

Brussels,

13.02.04\* 0193

Dear Dr Lucas,

Thank you for your letter concerning the age at which pilots must stop being captains of aircraft.

Council Directive 2000/78/EC, adopted by the Council in November 2000 under Article 13 of the Treaty establishing the European Community, establishes a general framework for equal treatment in employment and occupation. It prohibits discrimination in employment and training on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation. The Directive applies to all the Member States.

The Directive should have been transposed by the Member States into national law by 2 December 2003. However, under Article 18 of the Directive, Member States may, in order to take account of particular conditions, have an additional maximum three year period to implement the provisions of the Directive relating to discrimination on grounds of age and disability (this has been requested by Belgium, Denmark, the Netherlands, Sweden, Germany and the UK).

Article 2(5) of Directive 2000/78/EC provides that it is without prejudice to measures laid down by national law which are necessary in a democratic society for public security and for the protection of health.

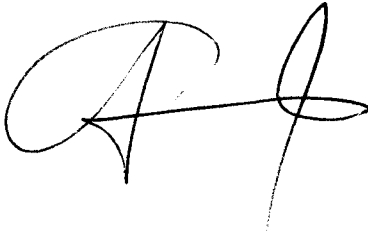
In addition, article 6 of the Directive allows for the justification of differences of treatment on the grounds of age in certain circumstances, as long as this is objectively justified by a legitimate aim, and the means of achieving that aim are proportionate and necessary. This could include the setting of special conditions on access to employment and vocational training for young people and older workers, the fixing of minimum conditions for age, professional experience or seniority for access to employment or to certain advantages linked to employment and the fixing of a maximum age for recruitment based on the training needs of the post or the need for a reasonable period of employment before retirement.

The Commission is of the opinion that the setting of a compulsory retirement age for pilots would fall within the differences of treatment based on age which could be justifiable under the above-mentioned provisions.

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To ensure the protection of passengers is a legitimate aim, and for this pilots must be 100% fit. For a Member State to set a compulsory retirement age of 60 (based on international recommendations of the International Civil Aviation Organisation) would seem a necessary and proportionate way to achieve this aim.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial 'A' followed by a long horizontal stroke and a vertical stroke extending downwards.