



*Brussels, 15.6.2016  
C(2016) 3705 final*

*Dear President,*

*The Commission would like to thank the Kamra tad-Deputati for its Reasoned Opinion concerning the proposal for a Regulation on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and repealing Regulation (EC) No 216/2008 {COM(2015) 613 final}.*

*This proposal forms part of the Aviation Strategy for Europe designed to generate growth, foster innovation and enable passengers to profit from safer, cleaner and cheaper flights. The Strategy contributes directly to the Commission's priorities of Jobs and Growth, the Digital Single Market, the Energy Union and the EU as a global actor.*

*The above-mentioned proposal aims to prepare the aviation safety regulatory framework of the Union for the challenges of the next ten to fifteen years. To this end, the proposal is intended to simplify and streamline the regulatory system, but to maintain high levels of safety at the same time. It promotes cooperative safety management processes to improve the ability to identify safety risks. Gaps in the regulatory system are closed and consistency improved. The proposal fosters the smooth integration of new technologies and market developments into the regulatory framework, thereby encouraging innovation. Last but not least, it provides tools for rendering the aviation safety system more efficient.*

*The Commission welcomes the Kamra tad-Deputati's support for the aims of the proposal, especially with regard to ensuring safety, efficiency and competitiveness, as well as to extending the Union aviation safety framework to unmanned aircraft, ground handling services and security aspects of aircraft and aviation systems' design.*

*The Commission notes that according to the Kamra tad-Deputati, the proposal fails to comply with the principle of subsidiarity as the responsibility for civil aviation safety oversight belongs to the Member States and that, therefore, certain oversight tasks cannot be transferred to the European institutions.*

*Mr Anglu FARRUGIA  
President of the  
Kamra tad-Deputati  
The Palace  
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*The Commission would like to stress, as explained in the Impact Assessment accompanying the proposal, that air transport is to a large extent of transnational character and therefore, by nature, calls for a regulatory approach at Union level. In that regard there is a general understanding, including in particular among Member States that common rules are necessary to reach a high level of civil aviation safety. More specifically, as regards ground handling, the proposal is intended to fill a safety gap due to a lack of EU-wide safety requirements directly geared at providers of ground handling services. Therefore, the Commission finds that regulation at Union level would ensure regulatory consistency for ground handling safety throughout the internal market.*

*Furthermore, the Commission would like to note that the new mechanism proposed under Article 53 of the proposal, allowing the European Union Aviation Safety Agency (EASA) to become a competent authority for certain aspects which are currently under Member State oversight is a voluntary mechanism. It is therefore for the Member States themselves to decide whether to resort to it or not. The mechanism is intended to be a tool for Member States to achieve a better use of resources in the aviation safety system, thereby increasing their efficiency and effectiveness. The possibility for a Member State to ask the EASA to act as its competent aviation authority is not new and exists under the current Regulation when it comes to certification and oversight of production, organisations and flight simulators. Both under the current regulation and the Commission's new proposal, where EASA fulfils functions for which a Member State is responsible under the Chicago Convention, the EASA only acts as an authorised representative of that Member State under that Chicago Convention.*

*In response to the more technical questions in the Reasoned Opinion the Commission would like to refer to the annex to this letter.*

*The points made in this reply are based on the initial proposal presented by the Commission which is currently in the legislative process involving both the European Parliament and the Council in which your government is represented.*

*The Commission hopes that the clarifications provided address the issues raised by the Kamra tad-Deputati and looks forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Violeta Bulc  
Member of the Commission*

## ANNEX

*The Commission has carefully considered each of the issues raised by the Kamra tad-Deputati in its Reasoned Opinion and is pleased to offer the following clarifications grouped by topic.*

### On delegated acts:

*As regards delegated acts, the majority of the corresponding empowerments proposed by the Commission constitute an alignment of references to the Regulatory Procedure with Scrutiny, used in Regulation 216/2008, to the rules introduced by the Lisbon Treaty. Article 290 of the Treaty on the Functioning of the European Union (TFEU) sets out that a legislative act may delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act. The Commission's proposal for an aviation safety Regulation provides the legal framework identifying what areas require certification and which safety standards have to be met. The details are to be provided by delegated acts. Already today the functioning of the aviation safety system relies on numerous Commission acts (implementing rules) which are the primary reference for the industry as regards details.*

*This two-layered structure is essential in providing the necessary flexibility to respond in a timely manner to international and technological changes. This structure will also make a more risk based and proportionate approach to regulating different aviation activities possible. Furthermore, the Commission would like to point out that it is committed to gathering, prior to the adoption of delegated acts, the necessary expertise, including through the consultation of Member States' experts. This conforms to the recent Interinstitutional Agreement on Better Law-Making.*

### On the financing of the EASA through en-route charges:

*The Commission proposes en-route charges as a possible form of revenue in order to prepare the ground for re-introducing the user-pays-principle in the area of air traffic management/air navigation services (ATM/ANS) as was the case before ATM/ANS related authority tasks were transferred from Eurocontrol to the EASA in 2009. Eurocontrol used to finance these activities through en-route charges. Despite the transfer of tasks from Eurocontrol to the EASA, the cost base for en-route charges was not amended accordingly, even though the EASA also finances these activities through its annual EU-contribution. Member States thus pay twice for these activities, through en-route charges and taxpayers' money via the annual EU contribution to the EASA. The Commission's proposal will make it possible to address this duplication. However, in order to effectively eliminate it, further legislative and practical actions would still be needed in the context of the Single European Sky.*

### On the need to ensure uniformity and compliance with International Civil Aviation Organisation (ICAO) Standards and Recommended Practices (SARPs):

*The draft rules contained in the proposal are such that their application would assist Member States in fulfilling their obligations under the Chicago Convention. This effect would be furthered, inter alia, thanks to one underlying objective, namely of ensuring a common*

*interpretation and uniform implementation of its provisions (Article 1, paragraph 2(e) of the proposal). The Union's essential requirements and further rules for their implementation established in the Regulation should ensure that Member States fulfil, in a uniform manner, the obligations laid down in the Chicago Convention, including those vis-à-vis third countries. Where Union rules differ from the minimum standards established by the Chicago Convention, Member States should notify the ICAO accordingly.*