

**Below are 10 key examples of concrete safety improvements that new Regulation on aircrew fatigue would bring (and would obviously be lost if the text cannot be adopted):**

GENERAL COMMENT:

- The below list shows only part of the picture by excluding crucial areas where the Commission proposal creates serious safety risks to Europe's travelling public.
- It does not address the fact that many of the substantive provisions have not been shown to the EP, as they were shifted into 'soft-law' over which the EP has no say whatsoever.
- Despite some improvements compared to today's (low standard) EU rules and the mostly outdated national FTL rules, the Commission is silent about the fact that many of its central provisions are contrary to what 5 independent scientific reports advised to make this proposal a safe package.
- By disregarding unanimous scientific advice and best regulatory practice from Member States, the Commission takes a number of serious – and avoidable – safety risks, and asks the EP to endorse this. This is irresponsible and must be stopped. The Commission must be asked to revise its rules.

1. Night flight duty will go be limited to 11h instead of 11h45 under EU-OPS rules. Only one EU Member State has set limits lower than EU-OPS rules under national law (11h15); nowhere is the limit below 11h. Moreover, more flights will be considered night flights and therefore subject to shorter duty periods.

- The Commission proposal allows 11 hrs (up to 12h30) at night. This is a 45 min reduction to today's excessively long 11:45. The Commission does not produce any scientific evidence that proves 11 hrs is safe.
- The Commission's reference to 11 hrs is misleading: the real limit for many 'night flights' is much higher than 11 hrs. It allows crew to fly up to 12:30 hours for late afternoon starts that have the plane land by 04:59 in the morning. – This is 25% more than what scientists consider safe.
- Three independent scientific reports – commissioned by EASA in 2011 – concluded that flying at night should be limited to a flight duty of 10 hours. Anything above would create critical levels of fatigue and hence a potential safety risk. – The ETSC report of May 2013 (based on 6 scientists' advice) reconfirms that 10 hrs at night must not be exceeded.
- For comparison: in the USA, night flights are limited to a flight duty period of 9-10 hours (for flights starting 23:00-04:59) and to an actual 'flight time' (at the controls) of 8 hrs (start: 20:00-04:59).
- Rather than taking the risk, the Commission should stick to what science considers safe: 10 hrs at night.

2. Standby at home will be limited to 6 hours when combined with maximum flight duty time. Today, lower limits are set under national law or the airlines are free to decide: standby can go up to 24 hours including in Germany, France and Belgium. After those 24 hours pilots are still allowed to fly to the maximum flight duty time.

- The Commission's reference to 6 hrs is misleading as it can be easily 8 hrs of standby or more. These 6-8 hrs standby can be followed by a full flight duty of up to 14 hrs. This means 20-22 hrs on duty and awake. Landing an aircraft after having been awake for up to 22 hrs is simply not safe. Do you want to be on board of an aircraft where the air crews have been awake for such long times when landing?
- The Commission's reference to 3 countries is selective & misleading: among the 22 European countries surveyed, at least 12 countries have stricter standby rules than the Commission proposal. France, Germany and Belgium have particularly bad standby rules. Why does the Commission take them as a benchmark, rather than the best practices from other EU countries? The result will be downward harmonization in many countries.
- The USA limit the combination of such standby + flight duties to max. 16 hrs. This is safe and best practice.

- The Commission must put in place a 'cap' of max. 16-18 hrs for the combination of standby + flight duty, to ensure flight safety at the end of very long duty days.
- All the substance of these standby rules are not subject to EP Scrutiny, because the Commission shifted them into 'soft-law' Certification Specifications' which the EP has not received and on which it has no say at all.

3. The combination of standby at the airport with flight duty will be capped at 16 hours. It is today 20 hours or 26 hours, or even without limit at all in some Member States.

- Yes, this is positive. But has very little practical impact because most airlines do not use airport standby at all or only very rarely – because it is expensive. This is also why many countries don't have limits for this type of standby. Hence, the most critical part of the Commission's standby rules relate to home standby, where the Commission deliberately takes substantial safety risks (see above).

4. Total flight time in 12 consecutive months will be limited to 1 000 hours instead of 1 300 hours today.

- Yes, this is positive indeed. Although the USA set a stricter limit for this, and hence set best practice.

5. There will be an increase of the weekly rest by 12 hours twice a month.

- Yes, this is positive indeed. This requirement to increase the rest period to '2 days' twice every month is welcome to better manage accumulation of fatigue.
- BUT: This requirement is (deliberately) ill-defined. Unless the '2 days' include 3 local nights this provision will provide little extra mitigation against fatigue. Scientists advise to include 3 local nights.

6. Time zone crossing will be compensated with up to 5 days of rest at the home base; today it is only 2 days or even less in some Member States.

- Yes, in SOME Member States. But many other countries have stricter provisions. Why not use best practice?
- When looking at the details of these rules (e.g. the number of local nights included in these rest days), they turn out to be insufficient to recover from such particularly fatiguing flights which heavily disrupt the body clock.
- The positive aspect of the additional rest is significantly reduced by providing 'suitable accommodation' at home base, allowing back-to-back and east-west duties without sufficient protection.
- The Commission fails to mention its inadequate rules concerning body-clock dis-synchronization for "Crew in unknown state of acclimatization". The Commission allows for very long flight duty periods of up to 12 hrs for crews whose 'body-clock' is neither 'acclimatised' to their home time nor to the time at destination. The Commission fails to take a precautionary approach and stick to 11 hrs.

7. Flight and cabin crew will be entitled by law to horizontal rest during flight in all Member States. Current national rules allow airlines to offer only economy seats for rest.

- Yes, good indeed. This is one of the VERY few examples, where The Commission (partially) took the scientists' recommendations into account.
- BUT: The Commission allows airlines to ask for a 'deviation' and get approval from EASA e.g. for a row of 3 economy seats with special cushions (as an NL airline uses today, and others want to imitate) or for a special 'sliding jumpseat' (now under development). This is because the definitions for 'inflight-rest facility' have been moved into 'soft-law' Certification Specifications which are under the sole authority of EASA.
- As the Association of European Airlines (AEA) explains in an email (Jan 2012): "We have not been successful to convince EASA to introduce a possibility for in-flight rest in economy seats for some specific flights (most

*Member States do not allow this today and EASA NPA 2010-14 did not include this possibility either) but the door is left open on a case by case basis as part of an individual airline Certification Specification based on safety evidence of the particular operations (to be approved by the NAA and assessed by EASA)".*

8. Additional rest will be provided for schedules that disrupt crew members' body clocks (like early starts and night flights).

- Yes, good indeed.
- BUT: The Commission disregards scientific advice from the reports it commissioned in 2011, which state that the extended recovery rest must include 3 local nights. The Commission's 2 local nights are insufficient to overcome fatigue after such particularly fatiguing 'disruptive schedules'.
- The Commission is silent about its inadequate provisions for such 'disruptive schedules' (such as early starts and late finishes). The Commission allows to up to 7 consecutive days of early starts, late finishes or night duties before an extended recovery rest period. This will lead to dangerous levels of fatigue. The UK and USA allow no more than 3 consecutive such schedules. Why not take best practice?
- In addition, the Commission created an 'Opt-out' mechanism for Member States, allowing them to escape part of the disruptive schedule provisions, by declaring themselves as an "early type" or "late type" country. If they opt for the "early type", their airlines use a definition for 'early starts' that sets a window of only 1 hour, i.e. 05:00-05:59. This is contrary to the unanimous advice from 3 scientific reports, which define an 'early start' as being a 2-hour window of 05:00-06:59. As the vast majority of affected aircraft movements are in the early morning, this opt-out will remove a large part of the early morning starts from the fatigue protection requirements for such schedules (which already are more lax than what scientists consider safe).

9. Airlines will need to ensure crewmembers receive initial and on-going fatigue management training, where aircrews would learn, among other things, how to best plan their sleep. Training in fatigue management would help to reduce cases of fatigue.

- Yes, good provision.
- BUT: The Commission's proposal has moved all the detailed provisions on Fatigue Risk Management (FRM), into the soft part of its 'soft-law', i.e. into "AMCs", which can be changed very easily. This is contrary to ICAO requirements, as the related ICAO provisions are legally binding upon ICAO Member States.

10. National oversight authorities will have more access to information on how specific airlines manage fatigue of their crew members.

- Yes, good provision. But only few national authorities still have the necessary expertise and experience with flight time limitations to enable them to make use of this provision.

### **Commission Restricts EP's Right to Scrutiny**

The Commission proposal is incomplete. And it is not in line with established regulatory practice on EU air operations rules. Whilst the EASA-OPS Regulation 965/2012 (which went through the same EP Scrutiny procedure) contained almost all substantive provisions, the proposed FTL Regulation (which will be inserted into 965/2012) deviates from this practice. It does so because **a large part of the substantive provisions have been shifted into the 'soft-law' Certification Specifications** which are solely managed by EASA. Neither has the EP received this important part of the FTL package (be it only for information), nor will it have any say over it. This limits the EP's right to scrutiny.