

Directive 2006/23/EC of the European Parliament and of the Council of 5 April 2006 on a Community air traffic controller licence (Text with EEA relevance)

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PARLIAMENT AND OF THE COUNCIL

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽²⁾,

Whereas:

- (1) Implementation of the Single European Sky legislation requires the establishment of more detailed legislation, in particular concerning the licensing of air traffic controllers, in order to ensure the highest standards of responsibility and competence, to improve the availability of air traffic controllers and to promote the mutual recognition of licences, as envisaged in Article 5 of Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky⁽³⁾, while pursuing the objective of an overall improvement in air traffic safety and competence of personnel.
- (2) The introduction of a Community licence is a means of recognising the specific role which air traffic controllers play in the safe provision of air traffic control. The establishment of Community competence standards will also reduce fragmentation in this field, making for more efficient organisation of work in the framework of growing regional collaboration between air navigation service providers. This Directive is therefore an essential part of the Single European Sky legislation.
- (3) A Directive is the most suitable instrument to set competence standards, thus leaving to the Member States to decide on the ways to achieve such standards.
- (4) This Directive should build on existing international standards. The International Civil Aviation Organisation (ICAO) has adopted provisions on air traffic controller licensing, including linguistic requirements. The European Organisation for the Safety of Air Navigation (Eurocontrol) set up by the International Convention of 13 December 1960 relating to Cooperation for the Safety of Air Navigation has adopted Eurocontrol

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Safety Regulatory Requirements. In accordance with Article 4 of Regulation (EC) No 550/2004 this Directive transposes the requirements laid down in Eurocontrol Safety Regulatory Requirement No 5 (ESARR 5) relevant to air traffic controllers.

- (5) The particular characteristics of Community air traffic call for the introduction and effective application of Community competence standards for air traffic controllers employed by air navigation service providers primarily involved in general air traffic. Member States may also apply the national provisions taken pursuant to this Directive to student air traffic controllers and air traffic controllers exercising their functions under the responsibility of air navigation service providers offering their services primarily to aircraft movements other than general air traffic.
- (6) Where Member States take action to ensure compliance with Community requirements, the authorities performing supervision and verification of compliance should be sufficiently independent of air navigation service providers and training providers. The authorities must also remain capable of performing their tasks efficiently. The national supervisory authority nominated or established under this Directive may be the same body or bodies nominated or established in accordance with Article 4 of Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky⁽⁴⁾.
- (7) The provision of air navigation services requires highly skilled personnel whose competence can be demonstrated by several means. For air traffic control the appropriate means is the introduction of a Community licence, to be seen as a kind of diploma, for each individual air traffic controller. The rating on a licence indicates the type of air traffic service an air traffic controller is competent to provide. At the same time, the endorsements included on the licence reflect both the specific skills of the controller and the authorisation of the supervisory authorities to provide services for a particular sector or group of sectors. That is why the authorities must be in a position to evaluate the competence of air traffic controllers when issuing licences or extending the validity of the endorsements. The authorities must also be in a position to suspend a licence, ratings or endorsements when competence is in doubt. In an effort to promote the reporting of incidents (just culture), this Directive should not establish an automatic link between an incident and the suspension of a licence, rating or endorsement. Revocation of a licence should be considered as the last resort for extreme cases.
- (8) In order to build the confidence of Member States in each other's licensing systems, Community rules on obtaining and maintaining licences are indispensable. It is therefore important, with a view to ensuring the highest level of safety, to harmonise the requirements as regards qualifications, competence and access to the profession of air traffic controller. This should lead to the provision of safe, high-quality air traffic control services and the recognition of licences throughout the Community, thereby increasing freedom of movement and improving the availability of air traffic controllers.
- (9) Member States should ensure that implementation of this Directive does not lead to circumvention of existing national provisions governing the rights and obligations

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applicable to the employment relationship between an employer and applicant air traffic controllers.

- (10) In order to make skills comparable throughout the Community, they need to become structured in a clear and generally accepted way. This will help to guarantee safety not only within the airspace under the control of one air navigation service provider, but especially at the interface between different service providers.
- (11) In many incidents and accidents, communication plays a significant role. ICAO has therefore adopted language knowledge requirements. This Directive develops these requirements and provides a means of enforcing these internationally accepted standards. There is a need for observance of the principles of non-discrimination, transparency and proportionality in language requirements, so as to encourage free movement while ensuring safety.
- (12) The objectives of initial training are described in the guidance material developed at the request of the members of Eurocontrol and are considered the appropriate standards. For unit training the lack of generally accepted standards needs to be offset by a range of measures, including the approval of examiners, which should guarantee high standards of competence. This is all the more important as unit training is very costly and decisive in terms of safety.
- (13) Medical requirements have been developed at the request of Eurocontrol Member States and are considered an acceptable means of compliance with this Directive.
- (14) The certification of training provision should be regarded, in terms of safety, as one of the decisive factors contributing to the quality of training. Training should be seen as a service similar to air navigation services, also subject to a certification process. This Directive should make it possible to certify training by type of training, by package of training services or by package of training and air navigation services, without losing sight of the particular characteristics of training.
- (15) This Directive confirms long-standing case-law of the Court of Justice of the European Communities in the field of mutual recognition of diplomas and freedom of movement of workers. The principle of proportionality, reasoned justifications for the imposition of compensation measures and the provision of appropriate appeal procedures constitute basic principles which need to become applicable to the air traffic management sector in a more visible manner. Member States should be entitled to refuse to recognise licences not issued in accordance with this Directive; Member States should also be entitled to recognise such licences after undertaking the appropriate equivalence assessment. Since this Directive is aimed at facilitating the mutual recognition of licences, it does not regulate the conditions concerning access to employment.
- (16) The profession of air traffic controller is subject to technical innovations which call for such controllers' skills to be regularly updated. This Directive should allow such adaptations to technical developments and scientific progress through the use of the committee procedure.
- (17) This Directive may have an impact on the daily working practices of air traffic controllers. The social partners should be informed and consulted in an appropriate

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way on all measures having significant social implications. Therefore, the Sectoral Dialogue Committee set up under Commission Decision 98/500/EC of 20 May 1998 on the establishment of Sectoral Dialogue Committees promoting the Dialogue between the social partners at European level⁽⁵⁾ has been consulted and should be consulted on further implementing measures taken by the Commission.

- (18) Member States should lay down rules on the penalties applicable to infringements of the national provisions adopted pursuant to this Directive and take all measures necessary to ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.
- (19) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁶⁾.
- (20) A two-year transposition period is considered sufficient for establishing a Community licensing framework and assimilating within that framework the licences of current licence holders, in accordance with the provisions concerning the conditions for maintaining ratings and keeping endorsements valid, as the requirements laid down in those provisions are in line with existing international obligations. Furthermore, an additional transposition period of two years should be granted for the application of the linguistic requirements.
- (21) The general conditions for obtaining a licence, insofar as they relate to age, educational requirements and initial training, should not affect the holders of existing licences.
- (22) In accordance with point 34 of the Interinstitutional agreement on better law-making⁽⁷⁾, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 234, 22.9.2005, p. 17.](#)
- (2) Opinion of the European Parliament of 8 March 2005 ([OJ C 320 E, 15.12.2005, p. 50](#)), Council Common Position of 14 November 2005 ([OJ C 316 E, 13.12.2005, p. 1](#)) and Position of the European Parliament of 15 February 2006 (not yet published in the Official Journal).
- (3) [OJ L 96, 31.3.2004, p. 10.](#)
- (4) [OJ L 96, 31.3.2004, p. 1.](#)
- (5) [OJ L 225, 12.8.1998, p. 27.](#) Decision as amended by the 2003 Act of Accession.
- (6) [OJ L 184, 17.7.1999, p. 23.](#)
- (7) [OJ C 321, 31.12.2003, p. 1.](#)