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DOCUMENT 1-424/82

Report

drawn up on behalf of the Committee on the Environment,
Public Health and Consumer Protection

on the proposal from the Commission of the European
Communities (Doc. 1-653/81 - COM(81) 554 final)
for a draft Council directive on the limitation of
noise emissions from helicopters

Rapporteur : Mrs V. SQUARCIALUPI

Or NL

PE 79.318/fin

By letter of 23 October 1981 the President of the Council of the European Communities requested the European Parliament to deliver an opinion on the proposal from the Commission of the European Communities for a draft Council directive on the limitation of noise emissions from helicopters.

On 3 November 1981 the President of the European Parliament referred this proposal to the Committee on the Environment, Public Health and Consumer Protection as the committee responsible and to the Committee on Economic and Monetary Affairs and the Committee on Transport for their opinions.

On 26 November 1981 the Committee on the Environment, Public Health and Consumer Protection appointed Mrs Squarcialupi rapporteur.

It considered the Commission's proposal and the draft report at its meetings of 31 March, 17 May and 22 June 1982.

At the meeting of 22 June 1982, the committee unanimously decided to advise Parliament to approve the Commission's proposal without amendment.

The committee then unanimously adopted the motion for a resolution as a whole.

The following took part in the vote: Mr Collins, chairman; Mrs Weber, vice-chairman; Mrs Squarcialupi, rapporteur; Mr Bombard, Mr Eisma (deputizing for Mrs Spaak), Mr Forth, Mr Ghergo, Miss Hooper, Mrs Krouwel-Wlam, Mrs Nielsen (deputizing for Mrs Scrivener), and Mrs Seibel-Emmerling.

The opinions of the Committee on Economic and Monetary Affairs and the Committee on Transport are attached.

C O N T E N T S

	<u>Page</u>
A MOTION FOR A RESOLUTION	5
B EXPLANATORY STATEMENT	7
Opinion of the Committee on Economic and Monetary Affairs	10
Opinion of the Committee on Transport	13

The Committee on the Environment, Public Health and Consumer Protection hereby submits to the European Parliament the following motion for a resolution together with explanatory statement:

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposal from the Commission of the European Communities for a draft Council directive on the limitation of noise emissions from helicopters

The European Parliament,

- having regard to the proposal from the Commission for a draft Council directive (COM(81) 554 final)¹,
 - having been consulted by the Council (Doc. 1-653/81),
- A. whereas the programme of action of the European Communities on the environment² shows clearly the importance of the problem of noise pollution and, in particular, the need to take action to reduce the noise made by air traffic because of the serious damage it causes to hearing,
 - B. having regard to the report of the Committee on the Environment, Public Health and Consumer Protection and the opinions of the Committee on Economic and Monetary Affairs and the Committee on Transport (Doc.1-424/82),
 - C. having regard to the result of the vote on the proposal from the Commission,
 1. Welcomes the draft Council directive on the limitation of noise emissions from helicopters;
 2. Feels that these adjustments are urgently needed to continue the campaign against noise emitted by helicopters and also to prevent distortions of competition between the countries of the European Community;

¹ OJ No. C 275, 27.10.1981, p.2

² OJ No. C 112, 20.11.1973

3. Requests the Commission to put forward as soon as possible an outline directive designed to eliminate noise pollution in places of work which protects workers from the irreversible effects of damage caused by noise;
4. Considers that the date of implementation of the directive should be chosen to enable even those Member States which have expressed doubts about the urgency of these provisions to comply with it promptly;
5. Approves, subject to these comments, the proposal for a Council directive;
6. Instructs its President to forward to the Commission and the Council the proposal from the Commission as voted by Parliament and the corresponding resolution as Parliament's opinion.

EXPLANATORY STATEMENT

1. The Council Directive on the limitation of noise emissions from helicopters falls within the programmes of action of the European Communities on the environment of 22 November 1973¹ and 17 May 1977 and comes under the first point of the priority programme for the study of civil aviation problems approved by the Council in June 1978.

Following action in respect of propeller-driven and subsonic jet aircraft, this proposal now deals with noise emissions from helicopters but only as regards noise detected from the ground.

2. The standards concerning noise emitted by helicopters are currently applicable only to

- helicopters whose prototypes were created after 1 January 1980;
- new models, based on existing helicopters, which are devised and produced after 1 January 1985.

There are as yet no provisions relating to helicopters now in the production stage.

3. The directive for the limitation of noise emissions from helicopters refers to the fifth amendment to Annex 16 to the Convention on International civil aviation, as approved by the International Civil Aviation Organization (ICAO), which introduces standards for the noise certification of helicopters. These standards became applicable on 26 November 1981.

All Community Member States are signatories to this Convention, which does not make it mandatory to incorporate the standards into the laws of ICAO Member States but specifies that differences between these standards and national regulations must be notified to the ICAO.

¹ OJ No. C 112, 20.11.1973

4. Article 84(2) of the Treaty establishing the European Economic Community has been taken as the basis because the first directive on the limitation of noise emissions from aircraft - Directive 80/51/EEC of 20 December 1979¹ - was adopted by the Member States and the Council on the basis of Article 84(2), despite the fact that the Commission had indicated Article 100 as the legal basis.

These standards, which lay down conditions for the utilization of aircraft, are based on noise standards adopted by the ICAO and have major implications for the development and operation of air transport, in view of the high level of capital investment involved in aircraft.

It was precisely to take account of this important aspect of the problem that the Member States preferred to use Article 84(2) as the legal basis. On the other hand, the same position is adopted at national level and in general it is the national civil aviation authorities which are responsible for the problem of reducing aircraft noise.

Following the precedent set by the directive on aircraft, the Commission therefore considered it preferable to base the proposal for a directive on the limitation of noise emissions from helicopters from the outset on Article 84(2).

5. The levels indicated in the directive do not, however, take account of the protection of operators and passengers. The Commission has stated that it will shortly be proposing a directive designed to combat noise pollution in places of work which protects workers from the often irreversible effects of noise.

6. The 'certain minor exemptions' referred to in the seventh recital of the directive concern helicopters which do not possess noise certification because they are prototypes which have to be tested or because they are not registered in third countries. They may, on the other hand, relate to helicopters which have maintenance contracts for servicing and modifications.

7. Certain member States doubt the need for this directive, since they feel that the problem of limiting noise emissions from helicopters is not yet of such magnitude as to require specific Community legislation. They fear that

¹ OJ No. L 18, 24.1.1980

construction companies in their countries will suffer because they may be obliged to modify the technical characteristics designed to limit noise. A date for the entry into force of the directive, should therefore be sought which, even in these countries, would enable the abovementioned difficulties to be overcome.

8. In its opinion the Economic and Social Committee drew the Commission's attention to the need to take account in international negotiations of the question of 'reciprocity' in relation to the binding nature of these standards, in order to prevent distortions of international competition. It also pointed out that the information available was inadequate for a comprehensive assessment of the economic impact of the standards and asked that the date of their entry into force should be sufficiently far in the future.

9. The standard relating to noise emitted by helicopters which the directive would impose in the Community must be met by new helicopters. These standards will ensure that in certain countries the certification of helicopters will include the most up-to-date technology for noise reduction which is compatible with economic requirements. In other words, there is no point in imposing a degree of sound-proofing which would require a large quantity of acoustic material, since this would increase the weight of the helicopter and reduce the available space and passenger capacity to the point where it would be uneconomic to run.

10. The limits imposed by the ICAO are based on reliable data. The Helicopter Noise Working Group of the ICAO's Committee on Aircraft Noise worked for nearly seven years on the problems of measuring helicopter noise, using the most up-to-date techniques to establish the minimum acceptable noise levels. Various scientific sources in many countries made major contributions to the work of the Helicopter Noise Working Group of the ICAO, so that agreement on technically acceptable noise emission limits may be said to have been achieved through international cooperation.

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

Draftsman: Mr P. BEAZLEY

On 24 February 1982 the Committee on Economic and Monetary Affairs appointed Mr Beazley draftsman.

It considered the draft opinion at its meeting of 27-28 April, 1982 and adopted it unanimously.

The following took part in the vote: Mr J Moreau, chairman; Mr Beazley, draftsman; Mr Albers (deputizing for Mr Schinzel), Mr Bonaccini, Mr Carossino (deputizing for Mr Fernandez), Mrs Desouches, Mr Estgen (deputizing for Mr Collomb), Mr Herman, Mr Leonardi, Mr Purvis, Mr Wedekind (deputizing for Mr Schnitker), Mr Welsh (deputizing for Mr Hopper) and Mr von Wogau.

1. By way of introduction the Committee on Economic and Monetary Affairs would like to express its perplexity at the way the proposals for directives concerning noise are referred to the various committees. For example, the Committee on Economic and Monetary Affairs was made the committee responsible for the report on noise emission from construction machinery. However, the present proposal has been referred to the Committee on the Environment, Public Health and Consumer Protection as the committee responsible, while the Committee on Economic and Monetary Affairs and the Committee on Transport have been asked for their opinions; a similar proposal for the limitation of noise emissions from subsonic aircraft¹ was referred to the Committee on the Environment, Public Health and Consumer Protection as the committee responsible, while the Committee on Transport was asked for an opinion (and the Committee on Economic and Monetary Affairs was not).
2. The object of this proposal for a directive is to give force of law in all Member States to the provisions in the Convention of International Civil Aviation approved by ICAO concerning the limitation of noise emissions from helicopters; (the Convention itself does not make the standards mandatory, though national differences must be notified to ICAO). Five of the Member States of the Community were members of the committee which drew up the standards that this proposal for a directive seeks to make law in all the Member States.
3. However, the committee is puzzled about the legal basis chosen for the proposal. The proposal refers to Article 84 (2) of the EEC Treaty, which states that the Council may decide whether, to what extent and by what procedure the provisions of the EEC Treaty concerning transport (Articles 74-84) may be applied to sea and air transport. However, none of those provisions refer to the limitation of noise emissions. The only possible basis for directives on the limitation of noise emission would be Articles 100 or 235 of the EEC Treaty.
4. Moreover, the proposal makes no direct reference to trade between the Member States. It stipulates that the Member States shall ensure that any helicopter registered in their territory meets the standards specified in the ICAO Convention, while the usual provision in Community directives, that the Member States may not prohibit the importation or marketing of products that comply with EEC standards, does not appear.
5. As the proposal for a directive contains no provisions concerning trade between the Member States, and cites at its basis an article in the EEC Treaty which cannot provide a basis for a proposal of this nature, the Committee on Economic and Monetary Affairs must reject the Commission's proposal.

¹OJ No. C 276, 28.10.1981, p.5

Conclusion

6. The Committee on Economic and Monetary Affairs
 - a. agrees, that a future EEC directive should base itself on the standards laid down in the ICAO Convention,
 - b. points out, however, that EEC provisions should concentrate on the removal of technical barriers to trade,
 - c. refuses to accept that a proposal of this nature may be based on Article 84 of the EEC Treaty and calls upon the committee responsible, if it does not agree with this view, to request the opinion of the Legal Affairs Committee,
 - d. suggests that the Commission should instead submit either a proposal for a directive for the removal of technical barriers to trade pursuant to Article 100 of the EEC Treaty or a proposal for a directive for the harmonization of Member States' environmental legislation (which is what is involved here) based on Article 235 of the EEC Treaty.

OPINION OF THE COMMITTEE ON TRANSPORT

Letter from the Chairman of the Committee on Transport to Mr COLLINS, Chairman of the Committee on the Environment, Public Health and Consumer Protection

Dear Mr Chairman,

At its meeting of 25 February 1982 the Committee on Transport considered the proposal for a directive on the limitation of noise emissions from helicopters (Doc. 1-653/81) and reached the following conclusions.

The Committee on Transport believes that a specific directive is needed to limit the permissible level of noise emission from helicopters in the Community. The reasons for this are first - as the Commission itself recognizes in its document - 'helicopters are a source of significant noise emission which results in annoyance to, and complaint from, people ...' and, secondly, that the inclusion of provisions in respect of helicopters in Directive 80/51/EEC on the limitation of noise emissions from subsonic aircraft would make that basic directive too complicated.

The Committee on Transport welcomes the fact that the draft directive is based on the provisions of Amendment No. 5 to Annex 16 to the Convention on International Civil Aviation which was drawn up by the International Civil Aviation Organization (ICAO) and came into force on 26 November 1981. This ought to prevent any likelihood of distortion of competition.

The Committee on Transport further notes with satisfaction that the draft directive provides for the setting up of a committee with the task of ensuring that technical requirements are brought into line as speedily as possible with technical progress in this sector.

For these reasons the Committee on Transport approves the draft directive on the limitation of noise emissions from helicopters.¹

Yours sincerely,

(sgd) Horst SEEFELD

The following took part in the vote : Mr Seefeld, chairman; Dame Shelagh Roberts, Mr Carossino and Mr Kaloyannis, vice-chairmen; Mr Cottrell, Mr Gabert, Lord Hamar-Nicholls, Mr K.-H. Hoffmann, Mr Junot, Mr Key, Mr Klinkenborg, Mr Lagakos, Mr M. Martin, Mr Moorhouse, Mr K. Nikolau (deputizing for Mr Albers), Mr O'Donnell and Mr Vandewiele.

¹ OJ No. C 178, 2.8.1976, p. 61

