



Brussels, 16.9.2022
COM(2022) 465 final

2022/0282 (COD)

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

repealing Council Directive 89/629/EEC

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

This proposal for repealing Council Directive 89/629/EEC is submitted in the context of the Commission's REFIT programme and commitment on better regulation. The objective is to ensure a legislative framework that is fit for purpose and of high-quality, as referred to in the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making. To that end, the Commission has identified this obsolete act that the Commission is proposing to repeal. The Commission announced its intention to repeal the Council Directive 86/629/EEC in its Commission Work Programme for 2017¹.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Based on Article 100(2) of the Treaty on the Functioning of the European Union (ex Article 80(2) TEC and ex Article 84(2) TEEC), Council Directive 89/629/EEC allowed for certain aeroplanes exceeding relevant noise emission standards to continue operation, if they had already been entered in a national register of a Member State. It was no longer allowed to include any new registrations of such aeroplanes after the Directive entered into force.

Directive 2006/93/EC² introduced a complete phase-out for all noisy aeroplanes, including those covered by Council Directive 89/629/EEC, regardless of whether they were already registered or not. As a result, aeroplanes not meeting the relevant noise emission standards are no longer allowed to fly in European Union skies and have had to be removed from the Member States' national registers.

With the changed approach from the non-addition rule in 1989 to the phase-out approach in 2006, and the fact that aeroplanes not meeting the relevant noise emission standards have been eliminated from national registers and are no longer allowed to fly in the European Union skies, the Council Directive 89/629/EEC became obsolete and should be repealed.

¹ COM(2016) 710 final – ANNEX 5

² Directive 2006/93/EC of the European Parliament and of the Council of 12 December 2006 on the regulation of the operation of aeroplanes covered by Part II, Chapter 3, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988)

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

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

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The European Parliament, the Council of the European Union and the European Commission have confirmed in the Interinstitutional Agreement on Better Law-Making of 13 April 2016³ their joint commitment to update and simplify legislation.
- (2) Council Directive 89/629/EEC⁴ allowed for certain aeroplanes exceeding relevant noise emission standards to continue operation, if they had already been entered in a national register of a Member State. However, it applied a no-addition rule: it was no longer allowed to include any new registrations of such aeroplanes after the Directive 89/629/EEC entered into force. That allowed for the registration of aeroplanes which did not meet the standards under Directive 89/629/EEC but were already being used to continue operation.
- (3) Directive 2006/93/EC of the European Parliament and of the Council⁵ introduced a complete phasing-out for all aeroplanes which did not meet the relevant noise emission standards, including those previously covered by Directive 89/629/EEC, regardless of whether they had already been registered or not. That has led to the situation where the aeroplanes concerned are no longer allowed to fly in the Union skies and have had to be removed from the Member States' national registers.
- (4) Directive 89/629/EEC should therefore be repealed,

³ OJ L 123, 12.5.2016, p. 1.

⁴ Council Directive 89/629/EEC of 4 December 1989 on the limitation of noise emission from civil subsonic jet aeroplanes (OJ L 363, 13.12.1989, p. 27).

⁵ Directive 2006/93/EC of the European Parliament and of the Council of 12 December 2006 on the regulation of the operation of aeroplanes covered by Part II, Chapter 3, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988) (OJ L 374, 27.12.2006, p. 1).

HAVE ADOPTED THIS DECISION:

Article 1

Directive 89/629/EEC is repealed.

Article 2

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the European Parliament
The President

For the Council
The President