



24.6.2010

COMMUNICATION AUX MEMBRES

Objet: Pétition 0090/2010, présentée par Dieter Schlemann, de nationalité allemande, au nom de «LTB Schlemann GmbH», sur une protestation contre la proposition de directive PAD 10-010 sur la navigabilité présentée par l'AESA (Agence européenne de la sécurité européenne)

1. Résumé de la pétition

Le pétitionnaire proteste contre la proposition de directive PAD 10-010 sur la navigabilité proposée par l'AESA, laquelle impose le remplacement des harnais d'aviation fournis par certaines sociétés allemandes, notamment par LTB Schlemann. L'AESA se justifie en arguant que les sociétés concernées ne remplissent pas les critères permettant la détention de données de maintenance approuvées («approved maintenance data»). Le pétitionnaire souligne que PAD 10-010 est incompatible avec les dispositions établies par le règlement (CE) n° 2042/2003 relatif au maintien de la navigabilité des aéronefs et des produits, pièces et équipements aéronautiques, et relatif à l'agrément des organismes et des personnels participant à ces tâches, dès lors que le règlement précise que la révision et la maintenance doivent se dérouler conformément aux dispositions nationales. Le pétitionnaire renvoie par ailleurs à la résolution du Parlement du 3 février 2009 sur un agenda pour un avenir durable de l'aviation générale et d'affaires (P6_TA(2009)0036) et prie le Parlement européen de bien vouloir faire le nécessaire pour que l'AESA retire la directive PAD 10-010 sur la navigabilité et pour que soient prises en considération les recommandations figurant dans la résolution susmentionnée du Parlement européen.

2. Recevabilité

Déclarée recevable le 30 avril 2010. La Commission a été invitée à fournir des informations (article 202, paragraphe 6, du règlement).

3. Réponse de la Commission, reçue le 24 juin 2010.

Le législateur a décidé de donner à l'Agence européenne de la sécurité aérienne compétence exclusive pour émettre des directives sur la navigabilité, en vertu de l'article 20, paragraphe 1, point j du règlement (CE) n° 216/2008. La Commission a par conséquent fait suivre la pétition à l'AESA.

Dans sa réponse du 21 mai 2010 (voir en annexe), l'AESA déclare que le 12 avril 2010, elle a décidé de retirer sa proposition de directive PAD 10-010 sur la navigabilité.

Annexes: 3

|  EASA | PAD 10-010 WITHDRAWAL STATEMENT |
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| <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>Background information: 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.</p> <p>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>Further information: EASA is continuously investigating this situation further and will issue updates when appropriate.</p> <p>Conclusion: 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 http://ad.easa.europa.eu.</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