



14.4.2016

NATIONAL PARLIAMENT REASONED OPINION ON SUBSIDIARITY

Subject: Reasoned opinion of the Maltese Parliament on 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)0613 – C8-0389/2015 – 2015/0277(COD))

Under Article 6 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, national parliaments may, within eight weeks of the date of transmission of a draft legislative act, send 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.

The Maltese Parliament has forwarded the attached reasoned opinion on the aforementioned proposal for a regulation.

Under Parliament's Rules of Procedure the Committee on Legal Affairs is responsible for matters relating to compliance with the principle of subsidiarity.

PARLIAMENT OF MALTA

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The Maltese Parliament has 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 it 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 proactive rather than a reactive approach;

SUPPORTS the proposed additional specific areas to be included in the overall Union aviation safety framework, namely unmanned aircraft, the 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 responsibility for civil aviation safety oversight belongs, in terms of international law, to the Member States, and some safety oversight tasks cannot therefore be transferred to core European institutions;

URGES the Commission against increasing administrative burdens and costs for the national competent authorities and operators and also against establishing 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 exceed the mandate issued in Article 290 of the Treaty on the Functioning of the European Union. The delegated acts should be kept to an absolute minimum and the objectives, content and scope of the remaining implementing 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-effective way possible. The International Civil Aviation Organisation (ICAO) is the 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. It is not desirable that EASA should be able to act as a competent authority with the possibility of issuing Air Operator Certificates as this would complicate matters from a legal perspective. Moreover, the same Agency would be subject to compliance auditing and it is not clear who should carry it out.

The Maltese Parliament believes that the main role of the European Union Aviation Safety Agency (EASA) should remain that of exercising continuous oversight over 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 whose cost is borne 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 the 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 use implementing acts rather than delegated acts.

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

The Maltese Parliament has therefore 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.