COMMISSION OPINION

of 23 July 1993

concerning the application of Article 4 (2) of Council Directive No 91/670/EEC on mutual acceptance of personnel licences for the exercise of functions in civil aviation

Equivalence of British, French and Belgian pilot licences

(Only the French text is authentic)

(93/456/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 91/670/EEC of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation [1], and in particular Article 4 (2) thereof,

Having regard to the request of the French Government,

Having requested the Member States involved to submit their pilot training schemes and programmes,

Whereas :

(1) By letter of 31 March 1993 registered by the Commission on 5 April 1993, the French authorities requested the Commission, on the basis of Article 4 (2) of Directive 91/670/EEC to opine on the equivalence of pilot licences granted by the civil aviation authorities of Belgium, the United Kingdom and France.

(2) Directive 91/670/EEC requires a Member State to accept, without undue delay or additional tests, any licences issued by another Member State together with privileges and certificates pertaining thereto. Licences issued by another Member State of the Community can be accepted on the basis of either equivalence (Article 4 (1) to (4)) or experience (Article 4 (5)). Article 4 (1) provides that the requirement of acceptance shall apply where a licence issued by the home Member State is based on requirements which are equivalent to those of the host Member State. According to Article 4 (2) (a) of the Directive, any Member State may ask the Commission for an opinion on the equivalence of a licence presented to it for acceptance, within three weeks of receiving the request.

(3) As regards pilots, the fundamental principles of free movement of persons and freedom of establishment and to provide services, enshrined in Articles 48, 52 and 59 of the Treaty, have been implemented by virtue of Article 3 (1) of the Directive [2]. That Article provides for mutual acceptance of pilot licences.

Nevertheless, Article 4 of the Directive makes the mutual acceptance of those licences subject to a possible procedure of verification of equivalence between the requirements of the host Member State and the issuing Member State when reasonable doubts as to the equivalence of the licences concerned are raised. Article 4 thereby aims at ensuring the safety of air transport services, to which explicit reference is made in the sixth recital of the Directive. However, use of that procedure must not go beyond what is strictly necessary for achieving the overall objective of safety of air operations and must, therefore, not prejudice the effective exercise of the abovementioned fundamental freedoms of the Treaty.

(4) Pursuant to the French request the Commission wrote to the United Kingdom and Belgian Governments on 20 April 1993 requesting full details of the requirements for the issue of commercial pilot licences and air transportation pilot licences in their respective countries. The United Kingdom Government transmitted their requirements on 1 June 1993 which were registered by the Commission on 4 June 1993. The Belgian Government replied on 27 May 1993 which was registered by the Commission on 2 June 1993. In view of the

[1] OJ No L 373, 31. 12. 1991, p. 21.

[2] See also Judgments of the Court of Justice in the Cases of Heylens of 15 October 1987, Case 222/86 — Vlassopoulou of 7 May 1991, Case C-340/89 — Kraus of 31 March 1993, Case C-19/92.

time taken to gather the relevant information, the Commission sought, by letters of 2 June 1993 and of 1 July 1993 to the French authorities, extensions of the consultation procedure to 30 July 1993.

(5) The Commission has examined the respective French, Belgian and British requirements for the issue of air transport pilot licences (ATPL) and evaluated them in accordance with three essential criteria :

— general minimal requirements,

— skill requirements,

— theoretical knowledge requirements.

(a) An examination of the respective general minimal requirements of the French, Belgian and British authorities for the issues of an ATPL licence shows that there is equivalence.

(b) As regards pilot skill, comparison of the Member States' requirements is based on an analysis of the requirements laid down in the rules and regulations and the check forms used during tests. The minimum characteristics of aircraft on which the practical tests leading to the air transport pilot licence have to be taken is an essential component of that licence.

Belgium uses an aircraft over 20 tonnes whilst France chooses a multi-engined jet aircraft. Both can be considered as aircraft of the same type.

The United Kingdom uses a multi-engined light aircraft. In practice, an ATPL licence is issued when the experience criteria are met, but there is no separate ATPL skill test, since this is incorporated in the type rating test.

Therefore the skills required by France and Belgium can be considered equivalent *per se*, whilst a United Kingdom licence holder would require a type rating on JAR/FAR category 25 aircraft.

(c) The comparison between France, United Kingdom and Belgium on theoretical knowledge requirements demonstrates that the same minimum level regarding depth and breadth of knowledge required, is applied.

(6) On the basis of the available information, having regard to the principles set out above and as all Member States satisfy the internationally accepted standards of ICAO regarding air safety,

HAS ADOPTED THIS OPINION :

Article 1

An airline transport pilot licence issued by France and Belgium may be regarded as equivalent overall.

The airline transport pilot licences issued in the United Kingdom may also be regarded as equivalent overall to a comparable licence issued by France, subject to the holder also having a type rating as pilot-in-command on JAR/FAR category 25 aircraft (multi-engined aircraft of over 5 700 kg).

Article 2

The present opinion is addressed to the Republic of France.

Done at Brussels, 23 July 1993.

For the Commission

Abel MATUTES

Member of the Commission