# Noise-related operating restrictions at Union airports: rules and procedures

2011/0398(COD) - 12/12/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 501 votes to 155 with 8 abstentions a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC of the European Parliament and of the Council. Parliament adopted its position in first reading following the ordinary legislative procedure and amended the Commission proposal as follows:

**Criteria for noise abatement**: Members consider that in accordance with Directive 2002/49/EC, noise assessments should be based on **objective and measurable criteria common to all the Member States.** That information must be reliable, obtained in a transparent manner, comparable and accessible to all stakeholders. Assessments should include monitoring of the latest technological developments and exchanges of information on the latest findings concerning the procedures to be employed. Competent authorities should put in place the necessary monitoring and enforcement tools. Noise assessments should be carried out or supervised by outside agencies independent of the airport operator.

**Balanced approach**: Parliament amended to the text to state that the 'Balanced Approach' means the process established by the International Civil Aviation Organisation (ICAO) in Volume 1, Part V of Annex 16 to the Chicago Convention under which the range of available measures, namely reduction of aircraft noise at source, land-use planning and management, noise abatement operational procedures and operating restrictions, is considered in a consistent way with the view to minimising noise in the most cost-effective way taking account, inter alia, of **health and economic aspects**, on an airport by airport basis in order to safeguard the health of citizens living in nearby areas.

**Right of appeal**: a new clause makes to clear that Member States must ensure the right to appeal against the operating restrictions adopted pursuant to the Regulation before the appeal body in accordance with national legislation and procedures.

**The Commission's right of scrutiny**: Members consider that Commission's right of scrutiny on operating restrictions infringe the principle of subsidiarity of the European Union. They are concerned that this provision would allow the Commission to undermine outcomes of regional mediation agreements between airports, the region and citizens, which are often reached after years of difficult negotiations. Parliament reformulated the text in order to ensure that competences of local authorities and the principle of EU subsidiarity are fully respected. Accordingly, at the request of a Member State or on its own initiative, and without prejudice to a pending appeal procedure, the Commission may within a period of two months after the day on which it receives notice, evaluate the process for the introduction of a noise-related operating restriction. Where the Commission finds that the introduction of a noise-related operating restriction does not follow the process set out in the Regulation, it may notify the relevant competent authorities accordingly. The relevant competent authorities may take the Commission's opinion into account.

**Provisions regarding the committee assisting the Commission are deleted**, since it will not have the power to decide whether the competent authority concerned may proceed with the introduction of the operating restriction.

**Cost-effectiveness**: Parliament considers that both, economic benefits and impacts on health and quality of people living in the vicinity of airports should be equally considered when assessing the noise situation at EU airports. Therefore, amendments aiming at strengthening this balance are proposed. The text states that while a noise abatement objective should be chosen by comparing all costs and all benefits, the tool for reaching this objective should be cost-effective, taking account of health, economic and social aspects. A formal and comprehensive assessment of the likely cost-effectiveness of the available measures must be carried out. The cost-effectiveness of envisaged noise-related operating restrictions will be assessed taking due account of following elements, to the extent possible, in quantifiable terms: (i) the anticipated noise benefit, including the health benefit, of the envisaged measures, now and in the future; (ii) health and safety of local residents living in the surroundings of the airport; (iii) safety of aviation operations, including third party risk; (iv) direct, indirect and catalytic employment and economic effects, including potential effects on regional economies; (v) impact on working conditions at airports; (vi) capacity of the airport; (vii) effects on the European aviation network; (viii) environmental sustainability, including interdependencies between noise and emissions.

**'Marginally compliant aircraft' is re-defined** by the committee as aircraft that are certified in accordance with Chapter 3 limits laid down in the Chicago Convention by a cumulative margin of less than 8 EPNdB (Effective Perceived Noise in Decibels) during a transitional period of four years after the entry into force of the Regulation, and by a cumulative margin of less than 10 EPNdB following the end of that transitional period.

The Commission's proposal contained no transitional period for phasing out.

Member States may offer **economic incentives** to encourage aircraft operators to use less noisy aircraft during the transitional period.

The competent authorities shall decide on the annual rate for removing marginally compliant aircraft. This **annual rate shall not be more than 25 % of the movements** and shall be applied uniformly to each affected operator with reference to its number of movements with marginally compliant aircraft at that airport.

**Delegated acts**: Members amended the text so that the delegation of powers to the Commission might be limited to technical adaptations and changes. The Commission is empowered to adopt delegated acts with respect to regularly updating the method and technical report relating to the assessment of the noise situation at an airport.

Furthermore, the delegation of power shall be conferred on the Commission for a period of five years from the date of entry into force of the Regulation.

**Transitional provisions**: a new clause states that operating restrictions and decisions on the operation of airports, including court decisions and the outcome of mediation processes which were introduced or under examination before the entry into force of the Regulation shall not be subject to the Regulation. They shall, to the extent that Directive 2002/30/EC is applicable, continue to be subject to that Directive and, where applicable, the national rules transposing it. The effects of Directive 2002/30/EC shall therefore be maintained for such measures. A minor technical amendment to the existing measure without substantive implications on capacity or operations shall not be considered as a new operating restriction.

Parliament inserts **this grandfathering clause** in order to make it clear that existing operating restrictions and procedures on introducing those restrictions which were launched prior the entry into force of the new Regulation remain subject to the existing rules.

**Availability of relevant information**: competent authorities must monitor the implementation of the noise mitigating measures and ensure that relevant information is made available on-line, thus allowing local residents living in the surroundings of the airports and other interested parties to access the information freely. The relevant information shall include: (a) information on alleged infringements due to changes in flight paths, in terms of their impact and the reasons why such change were made; (b) the criteria used when distributing and managing traffic in each airport, to the extent that those criteria may have an environmental or noise impact.

Operators of airport facilities must **install computerised noise measuring systems** at different points close to flight paths that affect or are likely to affect the local population. The data collected by those noise-measuring systems may be consulted via the internet.