COMMISSION

Proposal for a Council Directive on mutual acceptance of personnel licences for the exercise of functions in civil aviation

COM(89) 472 final

(Submitted by the Commission on 4 December 1989)

(90/C 10/08)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 84 (2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the existence in sufficient numbers of appropriately qualified and licensed personnel is vital for the smooth and safe running of air transport services;

Whereas air transport is a highly dynamic and rapidly developing sector of a particularly international character; whereas, therefore, the balance between supply and demand in personnel can be maintained more efficiently at the Community rather than the national level;

Whereas, therefore, it is essential that the common transport policy in the field of civil aviation is extended to ensure the free movement of personnel within the Community;

Whereas, furthermore, the completion of the internal market by the end of 1992 requires the existence of an efficient air transport system to ensure the unhindered movement of people within the Community;

Whereas the exercise of essential functions in civil aviation is in most Member States possible only to persons who possess a licence;

Whereas the requirements for such licences differ between Member States to the extent that in many instances it is difficult for a national of a Member State to exercise a similar function in another Member State;

Whereas, the qualifications required for licences are not at present laid down by the Community; whereas Member States therefore retain the option of fixing the level of such qualifications with a view to guaranteeing the safety of services provided in their territory; whereas they may not, without infringing their obligations laid down in the Treaty, require a national of a Member State to obtain those qualifications, which in general they determine only by reference to their own national education and training systems, where the person concerned has already acquired all or part of those qualifications in another Member State;

Whereas, therefore, any host Member State in which a function in civil aviation is regulated is required to take account of qualifications acquired in another Member State and to determine whether those qualifications correspond to the qualifications which it requires;

Whereas a Community procedure for the acceptance of licences and qualifications for the personnel exercising functions in civil aviation is appropriate in order to facilitate compliance with Treaty obligations and to ensure unhindered personnel mobility; whereas the acceptance of licences would be further facilitated by the obligation of Member States to respect the minimum requirements for licences in conformity with the eighth edition (July 1988) of Annex 1 to the Convention on International Civil Aviation;

Whereas regarding private pilots the recognition of their licences in all Member States can already be established;

Whereas in order to be permitted to operate aircraft in a Member State other than that where they obtained their licence professional pilots are normally subjected to additional tests; whereas this practice constitutes an obstacle to the free movement of air services and should be rectified; whereas urgent action is therefore required for professional pilots;

Whereas the elimination of the present air congestion problems necessitates the urgent training of a large number of additional air traffic controllers, whose function is vital to the smooth and safe running of air transport services;

Whereas training facilities are not always available in Member States commensurate with demand;

Whereas, in conformity with Article 7 of the Treaty, Member States shall admit nationals of other Member States to public and private training establishments and professional examinations on a non-discriminatory basis;

Whereas in order to achieve full mutual recognition of licences it is essential to specify common requirements for licences and training programmes;

Whereas it is appropriate to delegate the power to specify such requirements to the Commission assisted by a regulatory committee,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive shall apply to licensing procedures and requirements of Member States in the field of civil aviation with respect to flying crew, and personnel employed in aircraft maintenance, air traffic control, flight operations and aeronautical station operations.

2. The provisions of this Directive shall apply only to nationals of a Member State.

Article 2

For the purpose of this Directive:

(a) *licence* means any valid document, issued by a Member State, authorizing personnel to exercise functions in civil aviation. This definition also includes ratings forming part of the licence;

(b) *rating* means an authorization entered on or associated with a licence, stating special conditions, privileges or limitations pertaining to such licence;

(c) *acceptance of licences* means any act of recognition or validation by a Member State of a licence or aspect of a licence issued by another Member State. The acceptance may be effected through the issue of a licence of its own;

(d) *recognition* means the permission to use in one Member State a licence issued in another Member State for the purpose specified on the licence;

(e) *validation* means the express indication by a Member State in a licence issued by another Member State that this licence can be used as one of its own for the purpose specified on the licence.

Article 3

1. Where a Member State requires personnel to be licensed in order to engage in functions in civil aviation, it shall accept, without undue delay or additional tests, any licence or aspect of a licence issued by another Member State and concerning the same functions.

2. A Member State shall recognize a licence respecting the standards as set out in Community requirements adopted pursuant to Article 9.

3. Without prejudice to Article 8, any person holding a private pilot licence issued by a Member State shall be permitted to fly aircraft registered in another Member State. This recognition shall be limited to the exercise of the privileges of the holder of a private pilot licence and of associated aircraft ratings under Visual Flying Rules (VFR) by day only in an aircraft certificated for single-pilot operations.

Article 4

1. By derogation from the principles set out in Article 3 (1), if a licence or any aspect of a licence issued by a Member State is based on requirements which are not equivalent to those of the Member State to which the licence is presented for acceptance the latter shall so inform the holder of the licence in writing and indicate the specific additional requirements and/or tests which are necessary for the licence to be accepted.

This information shall at the same time be communicated to the Member State which has issued the licence and to the Commission.

2. An opportunity to pass any additional test shall on request be given to the applicant without delay and in any case before three months have elapsed from the date of the request.

3. When the applicant can show that he meets the additional requirements and/or has passed the required test(s) the Member State concerned shall forthwith accept the licence or aspect of the licence in question.

Article 5

Notwithstanding Article 4, a Member State shall, until Community requirement have been adopted pursuant to Article 9 and when the special validation requirements as set out in the Annex are fulfilled by the holder of the licence:

(a) validate a licence complying with at least the standards as set out in the eighth edition (July 1988) of Annex 1 to the Convention on International Civil Aviation;

(b) at most, demand an aptitude test as set out in the Annex with respect to licences which do not meet the minimum requirements established by the eighth edition (July 1988) of Annex 1 to the Convention on International Civil Aviation.

Article 6

Without prejudice to Article 3, each Member State shall, for licensing purposes, accept any aspects of the qualifications, experience and training in civil aviation obtained in other Member States which are equivalent to its own requirements.

Article 7

Member States shall ensure that nationals of other Member States are admitted to public and private training establishments and to examinations and procedures for the licensing of civil aviation personnel on the same basis as applies to their own nationals.

Article 8

1. When a Member States issues a licence on the basis of a licence or aspect of a licence issued by a third country this shall be recorded in the licence. Other Member States shall not be obliged to accept any such licence or aspect of a licence.

2. By derogation from paragraph 1 Member States shall accept licences issued by the Federal Republic of Germany on the basis of a licence issued by the German Democratic Republic.

Article 9

1. The Commission shall at the latest by 31 December 1992 and in accordance with the procedure laid down in Article 10, adopt measures establishing harmonized requirements for licences and training programmes. In preparing the draft of those measures the Commission shall consult with representatives of the professions covered by this Directive.

2. Until such requirements for licences are adopted, the licensing requirements of the Member States must at least meet the level of those requirements laid down in the eighth edition (July 1988) of Annex 1 to the Convention on International Civil Aviation.

3. Without prejudice to Article 5, Member States may decide that licences issued by them before 1 July 1990 remain valid.

Article 10

1. For the purpose of the tasks defined in Article 9 the Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

(b) If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

(c) If on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 11

1. The Member States shall, after consultation with the Commission, take the necessary steps to bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 July 1990. They shall immediately inform the Commission thereof.

The measures adopted pursuant to the first subparagraph shall make express reference to this Directive.

2. The Member States shall communicate to the Commission all subsequent laws, regulations and administrative provisions adopted in the field governed by this Directive.

Article 12

This Directive is addressed to the Member States.

ANNEX

Special validation procedure

Role	Special validation requirements				Aptitude test for validation
	Licence	Medical	Age	Experience	
1. Commercial air transport in FAR 25/JAR 25 aeroplanes					
(a) PIC	(a) ATPL-A	(a) Class 1 medical certificate without waiver	(a) 21-60	(a) 1 500 h as PIC on FAR 25/JAR 25 aeroplanes	(a) A flight test including IR test in flight or simulator
(b) Co-pilot	(b) ATPL-A	(b) Class 1 medical certificate without waiver	(b) 21-60	(b) 1 500 h on FAR 25/ JAR 25 aeroplanes	(b) A flight test including IR test in flight or simulator
2. Commercial air transport in non-FAR 25/ JAR 25 aeroplanes					
(a) PIC	(a) CPL-A (with IR)	(a) Class 1 medical certificate without waiver	(a) 21-60	(a) 1 000 h as PIC in commercial air transport since gaining an IR	(a) A flight test including IR test in flight or simulator
(b) Co-pilot	(b) CPL-A (with IR)	(b) Class 1 medical certificate without waiver	(b) 21-60	(b) 1 000 h in commercial air transport	(b) A flight test including IR test in flight or simulator
3. (a) Aerial work in aeroplanes (excluding flying instruction)	(a) CPL-A	(a) Class 1 medical certificate without waiver	(a) 21-60	(a) 700 h as PIC on conventional aeroplanes including 200 h in the kind of aerial work for which validation is sought, including 50 h in the role in the last 12 months	(a) Flight check in role
(b) Aerial work in helicopters (excluding flying instruction and offshore operations)	(b) CPL-H	(b) Class 1 medical certificate without waiver	(b) 21-60	(b) 700 h as PIC on helicopters including 200 h in the kind of aerial work for which validation is sought, including 50 h in the role in the last 12 months	(b) Flight check in role

Role	Special validation requirements				Aptitude test for validation
	Licence	Medical	Age	Experience	
4. Commercial air transport or off-shore operations in helicopters					
(a) PIC	(a) ATPL-H (with IR if IFR flights required)	(a) Class 1 medical certificate without waiver	(a) 21-60	(a) 1 500 h as PIC flying related to the kind of operation for which validation is being sought. If IR flight required, have gained 500 h flying experience since gaining an IR	(a) A flight test, including IR test, if appropriate, in flight or simulator
(b) Co-pilot	(b) CPL-H (with IR if IFR flights required)	(b) Class 1 medical certificate without waiver	(b) 21-60	(b) 1 500 h flying related to the kind of operation for which validation is being sought. If IR flight required have gained 500 h flying experience since gaining an IR	(b) A flight test, including IR test, if appropriate, in flight or simulator

Conventional aeroplanes shall mean aeroplanes other than those certificated under JAR 22 and ultralights.