



31.10.2018

NOTICE TO MEMBERS

Subject: Petition No 1237/2017 by V. U. (German) on a bureaucratic procedure of the German Federal Aviation Office

1. Summary of petition

The petitioner was the owner of a glider, which he sold to a purchaser in Austria. He feels that he has been negatively affected by the fact that the German Federal Aviation Office continues to direct its correspondence exclusively to the address of the petitioner, in Germany.

2. Admissibility

Declared admissible on 4 April 2018. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 30 July 2018

The petition

The petitioner alleges that the Civil Aviation Authority of Germany (Luftfahrtbundesamt, LBA) treats German clients and those residing in other EU Member States in an unequal manner. He questions the way LBA administers the registration of aircraft. He demands the European Parliament to examine the case.

The petitioner points out that, to his knowledge, the LBA requires the owners of a glider whose aircraft is registered in Germany but who resides in a Member State other than Germany, that an address of correspondence is established in Germany. The petitioner would like that the LBA communicates directly with such aircraft owner and does not require the establishment of a German address of correspondence. The petitioner alleges that the practice of LBA is discriminatory.

The Commission's observations

The Commission would like to point out that the petitioner lodged a separate petition with the German Parliament (Bundestag) on the same subject on 11 December 2017. Upon the document received from the petitioner, this German petition has been closed on 20 April 2018 upon investigation by the Petitions Committee of the Bundestag. In its reasoning, the Bundestag asked the relevant Ministry to clarify to the petitioner the applicable rules and why they considered such rules as non-discriminatory. The Petitions Committee of the Bundestag found the response of the German ministry appropriate and accurate. It has decided to close the case.

In addition, the Commission observes that the aircraft the petitioner is concerned about is categorised as a glider (Segelflugzeug) which is a non-power-driven aircraft.

The Commission refers the petitioner to the fact that registration of an aircraft is done under the national rules of each Member State. As a consequence, no European law governs the procedure how an aircraft shall be registered.

Besides, the Commission wishes to draw attention to the fact that registration and licencing are separate procedures: all aircraft need a registration but not all of them require a licence to operate in the airspace. Both registration and licencing are exercised at national level but the latter is governed by the relevant provisions of Regulation (EC) No 1008/2008 on common rules for the operation of air services in the Community¹. However, Article 3(3) of Regulation (EC) No 1008/2008 excludes gliders from the licencing².

Therefore, the Commission considers that, since the registration of the aircraft in question is within the remit of the relevant authorities of the Member States, there is no requirement for any action at European level in the case described by the petitioner.

Conclusion

The Commission is of the opinion that the alleged discriminatory treatment of aircraft owners in Germany is to be investigated at national level since no legal provision at European level covers the matter. The Commission refers the petitioner to the national authorities or courts.

4. Commission reply (REV.), received on 31 October 2018

In the additional correspondence received from the petitioner on 29 September 2018, the petitioner raises concerns that LBA might be violating data protection legislation by

¹ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:293:0003:0020:en:PDF>

² Article 2(1) of Regulation (EC) No 1008/2008 says that an operating licence means an authorisation granted by the competent licensing authority to an undertaking, permitting it to provide air services as stated in the operating licence; Article 2(4) of the same Regulation says that air service means a flight or a series of flights carrying passengers, cargo and/or mail for remuneration and/or hire; Article 2(6) of the same Regulation says that local flight means a flight not involving carriage of passengers, mail and/or cargo between different airports or other authorised landing points; Article 3(3) of the same Regulation says that without prejudice to any other applicable provisions of Community, national, or international law, air services performed by non-power-driven aircraft and/or ultralight power-driven aircraft as well as local flights are not be subject to the requirement to hold a valid operating licence.

transmitting data of the aircraft owner to the petitioner. The General Data Protection Regulation (GDPR)¹, which entered into application on 25 May 2018, replaces the rules set forth in Directive 1995/46/EC. The GDPR provides for a single set of rules for the processing of personal data in the European Union, which are directly applicable in the Member States.

Without prejudice to the powers of the Commission as guardian of the Treaties, the monitoring and enforcement of data protection legislation falls under the competence of national authorities, in particular national data protection authorities, and courts. Therefore, in a case of an alleged infringement of data protection rules, a complaint may be filed before a competent data protection authority which will examine the matter.

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1–88.