Flight Time Regulations


The European Parliament,


– having regard to Rule 88(4) of its Rules of Procedure,

A. Whereas Regulation 216/2008/EC confers to the Commission implementing powers of general scope designed to amend non-essential elements of this 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 requires that fatigue rules must take into account a number of factors listed in the same article.

C. Whereas the fatigue related factors should be considered taking into account the latest scientific and technical evidence. Whereas, the Proposal provides its own interpretation of at least two of these factors, i.e. night hours and sleep deprivation, in contradiction to available scientific evidence provided in at least 5 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 supplements the Regulation with essential requirements thereby altering primary legislation.

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 (EEC) No 3922/91, taking into account the latest scientific and technical evidence,

F. Whereas there is no evidence that the Commission has either conducted any further research of its own, or sought its own scientific advice, or questioned EASA why the recommendations of the Scientists have not been retained notably in the areas of night hours and sleep deprivation (notably in relation with combinations of standby and flight duties), and this notwithstanding the concerns expressed by stakeholders and scientists.

G. Whereas, by not making an analysis of its own on the scientific basis of the proposal, the Commission failed to act in a cautious and precautionary manner and to properly consider its mandate to consider the available scientific evidence when doubts exist about the safety of parts of the FTL proposal.

¹ OJ L 79, 19.3.2008, p. 1
H. Whereas, by ignoring unanimous advice provided in scientific reports and failing to provide independent supporting scientific evidence on which to base the regulation, the Commission is failing to its duty to ensure high levels of safety based on best available scientific evidence.

I. Whereas, by not providing any supporting scientific evidence substantiating some provisions, notably in the areas of night hours and sleep deprivation and removing doubts and scientific uncertainty about their risk to health and safety and postponing the evaluation of these risks until 5 years after the Regulation’s entry into force, the Commission has failed to apply the precautionary principle.

J. Whereas recital 10 and Article 8a of Regulation 3922/1991 asked the Commission to conduct a scientific and medical evaluation of the European provisions on Flight Time Limitations (Supbart Q) and, if necessary, with the assistance of EASA, draw up and submit proposals on the basis of the recommendations of such evaluation. Whereas the current proposal does not comply with this request as it ignores a large part of the recommendations contained in the scientific evaluation commissioned by EASA (the so-called “Moebus report” of 2009) and has not provided any medical evaluation of the Regulation.

K. Whereas the proposal, by reducing the levels of safety in several Member States is contrary to the principle of proportionality as it fails to attain the general objective of Regulation 216/2008 “that the transfer of functions and tasks from the Member States, including those resulting from their cooperation through the Joint Aviation Authorities, to the Agency should be effected efficiently, without any reduction in the current high levels of safety.”

L. Whereas even though recital 10 of Regulation 216/2008/EC states that “in order to achieve Community objectives as regards the freedom of movement of goods, persons and services, as well as those of the common transport policy, Member States should, without further requirements or evaluation, accept products, parts and appliances, organisations or persons certified in accordance with this Regulation and its implementing rules,” the Treaty allows Member States to continue to apply or to adopt their own proportionate and non-discriminatory measures such as flight time regulations if they are necessary to ensure that EU law does not result in a reduction of safety levels.

M. Whereas substantive parts of the proposed regulation are too general, giving EASA the power to define through certification specifications, without proper control mechanisms, the content of the rule, exceeding in that way the mandate in Regulation EC N°216/2008. Whether this is the case for “standby” rules where the implementing rules do not provide any concrete limit leaving complete discretion to the Agency to set, through certification specifications, the maximum duration of standby, the impact standby could have on rest, the duration of rest that should follow standby and the ways in which standby should be counted as duty. Whether this is also the case in the area of “reduced rest” where EASA will be able to define through certification specifications the duration of rest periods and its consequences on the consequent calculation of flight duty period maximum duration.

N. Whereas contrary to the Member States that attended the EASA Committee meeting, the European Parliament has not had access to the substantive provisions in the Certification Specifications, thereby not allowing it to exert its right to scrutiny with full knowledge of the issues at stake and putting it on an unequal footing with the Member States.

O. Whereas this is contrary to regulatory practice whereby air operations rules should contain all relevant and substantial provisions. Whereas giving EASA the power to decide on essential requirements exceeds the mandate under Regulation EC N°216/2008 and deprives the European Parliament to exert any form of democratic control.
P. Whereas, notwithstanding recital 4 of the proposal - which states that the future Regulation will be without prejudice to existing Council Directive 2000/79/EC and to more protective national social legislation and collective labour agreements, - the proposal will have undeniable effects on the existing European and national legislation and on air crews’ health and safety and working conditions that have not been assessed by EASA or the Commission.

Q. Whereas it considers that the proposal is expected to enhance air safety in many areas, the proposal is not proportionate and exceeds the implementing powers provided for in Regulation (EC) N° 216/2008 and should be rejected in its current form.

R. Whereas it supports the parts of the draft Regulation which are scientifically based and which provide for adequate levels of safety.


2. Considers that substantial parts of the draft Commission regulation have not been based on science as mandated by Regulation (ECA) N° 216/2008 and that the Commission has failed to provide sufficient scientific evidence to remove reasonable doubts about the risk for safety in the areas of night hours and sleep deprivation and therefore is contrary to the principle of proportionality and exceeds the implementing powers provided for in Regulation (EC) N° 216/2008;

3. Considers that the Commission exceeded its mandate under Regulation EC N° 216/2008 in transferring to the AGENCY the competence to alter essential parts of Regulation EC N° 216/2008 through certification specifications in the areas of standby and reduced rest;

4. Calls on the Commission to withdraw the draft Regulation on Flight Time Limitations.

5. Considers that it is necessary to adopt new rules to prevent air crew fatigue and therefore invites the Commission to submit, as a matter of urgency, a new proposal which fulfils the mandate requirements and respect the principle of proportionality;

6. Suggest the commission to introduce amendments in the following areas:
   - Night Time Flight Duty Period Limits – where a maximum of 10 hours is given by scientific advice.
   - The maximum combined duration of standby and Flight Duty Periods – where a maximum cap of 18 hours ensures that excessive periods without recuperative sleep are avoided whilst operating aircraft.
   - ‘Safety Enhancement Clause’ – Member States are 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.
   - Identify Certification Specifications that, by their nature are not administrative measures and should be incorporated in the Regulation as an implementation rule.

7. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.