

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission(1),

Having regard to the opinion of the Economic and Social Committee(2),

Having regard to the opinion of the Committee of the Regions(3),

Acting in accordance with the procedure laid down in Article 251 of the Treaty(4),

Whereas:

(1) A key objective of the common transport policy is sustainable development. This requires an integrated approach aimed at ensuring both the effective functioning of the Community's transport systems and the protection of the environment.

(2) Sustainable development of air transport necessitates the introduction of measures aimed at reducing the noise nuisance from aircraft at airports with particular noise problems.

(3) A new, more stringent noise certification standard, defined in Volume 1, Part II, Chapter 4 of Annex 16 to the Convention on International Civil Aviation, has been established within the framework of the International Civil Aviation Organisation (ICAO) and will contribute to an improvement in the noise climate around airports in the longer term.

(4) The Chapter 4 standard has been established for certification of aircraft and not as a basis for the introduction of operating restrictions.

(5) The gradual removal of Chapter 2 aeroplanes pursuant to Council Directive 92/14/EEC of 2 March 1992 on the limitation of the operation of aeroplanes covered by Part II, Chapter 2, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988)(5) will be completed on 1 April 2002 and new measures will be required to prevent a deterioration in the noise climate after 2002, assuming continued growth of air transport in Europe.

(6) The use of aeroplanes with a better environmental performance can contribute to a more effective use of available airport capacity and facilitate airport infrastructure development in line with market requirements.

(7) A common framework of rules and procedures for the introduction of operating restrictions at Community airports, as part of a balanced approach on noise management, will help safeguard internal market requirements by introducing similar operating restrictions at airports with broadly comparable noise problems. This includes assessment of the noise impact at an airport and evaluation of the measures available to alleviate that impact, and selection of the appropriate mitigation measures with the goal of achieving the maximum environmental benefit most cost effectively.

(8) Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes(6) provides in Articles 8 and 9 for, inter alia, publication and examination of new operating restrictions: the relationship of those provisions with this Directive should be set out.

(9) The legitimate interest of the air transport sector in applying cost-effective solutions for meeting noise management goals should be recognised.

(10) The 33rd ICAO Assembly has adopted Resolution A33/7 introducing the concept of a "balanced approach" to noise management, thereby establishing a policy approach to address aeroplane noise, including international guidance for the introduction of operating restrictions on an airport-by-airport basis. The

"balanced approach" concept of aircraft noise management comprises four principal elements and requires careful assessment of all different options to mitigate noise, including reduction of aeroplane noise at source, land-use planning and management measures, noise abatement operational procedures and operating restrictions, without prejudice to relevant legal obligations, existing agreements, current laws and established policies.

(11) The balanced approach is an important step towards achieving noise-reduction. But if effective and sustainable noise-reduction is to be achieved, more stringent technical standards, such as more stringent noise standards for aircraft combined with action to take noisy aircraft out of service, will also be necessary.

(12) A Directive of the European Parliament and of the Council on the assessment and management of environmental noise⁽⁷⁾ which is a horizontal measure covering all modes of transport has introduced a common approach for the assessment and management of environmental noise. It aims at monitoring the environmental problem caused by noise in major agglomerations and in the vicinity of main transport infrastructures, including airports, at making information on environmental noise and its effects available to the public, and at requesting competent authorities to draw up action plans with a view to preventing and reducing environmental noise where necessary and to preserving environmental noise quality where it is good.

(13) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment⁽⁸⁾ already provides for a comprehensive assessment of airport projects including noise mitigation. This can be considered as meeting, in part, the assessment requirements of this Directive in the case of airport infrastructure extension projects.

(14) Such an assessment may demonstrate that the objectives can only be achieved by a restriction on new services and the gradual withdrawal of aeroplanes that meet the Chapter 3 noise certification standard by a small margin.

(15) The particular noise problems of airports which are located in the centre of large conurbations ("city airports") should be recognised by allowing for the introduction of more stringent rules.

(16) It is necessary to finalise the indicative list of city airports on the basis of information to be provided by Member States.

(17) The extension of airport infrastructure should be facilitated with a view to safeguarding the sustainable development of air transport activities.

(18) It is necessary to allow for the continuation of existing airport-specific noise management measures and for certain technical changes to operating restrictions of a partial nature.

(19) Undue economic hardship for operators from developing countries should be avoided by allowing for the granting of exemptions where appropriate, and such provision should include safeguards to avoid abuse.

(20) It is necessary to ensure transparency and consultation of all interested parties regarding proposals for noise-related measures, including the introduction of new operating restrictions.

(21) Operators should be given a reasonable period of advance notice when new operating restrictions are to be introduced.

(22) Provisions should be adopted to ensure the right of appeal against the introduction of operating restrictions to an appeal body, which may be a court.

(23) The Directive is in accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty. The introduction of operating restrictions at Community airports can contribute to the objective of preventing a worsening of the noise climate around airports, but there is a possibility of introducing distortions of competition. The objective can therefore be more effectively achieved by the Community by means of harmonised rules on the introduction of operating restrictions as part of the noise

management process. The Directive confines itself to the minimum required in order to achieve this objective and does not go beyond what is necessary for that purpose.

(24) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission(9).

(25) The measures provided for by this Directive supersede those provided by Council Regulation (EC) No 925/1999 of 29 April 1999 on the registration and operation within the Community of certain types of civil subsonic jet aeroplanes which have been modified and recertificated as meeting the standards of volume 1, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation, third edition (July 1993)(10). That Regulation should therefore be repealed,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Objectives

The objectives of this Directive are

- (a) to lay down rules for the Community to facilitate the introduction of operating restrictions in a consistent manner at airport level so as to limit or reduce the number of people significantly affected by the harmful effects of noise;
- (b) to provide a framework which safeguards internal market requirements;
- (c) to promote development of airport capacity in harmony with the environment;
- (d) to facilitate the achievement of specific noise abatement objectives at the level of individual airports;
- (e) to enable measures to be chosen from those available with the aim of achieving maximum environmental benefit in the most cost-effective manner.

Article 2

Definitions

For the purpose of this Directive:

- (a) "Airport" shall mean a civil airport within the Community which has more than 50000 movements of civil subsonic jet aeroplanes per calendar year (a movement being a take-off or landing), taking into consideration the average of the last three calendar years before the application of the rules of this Directive to the airport in question;
- (b) "City airport" shall mean an airport in the centre of a large conurbation, of which no runway has a take-off run available of more than 2000 metres and which provides only point-to-point services between or within European states, where a significant number of people are objectively affected by aircraft noise and where any incremental increase in aircraft movements represents a particularly high annoyance in the light of the extreme noise situation. These airports are listed in Annex I. That Annex may be amended in accordance with the procedure laid down in Article 13(3);
- (c) "Civil subsonic jet aeroplanes" shall mean aeroplanes with a maximum certificated take-off mass of 34000 kg or more, or with a certified maximum internal accommodation for the aeroplane type in question consisting of more than 19 passenger seats, excluding any seats for crew only;

(d) "Marginally compliant aircraft" shall mean civil subsonic jet aeroplanes, that meet the certification limits laid down in Volume 1, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation by a cumulative margin of not more than 5EPNdB (Effective Perceived Noise in decibels), whereby the cumulative margin is the figure expressed in EPNdB obtained by adding the individual margins (i.e. the differences between the certificated noise level and the maximum permitted noise level) at each of the three reference noise measurement points as defined in Volume 1, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation;

(e) "Operating restrictions" shall mean noise related action that limits or reduces access of civil subsonic jet aeroplanes to an airport. It includes operating restrictions aimed at the withdrawal from operations of marginally compliant aircraft at specific airports as well as operating restrictions of a partial nature, affecting the operation of civil subsonic aeroplanes according to time period;

(f) "Interested parties" shall mean natural or legal persons affected or likely to be affected by, or having a legitimate interest in the introduction of, noise reduction measures, including operating restrictions;

(g) "Balanced approach" shall mean an approach under which Member States shall consider the available measures to address the noise problem at an airport in their territory, namely the foreseeable effect of a reduction of aircraft noise at source, land-use planning and management, noise abatement operational procedures and operating restrictions.

Article 3

Competent authorities

Member States shall ensure that there are competent authorities responsible for matters falling within the scope of this Directive.

Article 4

General rules on aircraft noise management

1. Member States shall adopt a balanced approach in dealing with noise problems at airports in their territory. They may also consider economic incentives as a noise management measure.
2. When considering operating restrictions, the competent authorities shall take into account the likely costs and benefits of the various measures available as well as airport-specific characteristics.
3. Measures or a combination of measures taken under this Directive shall not be more restrictive than necessary in order to achieve the environmental objective established for a specific airport. They shall be non-discriminatory on grounds of nationality or identity of air carrier or aircraft manufacturer.
4. Performance-based operating restrictions shall be based on the noise performance of the aircraft as determined by the certification procedure conducted in accordance with Volume 1 of Annex 16 to the Convention on International Civil Aviation, third edition (July 1993).

Article 5

Rules on assessment

1. When a decision on operating restrictions is being considered, the information as specified in Annex II shall, as far as appropriate and possible, for the operating restrictions concerned and for the characteristics of the airport, be taken into account.
2. Where airport projects are subject to an environmental impact assessment pursuant to Directive 85/337/EEC, the assessment carried out in accordance with that Directive shall be considered as meeting the

requirements of paragraph 1, provided that the assessment has taken into account as far as possible the information as specified in Annex II to this Directive.

Article 6

Rules on the introduction of operating restrictions aimed at the withdrawal of marginally compliant aircraft

1. If the assessment of all available measures, including operating restrictions of a partial nature, carried out in conformity with the requirements of Article 5 demonstrates that the achievement of the objectives of this Directive requires the introduction of restrictions aimed at the withdrawal of marginally compliant aircraft, the following rules shall apply instead of the procedure laid down in Article 9 of Regulation (EEC) No 2408/92 at the airport under consideration:

(a) six months after the completion of the assessment and decision on the introduction of an operating restriction, no services over and above those operated in the corresponding period of the previous year shall be allowed with marginally compliant aircraft at that airport;

(b) not less than six months thereafter, each operator may be required to reduce the number of movements of his marginally compliant aircraft serving that airport at an annual rate of not more than 20 % of the initial total number of these movements.

2. Subject to the rules on assessment of Article 5, city airports listed in Annex I may introduce measures that are more stringent, in terms of the definition of marginally compliant aircraft provided that these measures do not affect civil subsonic jet aeroplanes that comply, through either original certification or recertification, with the noise standards in Volume 1, Part II, Chapter 4 of Annex 16 to the Convention on International Civil Aviation.

Article 7

Existing operating restrictions

Article 5 shall not apply to:

(a) operating restrictions that were already established on the date of entry into force of this Directive;

(b) minor technical changes to operating restrictions of a partial nature that do not have any significant cost implications for the airline operators at any given Community airport and that have been introduced after the entry into force of this Directive.

Article 8

Exemption for aircraft registered in developing countries

Marginally compliant aircraft registered in developing countries shall, for a period of 10 years after the entry into force of this Directive, be exempted from the provisions of Article 6, provided that:

(a) such aircraft, granted noise certification to the standards specified in Volume 1, Part II, Chapter 3 of Annex 16 to the Convention on International Civil Aviation, were used at the airport concerned in the Community between 1 January 1996 and 31 December 2001 ("the reference period"), and

(b) these aircraft were, in the reference period, on the register of the developing country concerned and that they continue to be operated by a natural or legal person established in that country.

Article 9

Exemption for aircraft operations of an exceptional nature

In individual cases, Member States may authorise, at airports situated in their territory, individual operations of marginally compliant aircraft which could not take place on the basis of the other provisions of this Directive.

This exemption is limited to:

- (a) aircraft whose individual operations are of such an exceptional nature that it would be unreasonable to withhold a temporary exemption;
- (b) aircraft on non-revenue flights for the purpose of alterations, repair or maintenance.

Article 10

Consultation and transparency

Member States shall ensure that, for the application of Articles 5 and 6, procedures for consultation of interested parties are established in accordance with applicable national law.

Article 11

Prior notice

1. Member States shall ensure that on the introduction of any new operating restriction, public notice, including an explanation of the reasons for introducing it taking into account the appropriate elements of the balanced approach, is given to all interested parties:

- (a) six months before the entry into force of the measures referred to in Article 6(1)(a);
- (b) one year before the entry into force of the measures referred to in Article 6(1)(b) and (2);
- (c) in the case of measures under Article 6, two months before the scheduling-conference for the relevant scheduling-period.

2. Member States shall forthwith inform the other Member States and the Commission of any new operating restriction within the meaning of this Directive that they have decided to introduce at an airport in their territory.

Article 12

Right of appeal

Member States shall ensure the right to appeal against the measures taken pursuant to Article 6 and Article 7(b) before an appeal body other than the authority that has adopted the contested measure, in accordance with national legislation and procedures.

Article 13

Committee

1. The Commission shall be assisted by the Committee instituted by Article 11 of Regulation (EEC) No 2408/92.
2. The Committee may be consulted by the Commission on any matter concerning the application of this Directive.
3. When reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

4. The Committee shall take note of the assessments undertaken by the Member States in accordance with Article 5, and of the measures taken, or intended to be taken, on the basis of these assessments.

Article 14

Information and revision

Member States shall upon request submit information on the application of this Directive to the Commission.

No later than five years after the entry into force of this Directive the Commission shall report to the European Parliament and to the Council on the application of this Directive.

The report shall be accompanied, where necessary, by proposals for revision of the Directive.

It shall contain an assessment of the effectiveness of this Directive, in particular the need to revise the definition of marginally compliant aircraft as laid down in Article 2(d) in favour of a more stringent requirement.

Article 15

Repeal

Regulation (EC) No 925/1999 shall be repealed as from the date of entry into force of this Directive.

Article 16

Implementation

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 28 September 2003 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 17

Entry into force

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

Article 18

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 26 March 2002.

For the European Parliament

The President

P. Cox

For the Council

The President

F. Álvarez-Cascos Fernández

(1) OJ C 75 E, 26.3.2002, p. 318.

(2) Opinion delivered on 20 March 2002 (not yet published in the Official Journal).

(3) Opinion delivered on 14 March 2002 (not yet published in the Official Journal).

(4) Opinion of the European Parliament of 13 March 2002 (not yet published in the Official Journal). Council Decision of 26 March 2002.

(5) OJ L 76, 23.3.1992, p. 21. Directive as last amended by Commission Regulation (EC) No 991/2001 (OJ L 138, 22.5.2001, p. 12).

(6) OJ L 240, 24.8.1992, p. 8.

(7) This Directive is being drawn up and will apply after its adoption.

(8) OJ L 175, 5.7.1985, p. 40. Directive as amended by Council Directive 97/11/EC, (OJ L 73, 14.3.1997, p. 5).

(9) OJ L 184, 17.7.1999, p. 23.

(10) OJ L 115, 4.5.1999, p. 1.

ANNEX I

List of city airports

Berlin-Tempelhof

Stockholm Bromma

London City

Belfast City

ANNEX II

Information referred to in Article 5(1)

1. Current inventory

1.1. A description of the airport including information about its capacity, location, surroundings, air traffic volume and mix and runway mix.

1.2. A description of the environmental objectives for the airport and the national context.

1.3. Details of noise contours for the current and previous years - including an assessment of the number of people affected by aircraft noise. Description of the computational method used to develop the contours.

1.4. A description of measures to reduce aircraft noise already implemented: for example, information on land-use planning and management; noise insulation programmes; operating procedures such as PANS-OPS; operation restrictions such as noise limits, night limits/curfew, noise charges; preferential runway use, noise preferred routes/track-keeping, and noise monitoring.

2. Forecast without new measures

2.1. Descriptions of airport developments (if any) already approved and in the programme, for example, increased capacity, runway and/or terminal expansion, and the projected future traffic mix and estimated growth.

2.2. In case of airport capacity extension, the benefits of making that additional capacity available.

2.3. A description of effect on noise climate without further measures, and of those measures already planned to lessen that noise impact over the same period.

2.4. Forecast noise contours - including an assessment of the number of people likely to be affected by aircraft noise - distinguish between established residential areas and newly constructed residential areas.

2.5. Evaluation of the consequences and possible costs of not taking action to lessen the impact of increased noise - if it is expected to occur.

3. Assessment of additional measures

3.1. Outline of the additional measures available as part of the different options mentioned in Article 4(1) and in particular an indication of the main reasons for their selection. Description of those measures chosen for further analysis and fuller information on the cost of introducing these measures; the number of people expected to benefit and timeframe; and a ranking of the overall effectiveness of particular measures.

3.2. Assessment of the cost/effectiveness or cost/benefit of the introduction of specific measures, taking account of the socio-economic effects of the measures on the users of the airport: operators (passenger and freight); travellers and local communities.

3.3. An overview of the possible environmental and competitive effects of the proposed measures on other airports, operators and other interested parties.

3.4. Reasons for selection of the preferred option.

3.5. A non-technical summary.

4. Relation with the Directive of the European Parliament and of the Council on the assessment and management of environmental noise

4.1. When and where noise maps or action plans have been prepared under the terms of the said Directive these will be used for providing the information required in this Annex.

4.2. The assessment of noise exposure (i.e. establishment of noise contours and number of people affected) shall be carried out using at least the common noise indicators L_{den} and L_{night} as specified in the abovementioned Directive, where available.