regulation Article 16 – paragraph 6

Text proposed by the Commission

6. Each Member State shall establish a body responsible for the implementation of this Article. Employees can report to this body infringements to the rules established by this Article. Where appropriate, the designated body shall propose to its Member State the adoption of penalties as referred to in Article 21 towards the employer.

Amendment

6. Each Member State shall establish a body responsible for the implementation of this Article. Employees can report to this body infringements to the rules established by this Article ***and should not be penalised for reporting such infringements.*** Where appropriate, the designated body shall propose to its Member State the adoption of penalties as referred to in Article 21 towards the employer.

Or. fr

Justification

To ensure that a genuine, uniform 'just culture' is engendered within the Union, tools to protect the person reporting the occurrence should be deployed in an effective manner. A staff member reporting a breach of Article 16 of this regulation must be assured that he cannot be penalised for using this reporting mechanism.

Amendment 76

Proposal for a regulation Article 16 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Each Member State shall send the Commission annually a report on the application of this Article, and in particular on the activities of the body responsible referred to in paragraph 6. This report may not contain any personal data.

Or. fr

Justification

To ensure that a genuine, uniform 'just culture' is engendered within the Union, it is important to ensure more effective checks on deployment of these tools in the Member States and to improve their accountability in this respect.

Amendment 77

Proposal for a regulation Article 17 – paragraph 1

Text proposed by the Commission

Amendment

The Commission shall be empowered to adopt delegated acts in accordance with Article 18 concerning the Annexes to this Regulation in order to adapt the Annexes to technical progress, to align the Annexes with the international agreed taxonomy ADREP, with other legislations adopted by the Union and with international agreements, to update the list of interested parties and the request for European Central Repository information form, and to ensure that the *scope of incidents* to be reported under the mandatory scheme remains appropriate.

The Commission shall be empowered to adopt delegated acts in accordance with Article 18 concerning the Annexes to this Regulation in order to adapt the Annexes to technical progress; to align the Annexes with the international agreed taxonomy ADREP, with other legislations adopted by the Union and with international agreements; to update the list of interested parties and the request for European Central Repository information form; to ensure that the ***list of occurrences*** to be reported under the mandatory scheme remains appropriate, ***contains a specific section on operations involving non-complex aircraft, and in particular reflects the emergence of new safety risks;***

and to supplement and update the list of mandatory data fields. Before making any proposal for a delegated act, the Commission shall request the opinion of the Network of Aviation Safety Analysts for the review of Annexes I and II of this regulation.

Or. fr

Justification

The Commission must request the expert advice of the Network of Aviation Safety Analysts when drafting any new revision of the annexes to this regulation.

Amendment 78

Proposal for a regulation
Article 21 – paragraph 1

Text proposed by the Commission

Member States shall lay down the rules on penalties applicable to infringements of this Regulation. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall inform the Commission when penalties are adopted in application of this Article.

Amendment

Member States *and EASA* shall lay down the rules on penalties applicable to infringements of this Regulation. The penalties provided for shall be effective, proportionate and dissuasive. Member States *and EASA* shall inform the Commission when penalties are adopted in application of this Article.

Or. fr

Amendment 79

Proposal for a regulation
Article 24 – paragraph 1

Text proposed by the Commission

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

Amendment

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. *Article 7(2) shall enter into force following the adoption of the*

delegated acts and implementing acts referred to in Article 7(6) and (7) concerning the deployment of a common European risk classification scheme.

Or. fr

Amendment 80

Proposal for a regulation Article 24 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Within five years, the Commission shall publish a report on the implementation of this regulation.

Or. fr

Amendment 81

Proposal for a regulation Annex II – heading

Text proposed by the Commission

Amendment

List of *deadlines and requirements* applicable to the *Mandatory* Occurrence Reporting Scheme

List of *mandatory fields* applicable to the Occurrence Reporting Scheme

Or. fr

Amendment 82

Proposal for a regulation Annex II – point 1

Text proposed by the Commission

Amendment

1. Deadline for reporting

deleted

1.1. General rule

The maximum period to report an occurrence in application of Article 4 is 72 hours.

1.2. Specific cases

(a) In the case of a "near collision with any other flying device; faulty air traffic procedures or lack of compliance with applicable procedures by air traffic services or by the flight crew; failure of air traffic services facilities", according to Regulation No 859/200822 (EU-OPS) 1.420 d) 1, the report shall be made without delay.

(b) In the case of a potential bird hazard, according to Regulation No 859/2008 (EU-OPS) 1.420 d) 3, the report shall be made immediately.

(c) In the case of a bird strike involving significant damage to the aircraft or the loss or malfunction of any essential service, according to Regulation No 859/2008 (EU-OPS) 1.420 d) 3, the report shall be made after landing.

(d) In the case of an act of unlawful interference on board an aircraft, according to Regulation No 859/2008 (EU-OPS) 1.420 d) 5, the report shall be made as soon as practicable.

(e) In the case of a potentially hazardous condition such as an irregularity in a ground or navigational facility, a meteorological phenomenon or a volcanic ash cloud is encountered during flight, according to Regulation No 859/2008 (EU-OPS) 1.420 d) 6, the report shall be made as soon as practicable.

Commission Regulation (EC) No 859/2008 of 20 August 2008 amending Council Regulation (EEC) No 3922/91 as regards common technical requirements and administrative procedures applicable to commercial transportation by aeroplane; *OJ L 254, 20.09.08, p. 1.*

Justification

Covered in Article 7(1) of this Regulation.

EXPLANATORY STATEMENT

(1) Background

As forecasts point to an upsurge in air traffic by 2030, it would be wise to tighten up preventive air safety procedures with a view to avoiding a commensurate rise in the number of accidents.

Although the effectiveness of current accident investigation systems in the EU is to be applauded¹, major efforts are required in respect of data collection and the proactive analysis of incidents

While accident investigations involve analysing the causes of a crash, the occurrence reporting system attempts to identify situations that, if not brought to light and rectified, could contribute to a disaster.

Directive 2003/42/EC and its implementing regulations² set out the principles of a system for incident data collection, and paved the way for a system for the regional exchange of incident data, as recommended by the ICAO³. It is now accepted that this EU legislation has proven to be limited, particularly owing to the differences in interpretation and implementation from Member State to Member State.

This regulation seeks to strengthen and enhance the EU's proactive accident prevention system through the analysis and rapid exchange of information, thus helping achieve the goals set in the 2011 White Paper on Transport⁴.

The only way we can tighten up safety is by means of a system that enables us to clearly identify potential vulnerabilities and take prompt preventive or corrective action.

As the entire proactive system is based on aviation sector staff taking it upon themselves to report events, it is essential to ensure that a climate of trust, or 'just culture' reigns in the industry.

(2) Engendering a genuine, uniform 'just culture'

There are still fears among staff in the aviation sector of legal action or punishment by their employers in certain Member States which provide insufficient protection for persons reporting an incident. As reporting systems, whether mandatory or voluntary, are entirely dependent on the trust of employees, the regulation ensures that a genuine climate of trust, or 'just culture' is engendered, thus allaying in particular any fears of self-incrimination such individuals may have.

¹ Regulation (EU) No 996/2010.

² Regulations (EC) No 1321/2007 and (EC) No 1330/2007.

³ Recommendation 8.5, footnote 2 and Recommendation 8.9 of Annex 13 to the Convention on International Civil Aviation.

⁴ Initiative No 17 in COM(2011)144, 28 March 2011.

Extending the protection of the person reporting the occurrence to anyone involved in it, rather than merely the individual reporting it, will help underpin this trust.

Members of staff in the aviation sector should in future be able to count on a uniform interpretation of the key notion of ‘gross negligence’ so as to enjoy the same level of protection throughout the EU.

National provisions affording greater protection than this regulation can be maintained to ensure that the principle of non-regression prevails.

By tightening still further the rules of confidentiality and respect for the anonymity of employees, for example by limiting the number of experts who have access to personal data, your rapporteur is ensuring that the information collected will be used only for the purpose of enhancing aviation safety.

To that end, the regulation provides in particular that staff responsible for the collection, evaluation, processing, analysis and storage of reports will work separately and independently from other departments of the organisation in order to ensure the confidentiality of the information and the anonymity of the person reporting the occurrence. However, organisations of the same nature may share these structures.

Employees who have been penalised on the basis of information supplied will in future be able to rely on an appeal mechanism. Member States will ensure that this mechanism is deployed and will send the Commission an annual report on its activities.

In order to encourage staff to report occurrences and enable them to appreciate more fully the positive effects of reporting on air safety, organisations will in future regularly inform staff about action taken in the context of occurrence reporting systems.

(3) Improving information exchange to permit more targeted action

To prevent new accidents, Member States and EASA will be better able exchange collected information within a disidentified and secure database known as the European Central Repository (ECR). EASA and the Member States will in future be able to freely access this data. Granting these operators unrestricted access to the ECR should ensure in particular that trends observed by organisations or Member States can be verified at European level.

The regulation will enable Member States to be aware of the exact circumstances of an occurrence taking place in their national airspace. Where an airline is the number one operator in a Member State but has no reporting obligation there, it would seem essential for the authorities of that country to be made aware of events taking place in their airspace.

The regulation develops a common European risk classification scheme seeking to improve the quality of data collected and to ensure that such data can be accessed and understood by all competent authorities. Once this mechanism is in place, the Member States and EASA will classify occurrences according to the same yardstick before sharing them via the ECR. Organisations will be free to use the internal risk classification mechanism they consider most appropriate.

Meeting in the Network of Aviation Safety Analysts, experts from the Member States, EASA and the Commission will analyse the data at European level. In order to identify safety problems as accurately as possible and take appropriate corrective action, an exchange with representatives of industry or of employees may be organised on a case-by-case basis. This Network of Aviation Safety Analysts will be consulted in advance of any review of the annexes to this regulation.

The Member States and EASA must ensure that preventive or corrective action taken by the organisations is appropriate and, where necessary, make corrections to or impose such action on a larger scale with a view to enhancing air safety throughout their territory.

(4) Role of the European Aviation Safety Agency

The European Aviation Safety Agency (EASA) will play a key role, alongside the Member States, in coordinating the work of the network in order to detect trends at European level. To that end, the Agency will in future have total and unrestricted access to the data contained in the ECR.

As a certifying authority, the Agency receives occurrence reports from the organisations it certifies or approves, as do the Member States from the other organisations. In the same way, the Agency will now have to allow the collection, processing and analysis of data coming directly from the staff of these organisations for which it is responsible.

By creating a parallel system for the mechanisms in the Member States and in EASA, your rapporteur is ensuring that aviation sector employees will have the same reporting tools and obligations, whichever organisation they work for in Europe. In this way the regulation will take into account the powers of the Agency.

EASA will thus have to comply with the same obligations as the competent authorities of the Member States, particularly by putting in place mandatory and voluntary reporting systems, by ensuring the protection and anonymity of the data in its database (IORS) and taking, where appropriate, the necessary preventive or corrective action, and then by passing on this information in the ECR.

In order to respond more effectively to the increased competences accorded to EASA by this regulation, the agency should be given sufficient resources to complete the additional tasks conferred on it.

(5) Legislation taking into account the specific features of light aviation

While on the one hand the whole aviation sector should be covered by this regulation, its obligations should also be proportionate to the field of activity and complexity of the individual aircraft. Accordingly, occurrences involving a non-complex aircraft will be collected in accordance with this regulation, but will be subject to specific reporting obligations that are more suitable to this kind of aircraft.