



2024/2820

8.11.2024

COUNCIL DECISION (EU) 2024/2820

of 24 October 2024

on the position to be taken on behalf of the European Union at the 233rd session of the Council of the International Civil Aviation Organization as regards the adoption of Amendment 30 to Annex 9 — Facilitation — to the Convention on International Civil Aviation concerning amendments to Chapters 2, 3 and 6 and to Chapter 8, paragraphs C, E, F and G, of that Annex

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Convention on International Civil Aviation (the 'Chicago Convention'), which regulates international air transport, entered into force on 4 April 1947. It established the International Civil Aviation Organization (ICAO).
- (2) All Member States of the Union are Contracting States to the Chicago Convention and members of the ICAO, while the Union has observer status in certain ICAO bodies. For the period 2022-2025, six Member States are represented in the ICAO Council.
- (3) Pursuant to Article 37 j) of the Chicago Convention, the ICAO Council shall adopt and amend from time to time, as may be necessary, international standards and recommended practices and procedures dealing with customs and immigration procedures. Pursuant to Article 54 l) of the Chicago Convention, the ICAO Council may adopt international Standards and Recommended Practices (SARPs), and designate them as Annexes to the Chicago Convention.
- (4) At its 233rd session, the ICAO Council is to adopt Amendment 30 to Annex 9 to the Chicago Convention ('Amendment 30').
- (5) The main purpose of Amendment 30, included in ICAO State Letter EC 6/3 - 24/67, is to improve the clarity and consequently the consistency and efficiency of Annex 9 to the Chicago Convention ('Annex 9').
- (6) Amendment 30 includes amendments to Chapters 2 ('Entry and Departure of aircraft'), 3 ('Entry and Departure of persons and their baggage') and 6 ('International airports — Facilities and services for traffic') and to Chapter 8 ('Facilitation provisions covering specific subjects'), paragraphs C ('Facilitation of search, rescue, accident investigation and salvage'), E ('Establishment of national facilitation programmes'), F ('Facilitation of transport of persons with disabilities') and G ('Assistance to aircraft accident victims and their families'), of Annex 9. In particular, the proposals are to amend, reposition or delete obsolete SARPs, as well as to amend SARPs addressed to aircraft operators or airport operators in order to properly address such SARPs to the Contracting States. The amendments to Standard 6.3 and Recommended Practice 6.4 in Chapter 6 of Annex 9 concern matters regulated under Union law by Directive 2009/12/EC of the European Parliament and of the Council ⁽¹⁾. With reference to Chapter 3 of Annex 9, Amendment 30 adds SARPs related to the security of the issuance process for electronic Machine Readable Travel Documents (eMRTD), and updates the access control protocol and technical standard for encoding facial images in eMRTDs. Amendment 30 also covers subjects regulated under Union law by Council Directive (EU) 2019/997 ⁽²⁾. Finally, as regards amendments to Chapter 8 of Annex 9, Amendment 30 relates to air accident safety investigations covered by Regulation (EU) No 996/2010 of the European Parliament and of the Council ⁽³⁾. Those amendments to Chapter 8 are already reflected in Union law and therefore do not require any change to it.

⁽¹⁾ Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges (OJ L 70, 14.3.2009, p. 11, ELI: <http://data.europa.eu/eli/dir/2009/12/oj>).

⁽²⁾ Council Directive (EU) 2019/997 of 18 June 2019 establishing an EU Emergency Travel Document and repealing Decision 96/409/CFSP (OJ L 163, 20.6.2019, p. 1, ELI: <http://data.europa.eu/eli/dir/2019/997/oj>).

⁽³⁾ Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC (OJ L 295, 12.11.2010, p. 35, ELI: <http://data.europa.eu/eli/reg/2010/996/oj>).

- (7) It is appropriate to establish the position to be taken on behalf of the Union within the ICAO Council, as Amendment 30 will be binding under international law in accordance with Article 90(a) of the Chicago Convention and is of relevance to Union law, namely Directive 2009/12/EC and Regulation (EU) No 996/2010. The scope of this Decision should be limited to the content of Amendment 30, insofar as that content falls within an area which is already largely covered by EU common rules. This Decision should not affect the distribution of competences between the Union and the Member States in the field of aviation.
- (8) Pursuant to Article 38 of the Chicago Convention, any State which finds it impracticable to comply in all respects with any international standard or procedure adopted by the ICAO, or to bring its own regulations or practices into full accord with any such international standard or procedure, or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, shall give immediate notification to the ICAO of the differences between its own practice and that established by the international standard.
- (9) The position to be taken on behalf of the Union at the 233rd session of the ICAO Council, or at any subsequent session, with regard to the adoption of the proposed amendments to Chapters 2, 3 and 6 and to Chapter 8, paragraphs C, E, F and G, of Annex 9, contained in Amendment 30 to that Annex included in ICAO State Letter EC 6/3 - 24/67, should be to support those amendments. That position should be expressed by the Member States of the Union that are members of the ICAO Council, acting jointly in the interest of the Union.
- (10) The position to be taken on behalf of the Union after the adoption by the ICAO Council of Amendment 30, to be announced by the ICAO Secretary-General by means of an ICAO State Letter procedure, should be not to register any disapproval and to notify compliance with that amendment. Where Union law would deviate from the newly amended SARPs after the envisaged date of application of those SARPs, any difference between Union law and those particular SARPs should be notified to the ICAO. The position to be taken on behalf of the Union with respect to such differences should be based on a written document submitted by the Commission to the Council for discussion and approval. That position should be expressed by all the Member States of the Union, acting jointly in the interest of the Union,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken on behalf of the Union at the 233rd session of the Council of the International Civil Aviation Organization, or at any subsequent session, shall be to support the proposed amendments to Chapters 2, 3 and 6 and to Chapter 8, paragraphs C, E, F and G, of Annex 9 to the Chicago Convention, contained in Amendment 30 to that Annex included in ICAO State Letter EC 6/3 - 24/67.
2. The position to be taken on behalf of the Union, provided the ICAO Council adopts without any substantial changes the proposed amendments referred to in paragraph 1, shall be not to register any disapproval and to notify compliance with the adopted amendments in reply to the relevant ICAO State Letter.
3. Where Union law would deviate from the amended SARPs after the envisaged date of application of those SARPs, the position to be taken on behalf of the Union shall be that any difference between Union law and those particular SARPs is to be notified to the ICAO, in accordance with Article 38 of the Chicago Convention. In such a case, the Commission shall, in due time and at least two months before any deadline set by the ICAO for the notification of differences, submit to the Council, for discussion and approval, a preparatory document setting out the detailed differences to be notified to the ICAO on behalf of the Union by the Member States.

Article 2

The position referred to in Article 1(1) shall be expressed by the Member States of the Union that are members of the ICAO Council, acting jointly in the interest of the Union.

The positions referred to in Article 1(2) and (3) shall be expressed by all the Member States of the Union, acting jointly in the interest of the Union.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 24 October 2024.

For the Council

The President

BÓKA J.
