



EUROPEAN PARLIAMENT

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Plenary sitting

2.10.2013

B7-0440/2013

MOTION FOR A RESOLUTION

pursuant to Rule 88(2), (3) and (4)(c) of the Rules of Procedure

on the draft Commission implementing regulation on draft Commission Regulation (EU) No .../.. of XXX amending Regulation (EU) No 965/2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council
(D028112/02 – 2013/2758(RPS))

Brian Simpson on behalf of the Committee on Transport and Tourism

B7-0440/2013

**European Parliament resolution on the draft Commission implementing regulation on draft Commission Regulation (EU) No .../.. of XXX amending Regulation (EU) No 965/2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council
(D028112/02 – 2013/2758(RPS))**

The European Parliament,

- having regard to the draft Commission implementing regulation (D028112/02),
 - having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC¹, and in particular Article 8(5) thereof,
 - having regard to the opinion delivered on 12 July 2013 by the committee referred to in Article 65 of the above regulation,
 - having regard to Article 5a(3)(b) of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission²,
 - having regard to Rule 88(2), (3) and (4)(c) of its Rules of Procedure,
- A. whereas Regulation 216/2008/EC confers on the Commission implementing powers of general scope designed to amend non-essential elements of the regulation, inter alia by supplementing it with new non-essential elements;
- B. whereas essential requirements related to flight time limitations are established in Article 8(f) of Annex 4 to Regulation 216/2008/EC, which stipulates that fatigue rules must take into account a number of factors listed in the same article;
- C. whereas, the proposal provides its own interpretation of at least three of these factors – fatigue, night hours and sleep deprivation – in contradiction with available scientific evidence provided in at least five reports (2009-2013), without any scientific advice supporting the proposed rules; whereas this amounts to not having properly considered those factors;
- D. whereas, by not taking into consideration all the factors prescribed by the essential requirements in Article 8(f) of Regulation 216/2008/EC and basing its proposal on other non-safety-related factors, the Commission is supplementing the regulation with essential requirements, thereby altering primary legislation;

¹ OJ L 79, 19.3.2008, p. 1.

² OJ L 184, 17.7.1999, p. 23.

- E. whereas Article 22(2)(a)) of Regulation 216/2008/EC provides that implementing rules related to flight and duty times and rest requirements should initially include all substantive provisions of Subpart Q of Annex III to Regulation 3922/91/EEC, taking into account the latest scientific and technical evidence;
- F. whereas, by not making an analysis of its own on the scientific basis of the proposal, the Commission has failed to act in a cautious and precautionary manner and to properly observe its mandate, consisting in considering the available scientific evidence when doubts exist about the safety of parts of the FTL proposal;
- G. whereas, unlike the Member States that attended the EASA Committee meeting, the European Parliament has not had access to the substantive provisions of the Certification Specifications, and has thus not been allowed to exercise its right to scrutiny with full knowledge of the issues at stake and on an unequal footing with the Member States;
- H. whereas this is contrary to regulatory practice, whereby air operations rules should contain all relevant and substantial provisions; whereas giving the EASA the power to decide on essential requirements exceeds the mandate under Regulation EC N° 216/2008 and deprives the European Parliament of the possibility of exerting any form of democratic control;
1. Opposes adoption of the draft Commission implementing regulation;
 2. Calls on the Commission to withdraw its draft implementing regulation on draft Commission Regulation (EU) No .../.. of XXX amending Regulation 965/2012/EC laying down technical requirements and administrative procedures related to air operations pursuant to Regulation 216/2008/EC of the European Parliament and of the Council;
 3. Underlines the fact that flight time regulations have a strong impact on air transport safety and the social interests of staff, as is the case for driving and rest times in road transport, and that decisions on such regulations are of a clear political nature; emphasises that these flight time regulations involve important political issues, which should be addressed at an early stage during the preparation of legislative codecision reports, with full transparency vis-à-vis European citizens, the European Council and the European Parliament;
 4. Is convinced that the Commission has exceeded its mandate under Regulation EC N° 216/2008 by transferring to the Agency the competence to alter essential parts of Regulation N° 216/2008/EC through certification specifications in the areas of standby and reduced rest;
 5. Considers that substantial parts of the draft Commission regulation have not been scientifically based, as laid down in Regulation 216/2008/EC, that the Commission has failed to provide sufficient scientific evidence to remove reasonable doubts about the safety risk in the areas of night hours and sleep deprivation and that its proposal is therefore contrary to the principle of proportionality and exceeds the implementing powers provided for in Regulation 216/2008/EC;
 6. Considers it necessary to adopt new rules to prevent air crew fatigue and invites the Commission, therefore, to submit, as a matter of urgency, a new proposal which fulfils the

mandate requirements and complies with the principle of proportionality; urges the Commission to include the following items in its revised proposal: Flight Time Duty Period Limits of no more than 10 hours, the maximum combined duration of standby and Flight Duty Periods subject to a maximum cap of 18 hours;

7. Stresses that, on the basis of a 'safety enhancement clause', Member States must be free to apply provisions of a more protective nature over and above those of the regulation where they consider it necessary, and as long as all provisions of the regulation are complied with;
8. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.