



House of Representatives

Kamra tad-Deputati

PARLAMENT TA' MALTA

Tel: 356 25596 000

Fax: 356 25596 400

The Maltese Parliament examined the following proposal:

Proposal for a Regulation of the European Parliament and of the Council on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and repealing Regulation (EC) No 216/2008 of the European Parliament and of the Council COM (2015) 613, and concluded that this proposal does not comply with the principle of subsidiarity.

Hence, according to the provisions of Protocol No 2 of the Lisbon Treaty, the following is a reasoned opinion by the Maltese Parliament on the above mentioned proposal.

REASONED OPINION: PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON COMMON RULES IN THE FIELD OF CIVIL AVIATION AND ESTABLISHING A EUROPEAN UNION AVIATION SAFETY AGENCY, AND REPEALING REGULATION (EC) NO 216/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL COM (2015) 613

1 Reasons

Under Article 6 of Protocol No 2 on the Application of the Subsidiarity and Proportionality Principles, annexed to the Lisbon Treaty, any national Parliament may, within eight weeks from the date of transmission of a draft legislative act, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity.

2 Reasoned Opinion

The Maltese Parliament

RECALLS the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - An Aviation strategy for Europe COM (2015) 598.

WELCOMES a more flexible system which allows more efficiency, eliminating ineffective regulation, facilitating innovation and boosting the competitiveness of the aviation industry.

SUPPORTS the Commission initiatives that aim at enhancing and ensuring the safe operation and growth of the aviation industry.

RECOGNISES that in such a dynamic sector it is important to prepare for the challenges ahead, thus taking a pro-active approach rather than a reactive approach.

SUPPORTS the proposed additional specific areas to be included to the overall Union aviation safety framework, namely unmanned aircraft, safety of ground handling services and security aspects of aircraft and aviation systems' design, including cybersecurity.

CONSIDERS that the Proposal for a Regulation of the European Parliament and of the Council on common rules in the field of Civil Aviation and establishing a European Union Aviation Safety Agency, and repealing Regulation (EC) No 216/2008 of the European Parliament and of the Council COM (2015) 613 fails to comply with the principle of subsidiarity.

STRESSES that the responsibility for civil aviation safety oversight belongs, in terms of international law, to the Member States, and therefore certain safety oversight tasks cannot be transferred to central European institutions.

URGES the Commission against increased administrative burdens and increased costs on the national competent authorities and operators and also against the establishment of new measures that might affect the sovereignty of the Member States and their responsibilities towards international institutions.

DOES NOT AGREE with the proposed scope and extent of delegated acts which significantly exceeds the mandate given in Article 290 of the Treaty on the Functioning of the EU. The delegated acts should be kept to an absolute minimum and the objectives, content and scope of the remaining implementation acts should be explicitly and clearly defined.

3 Proposed Measures and Conclusions

The Maltese Parliament considers that 'safety' should remain the overall objective of the proposed regulation which is to be achieved in the most effective and cost-efficient way possible. The International Civil Aviation Organisation (ICAO) is the leading and principal forum that serves international aviation safety and the EU needs to ensure uniformity and compliance with ICAO Standards and Recommended Practices. Maintenance and synchronisation of EU rules with those of ICAO is therefore essential. The obligations and responsibilities of the Member States towards ICAO should not be compromised. The possibility for EASA to act as a competent authority with the possibility of issuing Air Operator Certificates is not desirable as this would complicate matters from a legal perspective. Moreover, the same Agency would be subject to compliance and it is not clear by whom such compliance / auditing is to be carried out.

The Maltese Parliament believes that the main role of the European Union Aviation Safety Agency (EASA) should remain that of exercising continuous oversight on the national competent authorities based on standardisation and continuous monitoring activities across the European Union Member States. The proposed new role of EASA would require additional resources to be engaged in activities the cost of which is incurred by users. There is a risk that such measures would result in excessive rigidity and additional costs which should definitely be avoided.

With respect to the financing of EASA through en-route charges collected by EUROCONTROL, the Maltese Parliament is of the opinion that this should be revised. Moreover, the various tasks done by institutional entities operating at a European level, the European Commission, EASA and EUROCONTROL need to be clearly distinguished from one another in order to avoid duplication and overlapping of responsibilities.

The Maltese Parliament considers that the requirements regarding the adoption of delegated acts as defined in Article 290 of the Treaty on the Functioning of the European Union are not

sufficiently complied with. It needs to be established whether it would be more appropriate to make use of implementing acts rather than delegated acts.

In particular, the European Commission should not be granted delegated powers with respect to the conditions of the qualifications of inspectors and other staff of the national competent authorities.

Consequently, the Maltese Parliament decided to object to the proposal and to submit this reasoned opinion in accordance with the procedure established in Article 6 of Protocol No 2 on the Application of the Principles of Subsidiarity and Proportionality, annexed to the Treaty on the Functioning of the European Union.

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