



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.8.2003  
COM(2003) 524 final

2003/0207 (COD)

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the regulation of the operation of aeroplanes covered by Part II, Chapter 3, Volume 1  
of Annex 16 to the Convention on International Civil Aviation, second edition (1988)**

(Codified version)

(presented by the Commission)

## EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided<sup>1</sup> to instruct its staff that all legislative measures should be codified after no more than ten amendments, stressing that this was a minimum requirement and that departments should endeavor to codify at even shorter intervals the texts for which they were responsible, to ensure that the Community rules were clear and readily understandable.
3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this<sup>2</sup>, stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal Community legislative procedure.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of 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)<sup>3</sup>. The new Directive will supersede the various instruments incorporated in it<sup>4</sup>; their content is fully preserved, and they are brought together with only such formal amendments as are required by the codification exercise itself.

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<sup>1</sup> COM(87) 868 PV.

<sup>2</sup> See Annex 3 to Part A of such Conclusions.

<sup>3</sup> Carried out pursuant to the Communication from the Commission to the European Parliament and the Council - Codification of the Acquis communautaire, COM(2001) 645 final.

<sup>4</sup> Annex I, Part A of this proposal.

5. The codification proposal was drawn up on the basis of a preliminary consolidation, in all official languages, of Directive 92/14/EEC and the instruments amending it, carried out by the Office for Official Publications of the European Communities, by means of a data-processing system. Insofar as the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table contained in Annex II to the codified Directive.

↓ 92/14/EEC (adapted)

Proposal for a

**DIRECTIVE .../.../EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of [...]**

**on the ~~ⓧ~~ regulation ~~ⓧ~~ of the operation of aeroplanes covered by Part II, Chapter ~~ⓧ~~ 3 ~~ⓧ~~, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988)**

**(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,

Having regard to the opinion of the ~~ⓧ~~ European ~~ⓧ~~ Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>3</sup>,

Whereas:

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- (1) 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)<sup>4</sup> has been substantially amended several times<sup>5</sup>. In the interests of clarity and rationality the said Directive should be codified.

<sup>1</sup> OJ C

<sup>2</sup> OJ C

<sup>3</sup> OJ C

<sup>4</sup> 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).

<sup>5</sup> See Annex I, Part A.

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↓ 92/14/EEC Recital 1 (adapted)

- (2) The application of noise emission standards to civil subsonic jet aeroplanes has significant consequences for the provision of air transport services, in particular where such standards limit the useful life of aeroplanes operated by airlines.

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↓ 92/14/EEC Recital 2

- (3) Council Directive 89/629/EEC<sup>6</sup> limits the addition to the civil air registers of Member States of aeroplanes that only comply with the standards specified in Part II, Chapter 2, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988). That Directive specifies that the limitation on addition is only a first stage.

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↓ 92/14/EEC

- (4) Owing to the problem of growing congestion at Community airports, it is essential to ensure that the best use is made of existing facilities. This will only be possible if environmentally acceptable aeroplanes are used.
- (5) The work undertaken by the Community in cooperation with other international bodies indicates that measures to limit the operation of aeroplanes which do not comply with the standards of Chapter 3 of Annex 16 must follow any non-addition rule in order for this to be of environmental benefit.
- (6) Common rules for this purpose should be introduced on a reasonable time-scale to ensure a harmonised approach throughout the Community, supplementing existing rules. This is particularly important in view of the recent trend towards progressive liberalisation of European air traffic.

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↓ 92/14/EEC (adapted)

- (7) Aeroplane noise should be reduced, taking into account environmental factors, technical feasibility and economic consequences.

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↓ 92/14/EEC (adapted)

- (8) It is appropriate to restrict the operation of civil subsonic jet aeroplanes on Member States' registers to those which comply with the standards of Chapter 3 of Annex 16.

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<sup>6</sup> OJ L 363, 13.12.1989, p. 27.

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↓ 98/20/EC Recital 14 (adapted)

- (9) ☒ Member States should lay down rules on penalties applicable to ☒ infringements of ☒ the national provisions adopted pursuant to this Directive. Those penalties should be ☒ effective, proportionate and dissuasive.

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- (10) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the acts set out in Annex I, Part B,

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↓ 92/14/EEC  
→<sub>1</sub> Corrigendum 92/14/EEC  
(OJ L 168, 23.6.1992, p. 30)

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

1. The objective of this Directive is to restrict the operation of civil subsonic jet aeroplanes as specified in Article 2.
2. This Directive shall apply to aeroplanes with a →<sub>1</sub> maximum take-off mass of 34 000 kg or more or with a ← certified maximum internal accommodation for the aeroplane type in question consisting of more than nineteen passenger seats, excluding any seats for crew only.

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↓ 98/20/EC Art.1 pt.1 (adapted)

3. For the purposes of this Directive ☒ the following definitions shall apply ☒ :
- ☒ (a) ☒ “air carrier” means an air transport undertaking with a valid operating licence;
  - ☒ (b) ☒ “operating licence” means an authorisation granted to an undertaking permitting it to carry out carriage by air of passengers, mail and/or cargo for remuneration and/or hire;
  - ☒ (c) ☒ “Community air carrier” means an air carrier with a valid operating licence granted by a Member State in accordance with Council Regulation (EEC) No 2407/92<sup>7</sup>;

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<sup>7</sup> OJ L 240, 24.8.1992, p. 1.

- ⊗ (d) ⊗ “total civil subsonic jet fleet” means the total aircraft fleet of civil subsonic jet aeroplanes at the disposal of the air carrier, through ownership or any form of lease agreement of not less than one year.

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↓ 92/14/EEC (adapted)

*Article 2*

- ⊗ 1. ⊗ Member States shall ensure that all civil subsonic jet aeroplanes operating from airports situated in their territory comply with the ⊗ standards specified in Part II, Chapter 3, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988) ⊗ .
- ⊗ 2. ⊗ The territory referred to in paragraph 1 shall not include the overseas departments referred to in Article ⊗ 299 ⊗ (2) of the Treaty.

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↓ 92/14/EEC Art.5 (adapted)

*Article ⊗ 3 ⊗*

- ⊗ 1. ⊗ Member States may grant exemptions from Article 2 for aeroplanes of historical interest.

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↓ 92/14/EEC Art.9 (adapted)

- ⊗ 2. ⊗ Any Member State granting exemptions under ⊗ paragraph 1 ⊗ shall inform the competent authorities of the other Member States and the Commission of the fact and of the grounds for its decision.
- ⊗ 3. ⊗ Every Member State shall recognise the exemptions granted by another Member State in respect of aeroplanes entered on the registers of the latter.

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↓ 92/14/EEC Art. 8 (adapted)

- ⊗ 4. ⊗ In individual cases, Member States may permit the temporary use, at airports situated in their territory, of aeroplanes which cannot be operated on the basis of the other provisions of this Directive. This exemption should be limited to:
- (a) aeroplanes whose operations are of such an exceptional nature that it would be unreasonable to withhold a temporary exemption;
  - (b) aeroplanes on non-revenue flights for the purposes of alterations, repair or maintenance.

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↓ 92/14/EEC Art.10 (adapted)

*Article 4*

Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

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↓ 98/20/EC Art.2 (adapted)

*Article 5*

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that those rules are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify the Commission of the provisions to the Commission and shall notify it without delay of any subsequent amendment affecting them.

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*Article 6*

Directive 92/14/EEC, as amended by the Directives and the Regulation referred to in Annex I, Part A, is hereby repealed, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex I, Part B.

References to the repealed Directive shall be construed as references to this Directive and should be read in accordance with the correlation table in Annex II.

*Article 7*

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.



Article 8

This Directive is addressed to the Member States.

Done at Brussels, [...]

*For the European Parliament*  
*The President*  
[...]

*For the Council*  
*The President*  
[...]



**ANNEX I**

**Part A**

**Repealed Directive with its successive amendments**  
(referred to in Article 6)

|  |                              |
|--|------------------------------|
| Council Directive 92/14/EEC            | (OJ L 76, 23.3.1992, p. 21)  |
| Council Directive 98/20/EC             | (OJ L 107, 7.4.1998, p. 4)   |
| Commission Directive 1999/28/EC        | (OJ L 118, 6.5.1999, p. 53)  |
| Commission Regulation (EC) No 991/2001 | (OJ L 138, 22.5.2001, p. 12) |

**Part B**

**List of time-limits for transposition into national law**  
(referred to in Article 6)

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| Directive  | Time-limit for transposition |
|------------|------------------------------|
| 92/14/EEC  | 1 July 1992                  |
| 98/20/EC   | 1 March 1999                 |
| 1999/28/EC | 1 September 1999             |

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## ANNEX II

### CORRELATION TABLE

| Directive 92/14/EEC               | This Directive         |
|-----------------------------------|------------------------|
| Article 1(1) and (2)              | Article 1(1) and (2)   |
| Article 1(3), first subparagraph  | Article 1(3), point a) |
| Article 1(3), second subparagraph | Article 1(3), point b) |
| Article 1(3), third subparagraph  | Article 1(3), point c) |
| Article 1(3), fourth subparagraph | Article 1(3), point d) |
| Article 2(1)                      | —                      |
| Article 2(2)                      | Article 2(1)           |
| Article 2(3)                      | Article 2(2)           |
| Article 2(4)                      | —                      |
| Articles 3 and 4                  | —                      |
| Article 5(1)                      | —                      |
| Article 5(2)                      | Article 3(1)           |
| Articles 6 and 7                  | —                      |
| Article 8                         | Article 3(4)           |
| Article 9(1)                      | Article 3(2)           |
| Article 9(2)                      | Article 3(3)           |
| Articles 9a and 9b                | —                      |
| Article 10(1)                     | —                      |
| Article 10(2)                     | Article 4              |
| —                                 | Article 5 <sup>1</sup> |
| —                                 | Article 6              |
| —                                 | Article 7              |

<sup>1</sup> Article 2 of Council Directive 98/20/EC.

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Article 11

Annex

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Article 8

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Annex I

Annex II

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