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**A5-0265/2000**

25 September 2000

## REPORT

on the proposal for a Council Directive concerning the European Agreement on the organisation of working time of mobile workers in civil aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA)  
(COM(2000) 382 – C5-0444/2000 – 2000/0164(COS))

Committee on Employment and Social Affairs

Rapporteur: Stephen Hughes

Delegation of the power of decision - Rule 62 of the Rules of Procedure



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## PROCEDURAL PAGE

By letter of 23 June 2000, the Commission forwarded to Parliament the proposal for a Council Directive concerning the European Agreement on the organisation of working time of mobile workers in civil aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA) (COM(2000) 382 – C5-0444/200 - 2000/0164(COS)).

At the sitting of 8 September 2000 the President of Parliament announced that the Conference of Presidents had referred this proposal to the Committee on Employment and Social Affairs as the committee responsible, with the power of decision pursuant to Rule 62 of the Rules of Procedure, and the Committee on Industry, External Trade, Research and Energy and the Committee on Regional Policy, Transport and Tourism for their opinions (C5-0444/2000).

The Committee on Employment and Social Affairs had appointed Stephen Hughes rapporteur at its meeting of 5 July 2000.

The committee considered the Commission proposal and the draft report at its meeting of 19 September 2000.

At the meeting it adopted the motion for a resolution unanimously.

The following were present for the vote: Michel Rocard, chairman; Winfried Menrad, vice-chairman; Stephen Hughes, rapporteur; Sylviane H. Ainardi, Jan Andersson, Ieke van den Burg, Brian Crowley, Proinsias De Rossa, Harlem Désir (for Alejandro Cercas Alonso), Harald Ettl, Carlo Fatuzzo, Ilda Figueiredo, Marie-Hélène Gillig, Anne-Karin Glase, Richard Howitt (for Elisa Maria Damião), Ioannis Koukiadis, Bartho Pronk, Herman Schmid, Anne E.M. Van Lancker and Barbara Weiler.

The Committee on Industry, External Trade, Research and Energy and the Committee on Regional Policy, Transport and Tourism decided on 12 July 2000 and 11 July 2000 respectively not to deliver an opinion.

The report was tabled on 25 September 2000.

## MOTION FOR A RESOLUTION

**European Parliament resolution on the proposal for a Council Directive concerning the European Agreement on the organisation of working time of mobile workers in civil aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA) (COM(2000) 382 – C5-0444/2000 – 2000/0164(COS))**

*The European Parliament,*

- having regard to the Commission proposal (COM(2000) 382 – C5-0444/2000<sup>1</sup>),
- having regard to Article 137, 138 and 139 of the Treaty,
- having regard to the Commission Communications on the promotion of social dialogue at Community level (COM(1993) 600 and COM(1998) 322),
- having regard to the framework agreement on the organisation of working time of mobile staff in civil aviation concluded on 22 March 2000 between the organisations representing management and labour in the civil aviation sector,
- having regard to the decision by these organisations to call upon the Commission to submit the above agreement to the Council with a view to implementing it,
- having regard to the Communication from the Commission on the organisation of working time in the sectors and activities excluded from Directive 93/104/EC of 23 November 1993 (COM(1998) 662), and the proposals contained therein on organisation of working time for these sectors,
- having regard to its resolution of 2 July 1998<sup>2</sup> on the Commission's White Paper on sectors and activities excluded from the working time Directive (COM(1997) 334 - C4-0434/1997),
- having regard to Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000 amending Council Directive 93/104/EC on certain aspects of working time to cover sectors and activities excluded from that directive<sup>3</sup>,
- having regard to Council Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers'

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<sup>1</sup> Not yet published

<sup>2</sup> OJ C 226, 20.7.1998, p. 70

<sup>3</sup> OJ L 195, 1.8.2000, p. 41.

Unions in the European Union (FST)<sup>4</sup>, and having regard to its resolution of 14 April 1999<sup>5</sup> on that agreement,

- having regard to Rule 47(1) of its Rules of Procedure,
  - having delegated the power of decision, pursuant to Rule 62 of its Rules of Procedure to the Committee on Employment and Social Affairs,
  - having regard to the report of the Committee on Employment and Social Affairs (A5-0265/2000),
- A. whereas the civil aviation sector (along with all other transport sectors) was excluded from the provisions of Directive 93/104/EC on certain aspects of the organisation of working time,
- B. whereas the European Parliament has always found this exclusion unjustified, given that it is not supported by any scientific or social considerations,
- C. whereas in July 1997 the Commission adopted the abovementioned White Paper in order to examine the nature of these exclusions and to set out criteria with a view to finding a solution to the problem,
- D. whereas the Council and the EP adopted Directive 2000/34/EC amending Council Directive 93/104/EC on certain aspects of working time organization to cover sectors and activities excluded from that directive,
- E. whereas the social partners initiated negotiations in the different transport sectors with a view to reaching sectoral agreements,
- F. whereas the agreement lays down 'more specific requirements' within the meaning of art. 14 of Directive 93/104/EC as regards the organisation of working time of mobile staff in civil aviation,
- G. whereas protecting workers' health and safety comes under the competence of the European Community,
- H. whereas the rules concerning working time in the civil aviation sector must not be confused with the notion of “flight and duty time limitation and rest requirements”, and that therefore the agreement shall not prejudice any future European regulation on the flight and duty time limitations,
- I. whereas the implementation of the agreement may not be used to justify any regression in relation to the existing situation in Member States regarding health and safety at work for staff in civil aviation,

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<sup>4</sup> OJ L 167, 2.7.1999, p. 33.

<sup>5</sup> OJ C 219, 30.7.1999, p. 241

- J. whereas art. 139(2) does not provide for consultation of the European Parliament; whereas the Commission forwarded the proposal to Parliament so that it can deliver its opinion to the Commission and to the Council,
1. Welcomes the agreement reached by AEA, ETF, ECA, ERA and IACA on the organisation of working time for workers in civil aviation, and agrees that it should be submitted to the Council;
  2. Repeats its call for an interinstitutional agreement on joint arrangements for the practical application of art. 138.4 and 139.2 of the Treaty, and urges the Commission and Council to engage in a serious dialogue with Parliament with a view to improving the current unsatisfactory situation;
  3. Recalls that a strong link exists between occupational and operational safety in the civil aviation sector, and a high level of both is also a guarantor of protection for passengers and the environment;
  4. Asks the Commission therefore urgently to bring forward a proposal for a Regulation on flight and duty time limitations and rest requirements, with a view to maintaining high operational safety levels and the prevention of short-term crew fatigue; points out that such a regulation, together with the proposed Directive on working time would be an indispensable instrument of the “acquis communautaire” in the context of a future multilateral agreement between the EU and other European countries on the establishment of a European Common Aviation Area and in the context of future enlargement;
  5. Asks therefore that the present agreement be considered as an integral part of the Multilateral agreement between the EU and other European countries on the establishment of a European Common Aviation Area;
  6. Calls on the Council to keep to the implementation period of 2 years proposed by the Commission, and in any case to ensure that this agreement comes into force before the directive amending Directive 93/104/EC concerning certain aspects of the organisation of working time to cover sectors and activities excluded from that directive;
  7. Reminds the Council and the Commission that the agreement contains minimum requirements, without prejudice to better standards at national level;
  8. Welcomes the provision on penalties applicable for infringements of implementation of the directive, and calls on the Member States to bring forward effective control mechanisms to promptly detect non-compliance with the provisions contained in the directive;
  9. Instructs its President to forward this resolution to the Commission, the Council, AEA, ETF, ECA, ERA and IACA.

## **EXPLANATORY STATEMENT**

### **The Commission proposal**

The purpose of this proposal for a Directive is to put into effect the annexed European Agreement on the organisation of working time of Mobile Staff in Civil Aviation concluded on 22 March 2000 between the organisations representing management and labour in the civil aviation sector (the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA)).

Following the consultation launched by the Commission on the White Paper on sectors and activities excluded from the Working time Directive (COM (97) 334), these organizations concluded a European Agreement on the organisation of Working Time of Mobile Staff in Civil Aviation on 22 March 2000. They forwarded the agreement to the Commission, asking for it to be implemented by a Council decision on a proposal from the Commission in accordance with Article 139(2) of the Treaty.

The Directive transposing the Agreement contains in particular a reminder of the fact that the provisions prescribe only minimum requirements, giving Member States the option to adopt stricter measures in the relevant field (art.2.1); in article 2(2) there is a "non-regression" standard clause that affects Member States which have, at the time of the adoption of the Directive, a higher level of protection than that guaranteed by the agreement.

Article 3 obliges Member States to provide sanctions, which are effective, commensurate with the infringement and constitute a sufficient deterrent.

Articles 4 to 6 contain the usual provisions for transposition into the national law of the Member States.

### **The rapporteur's opinion**

The rapporteur agrees with the Commission and wholeheartedly endorses the aim of the working time agreement concluded by the AEA, ETF, ECA, ERA and IACA. The introduction of Community minimum working time requirements for mobile staff in civil aviation constitutes a major step forward in creating a minimum set of fundamental rights of workers. Moreover, the agreement constitutes a remarkable achievement for the sectoral social dialogue at Community level, and confirms the crucial role of the European social partners in achieving Social Europe.

The Agreement lays down more specific requirements within the meaning of art. 14 of Directive 93/104/EC as regards the organisation of working time concerning mobile staff in civil aviation. It contains in particular provisions on paid annual leave, free health assessment, maximum annual working time (2,000 hours in which the block flying time is limited to 900 hours), minimum days free of all duty and standby per month and per year.



The rapporteur would like to stress some points in the resolution:

- Firstly, it is important to note that the European Parliament is still excluded from the so-called “social partners procedure” laid down in art. 138.4 and 139.2 of the Treaty. As in the past, the EP should reiterate its call for an interinstitutional agreement.
- Secondly, there is a need in all social legislation at EU to stress the importance of non-regression clauses and of sanctions and penalties. In the particular case of this agreement the Commission has quite rightly specified these important points, and the rapporteur urges the Council to keep to the Commission proposal.
- Thirdly, the rapporteur strongly believes the Commission proposal for an implementation period of two years has to be followed by the Council. It is crucial that this agreement enters into force as soon as possible, and in any case before the entering into force of Directive 2000/34/EC revising Directive 93/104/EC, in order to avoid any possible confusion or overlapping between two sets of provisions.

There are two other important points to be stressed, in particular on enlargement and on the link between occupational and operational safety:

- On the future enlargement, it is of course important that, once adopted, the agreement becomes an integral part of the “*acquis communautaire*”. Moreover, it should also be included in annex I (under “Social Aspects”) of the proposal for a Multilateral Agreement between the Republic of Bulgaria, the Czech Republic, the Republic of Estonia, the European Community, the Republic of Hungary, Iceland, the Republic of Latvia, the Republic of Lithuania, the Kingdom of Norway, the Republic of Poland, Romania, the Slovak Republic, and the Republic of Slovenia on the Establishment of a “European Common Aviation Area”.
- On the link between occupational safety (art. 137 of the Treaty) and operational safety (art. 71 measures to improve transport safety), there is no doubt that, as in all transport sectors, a high level of both is also a guarantor of protection for passengers and the environment. However, the rules concerning working time in the civil aviation sector must not be confused with the notion of “flight and duty time limitation and rest requirements”, which should be the object of a EU Regulation on flight and duty time limitations and rest requirements, with a view to maintaining high operational safety levels and the prevention of short-term crew fatigue.