



EUROPEAN COMMISSION

*Brussels, 15.06.2016
C(2016) 3704 final*

Dear President,

The Commission would like to thank the Senat for its 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 let passengers 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 Senat's support for the aims of the proposal and notes the specific concerns expressed in relation to the involvement of Member States in decisions related to the proposed joint oversight mechanisms, the financing of these mechanisms, as well as the legal implications of transferring responsibilities. The Commission further notes the expressed need for further assessing the impacts of the proposal and for including provisions accommodating national specificities in the preparation of the State Safety Programme. The Commission is pleased to have this opportunity to provide a number of clarifications regarding its initial proposal in 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.

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The Commission hopes that the clarifications provided address the issues raised by the Senat 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 Senat in its Opinion and is pleased to offer the following clarifications.

On Article 51(3):

The reference to "primary establishment" should be understood as "principal place of business" in case of commercial operators and an adjustment of the wording could be envisaged.

On Article 52(4):

The Senat proposes that fees collected for the assistance provided by European aviation inspectors be approved by the Management Board of the European Aviation Safety Agency (EASA). The Commission observes that, in order to facilitate recourse to such assistance the proposal envisages an empowerment for the Commission to adopt delegated acts specifying the relevant legal and financial details, including as regards the fixing and collection of the fees referred to in Article 52(4).

On Article 53:

The mechanism proposed by the Commission under Article 53 is of a voluntary nature. According to Article 53 (6) of the proposal, the transfer of responsibilities under EU law would not affect the rights and obligations of the Member States under the Chicago Convention, but the EASA or the other Member State concerned would act as an authorised representative of the Member States for the purpose of the Chicago Convention. A similar rule is already contained in Regulation 216/2008, applicable today.

On Article 54:

According to Article 54 an organisation or a group of organisations could choose the EASA as their competent authority. The Commission is of the opinion that for organisations having a multinational structure this possibility could lead to efficiency gains and possibly also safety gains by having oversight coordinated centrally by the EASA. The provision does not include a prior approval of the Member State concerned as the Commission considered that an organisation is also free to choose its principal place of business within the EU. The question of Member State consultation is, however, being discussed in the Council working party on aviation.

On Article 55:

As regards the financing of the emergency oversight mechanism, the same rules as for a transfer of responsibilities from a Member State to the EASA under Article 53 would apply. This would mean that the EASA would finance its activities through fees collected from the regulated entities.

On Article 76:

The proposal includes an article on aviation security to take account of interdependencies between aviation safety and aviation security, and give the Commission the possibility to draw on the EASA's expertise where relevant. These aspects, including cyber security, were addressed in the impact assessment¹ carried out by the Commission when preparing the proposal.

On the 'Single European Sky II +' package:

When preparing the present proposal {COM(2015) 613 final}, the Commission took account of its earlier proposal for a Regulation amending Regulation (EC) No 216/2008², presented on 11 June 2013 and concerning aerodromes, air traffic management and air navigation services, as well of the corresponding discussions already held in the European Parliament and the Council. In order to avoid two legislative proposals related to Regulation (EC) No 216/2008 being discussed in parallel, and the current proposal {COM(2015) 613 final} being the more comprehensive one, the proposed SES II+ amendments to Regulation (EC) No 216/2008 have been subsumed into this new proposal, while adapting them to the new structure and drafting style of this proposal. As a result further discussions on the above-mentioned earlier proposal are no longer warranted.

On the European Plan for Aviation Safety (EPAS):

In this area, the Commission proposal already provides for a margin of flexibility for Member States enabling them to take account of national conditions. Indeed Article 8(2) states that only those EPAS risks and actions “that are relevant for the Member States concerned” shall be included in the national safety plan. In such cases, the Member State is asked to inform the EASA of the reasons for not including certain risks and actions. Such reasons may be linked to certain considerations mentioned in the Opinion of the Senat, concerning the specificities of the national aviation system.

¹ http://ec.europa.eu/smart-regulation/impact/ia_carried_out/cia_2015_en.htm#move

² COM(2013) 409 final.