



24.6.2010

## MEDDELELSE TIL MEDLEMMERNE

Om: Andragende 0090/2010 af Dieter Schlemann, tysk statsborger, for "LTB Schlemann GmbH", om protest mod EASA's (European Aviation Safety Agency) forslag til luftdygtighedsdirektiv PAD 10-010,

### 1. Sammendrag

Andrageren protesterer mod EASA's forslag til luftdygtighedsdirektiv PAD 10-010, som kræver, at flyseler, der er leveret af visse tyske firmaer, herunder LTB Schlemann, udskiftes. EASA's begrundelse er, at de pågældende firmaer ikke opfylder kravet om at være i besiddelse af godkendte vedligeholdelsesdata ("approved maintenance data"). Andrageren påpeger, at PAD 10-010 er uforeneligt med bestemmelserne i Kommissionens forordning (EF) nr. 2042/2003 om vedvarende luftdygtighed af luftfartøjer og luftfartøjsmateriel, -dele og -apparaturl og om godkendelse af organisationer og personale, der deltager i disse opgaver, idet det i forordningen hedder, at eftersyn og vedligeholdelse skal finde sted i overensstemmelse med nationale bestemmelser. Andrageren henviser tillige til Europa-Parlamentets beslutning af 3. februar 2009 om en dagsorden for en bæredygtig fremtid for almen- og forretningsflyvning (P6\_TA(2009)0036), og han anmoder følgelig Europa-Parlamentet om at sikre, at EASA trækker luftdygtighedsdirektiv PAD 10-010 tilbage, samt at der bliver taget hensyn til henstillingerne i Europa-Parlamentets ovennævnte beslutning.

### 2. Opfyldelse af betingelserne for behandling


Andragendet opfylder betingelserne for behandling (fastslået den 30. april 2010).

### 3. Kommissionens svar, modtaget den 24. juni 2010.

Lovgiveren har valgt at give enekompetence til Det Europæiske Luftfartssikkerhedsagentur for så vidt angår udstedelse af luftdygtighedsdirektiver i medfør af artikel 20, stk. 1, litra j), i forordning (EF) nr. 216/2008. Kommissionen videresendte derfor andragendet til EASA.

I sit svar af 21. maj 2010 (se vedhæftede) angav EASA, at agenturet den 12. april 2010 havde besluttet at trække sit forslag til luftdygtighedsdirektiv PAD 10-010 tilbage.

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 EASA	PAD 10-010 WITHDRAWAL STATEMENT
<p>EASA issued Proposed Airworthiness Directive (PAD) 10-010 because some maintenance organisations performed maintenance of safety belts / torso restraint systems without providing the necessary justifications to demonstrate that the maintained safety belts and restraint systems would comply with the applicable airworthiness requirements.</p> <p>However, in accordance with Part 21A.3B(b)1, "The Agency shall issue an airworthiness directive when an unsafe condition has been determined by the Agency to exist in an aircraft, as a result of a deficiency in the aircraft, or an engine, propeller, part or appliance installed on this aircraft." Even though improper maintenance of safety belts and torso restraint systems could result in inadequate retention capability or different material behaviour (elongation), EASA lacks sufficient evidence of an unsafe condition. In addition the maintenance of safety belts / torso restraint systems without using applicable maintenance data does not provide, by itself, enough evidence of an unsafe condition that would warrant the issuance of an airworthiness directive (AD). Therefore no AD will be published, and this issue is addressed by a Safety Information Bulletin (SIB) which highlights the illegal nature of such maintenance.</p> <p><b>Background information:</b> According to Part 145.A.45 the organisation maintaining a component shall hold and use applicable current maintenance data in the performance of maintenance including modifications and repairs. Maintenance data include the applicable instructions for continuing airworthiness, issued by type certificate holders, supplemental type certificate holders and any other organisation required to publish such data in accordance with Part 21. For safety belts / torso restraint systems the applicable maintenance data is included in the Component Maintenance Manual (CMM) provided by the design approval holder. The CMM may contain limitations to certain maintenance and repair tasks. When present, such limitations cannot be regarded as absence of applicable maintenance data. At the same time, production drawings cannot be considered as maintenance data, unless indicated as such by the Design Approval holder.</p> <p>According to the inspections performed by the Agency, the German Part 145 maintenance organisations quoted in PAD 10-010 did not comply with the CMM and did not hold other applicable maintenance data. Therefore safety belts and torso restraint systems maintained by them are regarded as non-airworthy, thus potentially unsafe and the release certificates (EASA Form 1) issued by these organisations are considered invalid. In accordance with subsequent information received, EASA is continuously investigating this situation further, since there could be other Part 145 maintenance organisations in and outside Europe in the same position.</p> <p>With regards to 'applicable maintenance data' - EASA has no evidence of the specific approval of maintenance data for this purpose, issued before 28 September 2003 (date of entry into force of Part 21) by any National Aviation Authority (NAA), which could be considered valid in accordance with EC regulation No. 1702/2003 Article 2b. Additionally, maintenance procedures approved by NAAs before 28 November 2003 (date of entry into force of Part 145) cannot be used after that date if not in compliance with the EU rules, taking into consideration that Part-145.A.45(b)(4) differs, in this respect, from JAR-145.45(b)(5) and does not allow the continuation of NAAs to approve standard practices as maintenance data. According to Part-145, only the Agency can approve alternative applicable maintenance data from those provided by the design approval holders.</p> <p>In the particular case of safety belts and torso restraint systems, the replacement of the webbing being done not in accordance with applicable maintenance data shall be considered as a design change, and more specifically as a repair.</p> <p>In accordance with Part 21A.611, such a design change of equipment certificated in compliance with an ETSO can only be performed by the ETSO holder, in case of Minor Change, or approved through a new ETSO certification and re-identified by means of new Part Numbers in all other cases.</p> <p>In alternative to the above, the repair approval can also be achieved by any legal person or entity (including maintenance organisations) through EASA in accordance with Part 21, by issuance of a Minor Change at aircraft level for safety belts and restraint systems on statically tested seats. The repair approval for safety belts and restraint systems to be installed on dynamically tested seats could only be performed through a Major Change process, requiring an STC when the applicant is different from the aircraft TC Holder. In all cases, the approval shall involve the definition of a new Part Number and instructions for Continuing Airworthiness.</p> <p><b>Further information:</b> EASA is continuously investigating this situation further and will issue updates when appropriate.</p> <p><b>Conclusion:</b> For the above mentioned reasons, PAD 10-010 is hereby withdrawn and is replaced by Safety Information Bulletin 10-XXX which highlights the illegal nature of such maintenance. The SIB is posted on the Agency AD website at <a href="http://ad.easa.europa.eu">http://ad.easa.europa.eu</a>.</p> <p style="text-align: right;">Cologne, 12 April 2010</p>	



European Aviation Safety Agency

Patrick Goudou • Executive Director

Cologne, 21. MAI 2010  
JPD/cmo/R(7) 2010 D/52392

Mr Daniel Calleja Crespo  
Director DG MOVE E  
European Commission  
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**Subject:** **Petition 0090/2010 protesting against the European Aviation Safety Agency (EASA)**

**Attachments:** -Petition 0090/2010  
-Notification of a Proposal for Airworthiness Directive (PAD No.: 10-010)  
-PAD 10-010 Withdrawal Statement

Dear Mr Calleja,

This letter is in reply to the Commission's information request on the petition of reference whereby the petitioner, Mr Schlemann on behalf of LTB Schlemann GmbH, protested at the EASA's notification of a proposal to issue an Airworthiness Directive (PAD No. 10-010). Furthermore, the petitioner called on the European Parliament to ensure that EASA withdraws this PAD.

First of all, we would like to mention that by issuing the PAD of reference the Agency has followed its standard procedures in this regard and accordingly submitted the scope of the PAD No. 10-010 to the stakeholders for comments. The PAD as such does not constitute any binding decision of the Agency. This means that the intended addressees were not obliged to comply with it and it did not create any kind of obligations for other affected parties.

Having said that, we would like to inform you that PAD No 10-010 has been withdrawn through the PAD 10-010 Withdrawal Statement from 12.4.2010 (attached). We understand that the withdrawal of the PAD of reference satisfies the request of the petitioner.

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Courtesy Translation

**Betreff:** **Petition 0090/2010 gegen die Europäische Agentur für Flugsicherheit (EASA)**  
**Anlagen:** -Petition 0090/2010  
-Bekanntgabe eines Vorschlags für eine Lufttüchtigkeitsanweisung (PAD No.: 10-010)  
-PAD 10-010 Rücknahmemitteilung

Sehr geehrter Herr Calleja,

wir möchten mit diesem Schreiben auf die Informationsanfrage der Europäischen Kommission zu der oben genannten Petition antworten. Der Beschwerdeführer, Herr Schlemann, protestiert mit dieser Petition im Namen der LTB Schlemann GmbH gegen die Bekanntgabe des Vorschlags der EASA, eine Lufttüchtigkeitsanweisung (PAD No 10-010) erlassen zu wollen. Der Beschwerdeführer ersucht das Europäische Parlament weiterhin sicherzustellen, dass EASA den Vorschlag PAD 10-10 zurücknimmt.

Zunächst möchten wir darauf hinweisen, dass die Bekanntgabe des Vorschlags nach den anwendbaren Verfahrensvorschriften erfolgt ist. Demnach wurde mit dem PAD zunächst der beabsichtigte Regelungsbereich für eine Lufttüchtigkeitsanweisung mitgeteilt und den interessierten Kreisen die Möglichkeit gegeben, hierzu Kommentare abzugeben. Das PAD stellt als solches noch keine bindende Entscheidung der Agentur dar. Der angesprochene Adressatenkreis ist nicht verpflichtet das PAD zu befolgen. Auch begründet das PAD keine Verpflichtungen für die betroffenen Personen.

Weiterhin möchten wir Sie darüber informieren, dass das PAD 10-010 durch die PAD 10-010 Rücknahmemitteilung vom 12.4.2010 (siehe Anlage) zurückgenommen worden ist. Wir gehen davon aus, dass die Rücknahme dem Begehren des Beschwerdeführers entspricht.

Für weitere Rückfragen stehen wir Ihnen gerne zur Verfügung.

Mit freundlichen Grüßen

P. GOUDOU