

07.02.12

## **Decision**

**Of the Bundesrat**

**- Chamber of European Affairs -**

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**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 document 18010/11**

On 7th February 2012 the Bundesrat's Chamber of European Affairs adopted the appended Opinion pursuant to Article 12 Letter b TEU.

The Decision was drafted and adopted pursuant to § 45 i of the Bundesrat's Rules of Procedure.



## Annex

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### **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 document 18010/11**

1. The Bundesrat requests the Federal Government to take steps in the further course of negotiations within EU bodies to ensure that Article 10 is deleted, as the Bundesrat considers that the provisions envisaged in this article constitute a violation of the subsidiarity principle. The Bundesrat is pleased to note that the Federal Government shares its concerns on this issue.
2. Article 10 of the proposed Regulation accords the Commission a new right of scrutiny and control in respect of decisions on operating restrictions envisaged by Member States. Pursuant to this article the Commission would be entitled to review planned operation restrictions prior to their implementation and, where appropriate, to suspend such restrictions should the Commission consider that these restrictions do not comply with the requirements set out in the Regulation – in particular the concept of the Balanced Approach and the precept of neutrality in terms of competition – or with other EU legislation. This provision would signify that the Commission could have a direct influence on all planned operating restrictions in airports in Member States and could demand changes to these restrictions.

In addition to the national courts, a further instance would therefore be added, which would be empowered to engage in additional scrutiny and to suspend provisions on operating restrictions should it consider this to be appropriate.

This provision is superfluous and constitutes an unjustified encroachment upon the powers of the Member States, as decisions on operating restrictions and noise abatement must – as has been the case to date – continue to be taken exclusively by the Member States on the basis of the local circumstances in each case and on the basis of the local impact. A further scrutiny body in addition to national jurisdiction is hence not required. Introducing an additional instance that would be engaged in scrutiny would not in any way ameliorate attainment of the Regulation's objective, namely to limit or reduce the number of people affected by the detrimental effects of aircraft noise. Furthermore, this provision would be likely to introduce further delays into the procedure rather than facilitating the procedure.