



Manual of European Environmental Policy

The following pages are a section from the Manual of European Environmental Policy written by the Institute for European Environmental Policy.

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This section is the text of the Manual as published in 2012. It is therefore important to note the following:

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Aircraft

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| Formal reference | |
| 1- 80/51/EEC (OJ L18 24.01.1980) | Directive on the limitation of noise emissions from subsonic aircraft |
| Proposed 20.4.76 – COM(1976)157 (OJ C/1976/126/2) | |
| Amended by | |
| 83/206/EEC (OJ L117 04.05.1983) | Directive amending 80/51/EEC |
| Proposed 15.9.81 – COM(1981)512 (OJ C/1981/276) | |
| 2- 89/629/EEC (OJ L363 13.12.1989) | Directive on the limitation of noise from civil subsonic jet aeroplanes. |
| Proposed – COM(1988)662 (OJ C/1989/37/6) | |
| 92/14/EEC (OJ L76 23.3.92) | Directive 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 (1998). |
| Proposed 10.4.91 – COM(1990)445 (OJ C/1991/111/5) | |
| 3- 98/20/EC (OJ L107 7.4.98) | Directive amending 92/14/EEC |
| Proposed 4.9.96 – COM(1996)413 | |
| 1999/28/EC (OJ L118 6.5.99) | Commission Directive amending 92/14/EEC |
| 4- 2002/30/EC (OJ 28.3.2002) | Directive on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports. |
| Proposed 28.11.2001 – COM(2001)695 | |
| Legal base | Article 100 TFEU originally Article 84(2) EEC Treaty) |
| Binding dates | |
| Notification date | 28 March 2002 |
| Formal compliance (2002/30) | 28 September 2003Note: Directive 2002/30 repealed Regulation 925/1999 with immediate effect. |

Purpose of the Directives

The Directives ensure that Member States implement the noise standards for subsonic aircraft which have been agreed, but without mandatory force, within the International Civil Aviation Organization (ICAO). They also implement certain recommendations of the European Civil Aviation Conference (ECAC). The Directives differ from the other noise Directives by not precluding the imposition of stricter measures by Member States.

Summary of the Directives

The Directives taken together require Member States to ensure that the relevant categories of civil aircraft registered in their territories are not used unless certificated in accordance with certain chapters of Volume 1 of Annex 16/5 to The Convention on International Civil Aviation (Annex 16 only covers certain categories of aircraft).

Directive 80/51/EEC prevented any further non-noise certificated (Chapter 1) aircraft being added to the civil air registers of Member States and required the removal of existing aircraft of that type from their registers by 31 December 1986. Directive 83/206/EEC prevented Chapter 1 aircraft registered in non-EC countries from landing at EC airports after 31 December 1989.

Directive 89/629/EEC tightened standards further. From 1 November 1990, Member States were permitted to add to their air registers only those aircraft which met the higher, Chapter 3 standards. This Directive did not, however, propose any deadline for phasing out the operation of aircraft meeting Chapter 2 standards.

Directive 92/14/EEC, however, banned the operation of aircraft after 1 April 1995 that did not meet Chapter 3 standards. Exemptions were granted to aircraft meeting Chapter 2 standards which were less than 25 years old, which could continue to operate until 1 April 2002. Other exemptions related either to the airlines of some developing countries listed in an Annex, or to Community airlines which could demonstrate that their operations would be adversely affected 'to an unreasonable extent'.

Directive 98/20/EC amended Directive 92/14/EEC in a number of minor respects, primarily by updating the list of aircraft from developing nations listed in its Annex. Directive 1999/28/EC further amends this Annex.

Directive 2002/30/EC laid down rules to facilitate the introduction of operating restrictions in Community airports in a consistent manner with the aim of limiting the number of people adversely affected by aircraft noise. It repealed, with immediate effect, Regulation (EC) No 925/1999, which had been the source of much controversy internationally, provoking a trade dispute between the EU and the US (see below). The Directive sets out general rules on aircraft noise management, rules on the assessment of whether there is a need for operating restrictions and rules governing the implementation of such restrictions, particularly in relation to aircraft meeting only ICAO's Chapter 3 standards, where necessary. City airports are allowed to introduce more stringent conditions, as long as certain specified criteria are met.

Development of the Directives

The first international standards for aircraft noise were adopted by the ICAO in 1971 and have been revised on several occasions since. ICAO's recommendations are not legally binding on its 144 Member States, but most of the major aircraft manufacturing countries base their national regulations upon the ICAO's work.

The first mention of Community action on aircraft noise is to be found not in the first action programme on the environment of 1973 (although the preamble to Directive 80/51/EEC claims erroneously that there is such a mention), but in a written reply in 1973 (No 654/73) by the Council to a European parliamentary question. Given that there were discrepancies between Member States in the implementation of the ICAO standards, the Commission decided that the best approach for the Community was not to lay down its own standards but to ensure that the existing standards were applied consistently across the Community.

In the original proposal for a Directive an 'EEC noise limitation certificate' would have been introduced but this idea was abandoned. The proposal was also changed by the introduction in mandatory form of recommendations emanating from the European Civil Aviation Conference (ECAC) concerning non-noise certificated aircraft.

In the United Kingdom considerable concern was expressed that acceptance of the Directive might lead to an extension of Community competence into the field of aviation. It was envisaged that the Commission might want to represent the Member States at international meetings such as those of ICAO. These fears of the UK government were proved unfounded and the Commission has only observer status at the ICAO's Committee on Aviation Environmental Protection, although its request made in 1983 was at first turned down.

Having achieved a ban on non-noise certificated airliners, international attention switched to the next noisiest class of subsonic jets, those certificated to ICAO Annex 16 'Chapter 2' standards. At the time, such aircraft made up the majority of the world fleet and it was recognized that a ban would have to be phased in over a period of time. Details of the first stage were embodied in Directive 89/629/EEC which banned the addition of any further Chapter 2 aircraft to the registers of Member States, so that as older aircraft were decommissioned, they were to be replaced by types certificated to the higher Chapter 3 standards.

An ICAO Resolution passed in October 1990 called for a complete ban on the operation of Chapter 2 jets, and Directive 92/14/EC reflected the requirements of the Resolution. The provisions of Directive 92/14/EEC were also identical to those contained in a recommendation adopted by the ECAC assembly in June 1991.

Regulation (EC) No [925/99](#) was passed owing to concern that recertified aircraft which had been fitted with hushkits and not re-engined would be significantly noisier than newer models built to Chapter 3 standards, and would also have higher emissions levels. There was concern at the prospect of an influx of such aircraft, mainly from the United States, which could lead to deterioration in noise conditions around airports. The US government and airlines reacted angrily to the new measure, arguing that the recertified

aircraft could meet the required standards and that the Regulation was a potential barrier to trade in second-hand aircraft. The US government also threatened to ban Concorde from landing at US airports in retaliation.

Eventually, the Council compromised, agreeing to adopt the Regulation on 29 April 1999, but to postpone its application for up to a year after its entry into force. The Regulation came into force for European companies on 4 May 2000, but its application to companies from non-EU countries was delayed until April 2002. Transport Commissioner Loyola de Palacio held meetings with her US counterparts in an attempt to resolve the dispute in a manner that was compatible with both the aim of the Regulation and the institutional constraints. However, these proved ultimately unsuccessful and on 14 March 2000 the United States brought the matter before the ICAO invoking the means provided by the Chicago Convention to settle the dispute. The EU challenged the admissibility of the complaint, arguing that The Convention requires parties to negotiate the legal aspects of the dispute prior to any complaint being brought and that pending national and European legal cases should have been allowed to be completed before any action was brought before ICAO. However, the EU's challenge was rejected by the ICAO Council on 16 November 2001.

In early 2001, more positive signals in relation to noise standards began to emanate from the ICAO. A meeting of its Committee on Aviation Environmental Protection in January 2001 made a number of recommendations to be taken to the ICAO assembly in September 2001. These included a new noise standard for new aircraft, which was 10 dB(A) lower than the existing standard, from 2006; procedures for the re-certification of existing aircraft to meet the new standard; more stringent noise standards for helicopters and a proposal for new take-off noise abatement procedures. The new noise standard, known as Chapter 4, was adopted in June 2001 by the ICAO Council and was obligatory for new aeroplane types submitted for certification from 2006.

At the 33rd ICAO Assembly, which was held in Montreal in September/October 2001, guidance on noise management was agreed. The Assembly adopted Resolution A33/7, which included Appendices on policies for a 'balanced' approach to aircraft noise management and local noise-related operating restrictions at airports. As a result of this resolution, the Transport Council of 16 October 2001 concluded that the prospect that Regulation 925/99 could be replaced was subsequently a possibility. At the end of October, the EU confirmed that it would be withdrawing the ban on hushkitted aircraft, while the United States in return pledged to drop the complaint that it had lodged with the ICAO on the ban. The ICAO's Decision to allow the introduction of operating restrictions for the purposes of noise mitigation, which had overturned previous rules limiting the imposition of such restrictions, had paved the way for the compromise.

In November 2001, the Commission published a proposal for a Directive on the establishment of rules on the introduction of noise-related operating restrictions at Community airports (COM(2001)695), which implemented and developed ICAO Resolution A33/7. As the Commission felt that the proposal set out sufficient medium-term measures to protect those people living around airports from noise, as well as being in line with the new international framework for aircraft noise management, it proposed that Regulation (EC) No 925/99 be scrapped once the new Directive was approved.

It was important that the proposed Directive passed through the legislative system faster than usual as the restrictions on third country hushkitted aircraft, as set out in Regulation 925/99, were due to come into force on 2 April 2002. The European Parliament's Transport Committee was leading on the proposal, but the Parliament's Environment Committee also debated it. The latter adopted a report that would have strengthened the proposal somewhat by extending the scope of possible restrictions on aircraft and increasing the number of airports to which the proposal applied by lowering the minimum qualification threshold from 50,000 annual aircraft movements to 20,000. However, the Transport Committee rejected most of the Environment Committee's amendments, instead opting for the report of its own rapporteur, who only proposed minor amendments. At its meeting of the 25 and 26 March 2002, the Transport Council accepted Parliament's amendments, thus doing away with the need for a second Parliamentary reading. The Directive, therefore, came into force on its publication in the Official Journal two days later, thus repealing Regulation (EC) No 925/99 days before it was to apply to third-country aircraft.

In October 1981 the Commission proposed a Directive limiting helicopter noise (COM(1981)554 - OJ C275 27.10.81), but it was subsequently withdrawn.

Implementation of the Directives

The transposition deadlines of Directive 2002/30/EC were different for different Member States according to their accession dates. The more recent Member States, Romania and Bulgaria were given an extended time limit, up to 1 January 2007. The eastern countries group composed of Hungary, Slovakia, Czech Republic, Estonia, Latvia, Lithuania, Poland, Slovenia and Malta and Cyprus had to implement by 1 May 2005. Finally, all other Member States had to comply with the initial deadline of 28 September 2003. No transposition information is available from the United Kingdom. Information on other Member States transposition status can be found in the national [execution measures](#).

In 2008, the Commission assessed the implementation of the Directive and its effect on the noise emissions from aircraft ([COM\(2008\)66](#)). It concluded that although the Member States adopted the balanced approach required in dealing with noise emission from their airports and did ensure that all interests were taken into account, Directive 2002/30/EC was only applied to a limited number of airports. Member States stated that the dispositions were not clear enough and that they did not directly influence the noise management around their airports. One German airport outlined the incompatibility of a disposition of the Directive allowing restrictions on marginally compliant Chapter 3 aircraft with international agreements that prohibit this kind of restriction. Several airports found the noise management process introduced by Directive 2002/30/EC financially burdensome. Even though the introduction of the Directive has had some positive effects like the establishment of a climate of trust among stakeholders and the setting of a level playing field, the Commission emphasized the fact that noise pollution at night was still increasing. That increase is due to the increase in night flights and is likely to continue.

Enforcement and court cases

Judgements on four cases regarding this legislation have been made by the European Court of Justice.

[C-327/01](#) This case was brought by the Commission against Ireland for a failure to transpose Directive 98/20/EC within the given time limit. Ireland did not contest the judgement in 2001, recognized this failure and declared that it would quickly remedy the issue.

[C-328/01](#) The Commission took Ireland to the Court for failure to transpose Directive 1999/28/EC into its national law. The Irish government did not contest the failure but it argued that they were waiting to be able to combine the transposition of Directive 1999/28/EC with Directive 98/20/EC. The Court, in 2002, decided that Ireland failed to its obligations as it did not implement the measures within the prescribed time limit.

[C-71/05](#) This case was brought by the Commission against Luxembourg for a failure to transpose the Directive 2002/30/EC within the prescribed time limit. Luxembourg did not contest this finding and the Court ruled in 2006 that it constituted a breach of its obligations under the Directive.

[C-422/05](#) The Commission brought this action before the Court because of the Royal Decree of 14 April 2002 of Belgium, that relied on Regulation No 925/1999 which had been repealed, even though Directive 2002/30/EC had already entered into force and prescribed other techniques. There was a strong potential for confusion according to the Commission. Belgium argued that the decree filled a legal vacuum created by the repeal of the Regulation No 925/1999 and that it did not seriously compromise the rules laid down in Directive 2002/30/EC. The Court found in 2007 that the adoption of that decree gave rise to unduly unfavourable treatment for certain categories of airplanes and had a lasting impact on the conditions of transposition and implementation of the Directive in the Community.

[C-120/10](#) The case involved European Air Transport, a cargo airline, that was ordered to pay a €53,113 fine for exceeding maximum noise levels set in the Brussels region. These maximum noise levels had been defined by national decree in 1999. The airline challenged the fine, saying that the decree wrongly requires that noise levels are measured on the ground rather than at source as specified under international law, and that they constitute an ‘operating restriction’, regulated by Directive 2002/30/EC. The Court was asked to decide whether the decree on noise pollution amounted to ‘operating restrictions’ as described under the Directive. In September 2011, the ECJ defined an ‘operating restriction’ as a prohibition, absolute or temporary, that prevents the access of a civil subsonic jet aeroplane to a European Union airport. It ruled, consequently, that national environmental legislation imposing limits on maximum noise levels, as measured on the ground, are not ‘operating restrictions’.

Further developments

In December 2011, the Commission published a draft Regulation ([COM\(2011\)828](#)) that would repeal Directive 2002/30/EC and would establish a new assessment system to introduce operation restrictions. The Commission considers that the introduction of operating restrictions may have a substantial impact on business and operations, hence the need for the decision to be consistent, evidence-based and robust to be acceptable to all stakeholders. The new approach is thought to be consistent with the set of principles and guidance that have been adopted by the International Civil Aviation Organization and,

therefore, would reduce the risk of international disputes in the event that third country carriers are impacted by noise abatement measures at airports in the EU. It would also create a noise assessment process with clearly identified steps. However no noise quality objectives have been decided.

Related legislation

One Directive has a strong interaction with the Directives regulating noise emission from aircraft:

- [Directive 2002/49/EC](#) 'relating to the assessment and management of environmental noise'.