

Decision

by the Bundesrat
European Chamber

Proposal for a Regulation of the European Parliament and of the Council on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC of the European Parliament and of the Council COM(2011) 828 final; Council doc. 18010/11

On 7 February 2012 the Bundesrat adopted the enclosed comments through its Europe Chamber in accordance with Article 12(b) TEU.

The decision was reached in accordance with § 45 i of the Bundesrat's rules of procedure.

Annex

Proposal for a Regulation of the European Parliament and of the Council on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Union airports within a Balanced Approach and repealing Directive 2002/30/EC of the European Parliament and of the Council

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1. The Bundesrat requests the Federal Government, in the course of the further negotiations in the EU bodies, to use its influence to bring about the deletion of Article 10; because the Bundesrat regards the arrangements provided for there as infringing the subsidiarity principle. The Bundesrat is pleased to note that the Federal Government shares these concerns.
2. Article 10 of the proposal for a Regulation grants the Commission a right of scrutiny which it did not previously have as regards proposed decisions in the Member States on operating restrictions. Under that provision, the Commission is entitled to scrutinise planned operating restrictions prior to their implementation and to suspend them if, in the Commission's view, the restrictions are contrary to the requirements of the Regulation – in particular the concept of the balanced approach and the requirement of competitive neutrality – or other EU law. The Commission can exercise this right at the request of a Member State or on its own initiative. This means that the Commission can directly influence all planned operating restrictions at the Member States' airports and can require them to be amended.

In addition to the national courts, there would to this extent be a separate authority which would be empowered to scrutinise and possibly suspend the operating restrictions concerned.

This provision is unnecessary and constitutes unjustified interference in the powers of the Member States; because - as has been the case up to now - the Member States alone must continue to decide on operating restrictions and noise prevention on the basis of local conditions and effects in each case. A further scrutiny body in addition to national jurisdiction is therefore not necessary. The objective of the Regulation, namely to limit or reduce the number of people adversely affected by aircraft noise, is in no way better attained by means of an additional scrutiny body. Also, this is likely to result in procedural delays.