COMMISSION REGULATION (EC) No 1486/2003

of 22 August 2003

laying down procedures for conducting Commission inspections in the field of civil aviation security

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2320/2002 of the European Parliament and of the Council of 16 December 2002 establishing common rules in the field of civil aviation security ([1]), and in particular Article 7(2) thereof,

Whereas:

(1) In order to monitor the application by Member States of Regulation (EC) No 2320/2002 the Commission should conduct inspections starting six months after the entry into force of that Regulation. The organisation of inspections under the supervision of the Commission is needed to verify the effectiveness of national civil aviation security quality-control programmes.

(2) The Commission should coordinate with the Member States the schedule and preparation of Commission inspections. Its inspection teams should include qualified national auditors made available by the Member States.

(3) Commission inspections should be carried out according to a set procedure, including a standard methodology.

(4) Sensitive information relating to inspections should be treated as classified information.

(5) The Commission should take into account the activities of Member States and examine the activities, procedures, training programmes and facilities of intergovernmental organisations to make the most efficient use of technical knowledge and resources, and to achieve a harmonised, cooperative approach in the field of civil aviation security, wherever possible.

(6) The measures provided for in this Regulation are in accordance with the opinion of the Committee instituted by Article 9(1) of Regulation (EC) No 2320/2002,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down procedures for conducting Commission inspections to monitor the application by Member States of Regulation (EC) No 2320/2002 at the level of each Member State and each individual airport.

The inspections shall be conducted in a transparent, effective, harmonised and consistent manner.

Article 2

Definitions

For the purposes of this Regulation the following definitions shall apply:

1. 'appropriate authority' means the national authority designated by a Member State pursuant to Article 5(2) of Regulation (EC) No 2320/2002;
2. 'Commission inspection' means an examination by Commission inspectors of existing quality controls and civil aviation security measures, procedures and structures to determine compliance with Regulation (EC) No 2320/2002;
3. 'Commission inspector' means an appropriately qualified person employed by the Commission or a national auditor mandated by the Commission to conduct civil aviation security inspections;
4. 'Committee' means the Committee instituted by Article 9(1) of Regulation (EC) No 2320/2002;
5. 'deficiency' means failure to comply with the requirements laid down in Regulation (EC) No 2320/2002;
6. 'national auditor' means a person employed by a Member State and qualified as a civil aviation security auditor in accordance with Article 10 of Commission Regulation (EC) No 1217/2003 ([2]);
7. 'test' means a trial of civil aviation security measures, where intent to commit unlawful action is simulated for the purpose of testing efficiency in the implementation of existing security measures.

([1]) OJ L 355, 30.12.2002, p. 1.

([2]) OJ L 169, 8.7.2003, p. 44.

CHAPTER II

GENERAL REQUIREMENTS

Article 3

Cooperation of Member States

1. Without prejudice to Commission responsibilities, Member States shall cooperate with the Commission in the accomplishment of its inspection tasks. This cooperation shall be effective during the preparatory, control and reporting phases.

2. Member States shall take all necessary steps to ensure that notification of an inspection is kept confidential in order to ensure that the inspection process is not compromised.

Article 4

Exercise of Commission powers

1. Each Member State shall ensure that Commission inspectors are able to exercise their authority to inspect the civil aviation security activities of the appropriate authority under Regulation (EC) No 2320/2002 and of any other entity subject to that Regulation.

2. Each Member State shall ensure that, upon request, Commission inspectors have access to all the following documentation:

(a) the national civil aviation security programme, including the national civil aviation security training programme;

(b) the national civil aviation security quality-control programme;

(c) identified airport and air carrier security programmes;

(d) the results of the audits referred to in Article 7(1) of Regulation (EC) No 2320/2002.

3. Wherever Commission inspectors encounter difficulties in the execution of their duties, the Member States concerned shall by any means within their legal powers assist the Commission to accomplish in full its task.

Article 5

Participation of national auditors in Commission inspections

1. Member States shall make available to the Commission national auditors able to participate in Commission inspections as well as in related preparatory and reporting phases.

2. A national auditor shall not participate in Commission inspections in the Member State where he is employed.

3. Member States shall provide the Commission with a list of national auditors on whom the Commission may call to participate in a Commission inspection.

That list shall be updated, at least by the end of June each year, and for the first time within two months of the entry into force of this Regulation.

4. The Commission shall communicate to the Committee the lists referred to in paragraph 3.

5. The Commission shall, at least two months before the Commission inspection is due to commence, request from the appropriate authority information as to the availability of national auditors for the conduct of that inspection.

6. The expenses arising from the participation of national auditors in Commission inspections shall, in compliance with Community rules, be met by the Commission.

Article 6

Qualification criteria for Commission inspectors

1. In order to qualify for Commission inspections, Commission inspectors shall have successfully completed training.

This training shall:

(a) be accredited by the Commission;

(b) be initial and recurrent;

(c) ensure a standard of performance adequate for the purposes of controlling whether security measures are implemented in accordance with Regulation (EC) No 2320/2002.

2. The Commission shall ensure that Commission inspectors fulfil the criteria set out in paragraph 1 and that they have sufficient theoretical and practical experience.

CHAPTER III

PROCEDURES FOR THE CONDUCT OF COMMISSION INSPECTIONS

Article 7

Notification of inspections

1. The Commission shall give at least two months' notice of an inspection to the appropriate authority in whose territory it is to be conducted.

2. When an airport is to be inspected, the Commission shall notify the appropriate authority accordingly.

3. When giving notice of an inspection to the appropriate authority, the Commission shall communicate a pre-inspection questionnaire, for completion by the appropriate authority, and a request for the documents enumerated in Article 4(2).

The completed questionnaire and the documents requested shall be submitted to the Commission within six weeks of receipt of the inspection notification.