



House of Representatives

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PARLAMENT TA' MALTA

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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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Il-Parlament Malti eżamina il-Proposta hawn taħt imsemmija:

Proposta għal Regolament tal-Parlament Ewropew u tal-Kunsill dwar regoli komuni fil-qasam tal-avjazzjoni ċivili u li jistabbilixxi Aġenzija tas-Sikurezza tal-Avjazzjoni tal-Unjoni Ewropea, u li jhassar ir-Regolament (KE) Nru 216/2008 tal-Parlament Ewropew u tal-Kunsill COM (2015) 613,

u ikkonkluda li l-Proposta tonqos milli tikkonforma mal-prinċipju tas-sussidjarjetà.

Għaldaqstant, skond id-dispożizzjonijiet tal-Protokoll Nru. 2 fuq l-Applikazzjoni tal-Prinċipji ta' Sussidjarjetà u ta' Proporzjonalità, anness mat-Trattat ta' Lisbona, hawn taħt hawn opinjoni motivata tal-Parlament Malti fuq dan ir-rigward.

**OPINJONI MOTIVATA: PROPOSTA GĦAL REGOLAMENT TAL-PARLAMENT EWROPEW U TAL-KUNSILL DWAR REGOLI KOMUNI FIL-QASAM TAL-AVJAZZJONI ĊIVILI U LI JISTABBILIXXI AĠENZIJA TAS-SIKUREZZA TAL-AVJAZZJONI TAL-UNJONI EWROPEA, U LI JĦASSAR IR-REGOLAMENT (KE) NRU 216/2008 TAL-PARLAMENT EWROPEW U TAL-KUNSILL COM (2015) 613**

**1 Raġunijiet**

L-Artiklu 6 tal-Protokoll Nru. 2 fuq l-Applikazzjoni tal-Prinċipji ta' Sussidjarjetà u ta' Proporzjonalità, anness mat-Trattat ta' Lisbona jipprovdi li kull Parlament Nazzjonali jista', fi żmien tmien gimgħat mid-data minn meta jirċievi abbozz ta' att legiſlattiv uffiċjali tal-Unjoni, jibgħat lill-Presidenti tal-Parlament Ewropew, tal-Kunsill u tal-Kummissjoni opinjoni motivata bir-raġunijiet li għalihom iqis li l-abbozz in kwistjoni ma jimxix mal-prinċipju tas-sussidjarjetà.

**2 Opinjoni Motivata**

Il-Parlament Malti

IFAKKAR il-Komunikazzjoni tal-Kummissjoni lill-Parlament Ewropew, lill-Kunsill, lill-Kumitat Ekonomiku u Soċjali Ewropew u lill-Kumitat tar-Regjuni - Strategija tal-Avjazzjoni għall-Ewropa COM (2015) 598.

JILQA' sistema aktar flessibbli li tippermetti aktar effiċjenza, li twarrab regolamenti li ma humiex effettivi, tiffaċilita l-innovazzjoni u tagħti spinta 'l quddiem il-kompettitivita' ta' l-industrija tal-avjazzjoni.

JAPPOĠĠJA l-inizjattivi tal-Kummissjoni li jwasslu sabiex titjeb u tiżdied is-sikurezza ta' l-operat u t-tkabbir fl-industrija tal-avjazzjoni.

JIRRIKONOXXI li peress li s-settur tal-avjazzjoni huwa wieħed dinamiku hemm bżonn li jsiru l-praparamenti kollha meħtieġa sabiex nilqgħu l-isfida li jinsabu quddiemna, biex b'hekk inkunu qed nieħdu azzjoni pro-attiva minflok waħda reattiva.

JAPPOĠĠJA dawk il-miżuri godda f'diversi setturi speċifiċi li għandhom jiġu nkużi mal-qafas tas-sigurezza tal-avjazzjoni, li jinkludu l-inġenji tal-ajru mingħajr bdot, is-sikurezza tas-servizzi ta' groundhandling u l-aspetti tas-sigurtà tal-inġenji tal-ajru u tad-disinn tas-sistemi tal-avjazzjoni, inkluża è-èbersigurtà.

JIKKONSIDRA li l-Proposta għal Regolament tal-Parlament Ewropew u tal-Kunsill dwar regoli komuni fil-qasam tal-avjazzjoni ċivili u li jistabbilixxi Aġenzija tas-Sikurezza tal-Avjazzjoni tal-Unjoni Ewropea, u li jhassar ir-Regolament (KE) Nru 216/2008 tal-Parlament Ewropew u tal-Kunsill COM (2015) 613 ma taqbilx mal-prinċipju tas-sussidjarjetà.

JENFASIZZA li r-responsabilta' għas-sorveljanza tas-sikurezza tal-avjazzjoni ċivili hija, f'termini tal-ligi internazzjonali, tal-Istati Membri, u għalhekk ċertu dmirijiet ta' sorveljanza tas-sikurezza ma jistgħux jiġu trasferiti lil istituzzjonijiet ċentrali tal-Ewropa.

JISHAQ lill-Kummissjoni kontra ż-żieda fil-piżijiet amministrattivi u ż-żidiet fl-ispejjeż li jstgħu iħabbtu wiċċhom magħhom l-awtoritajiet nazzjonali kompetenti u l-operaturi kif ukoll kontra miżuri godda li jstgħu jaffettwaw is-sovranita' tal-Istati Membri f'dak li għandu x'jaqsam mar-responsabilitajiet tagħhom lejn istituzzjonijiet internazzjonali.

MA JAQBILX ma dak li qed jiġi propost rigward l-applikazzjoni mifruxa fl-atti delegati li bi żgur qegħdin imorru lil hinn mill-mandat mogħti fl-Artiklu 290 tat-Trattat dwar il-Funzjonament tal-Unjoni Ewropea. L-atti delegati għandhom jinżammu kemm jista' jkun mill-inqas filwaqt li l-għanijiet, il-kontenut u l-firxa tal-atti ta' implimentazzjoni għandhom ikunu dejjem justifikati u ċari.

### **3 Miżuri fil-Proposta u Konkluzzjoni**

Il-Parlament Malti huwa tal-fehma li is-'sikurezza' għandha tibqa l-għan prinċipali tar-regolament propost u dan għandu jintlaħaq permezz tal-aktar miżuri effettivi u effiċjenti possibbli. L-Organizzazzjoni Internazzjonali tal-Avjazzjoni Ċivili (ICAO) hija l-forum prinċipali u tinsab fuq quddiem nett fejn tidhol is-sikurezza tal-avjazzjoni ċivili internazzjali u l-Unjoni Ewropea għandha tassigura li jkun hemm uniformita' u konformità mar-rekwiżiti essenzjali stabbiliti fl-ICAO Standards and Recommended Practices (SARPs). L-aġġornament u s-sinkronizzazzjoni tar-regoli ta' l-Unjoni Ewropea ma' dawk tal-ICAO hija għalhekk essenzjali. L-obligazzjonijiet u r-responsabilitajiet tal-Istati Membri fi hdan l-ICAO ma għandhomx jiġu affettwati bl-ebda mod. Il-possibilita' ta' kif l-Aġenzija Ewropea tas-Sikurezza tal-Avjazzjoni (EASA) tista' sservi ta' awtorita' kompetenti bil-possibilita' li tohroġ ċertifikati tal-opertur tal-ajru (AOCs) mhijiex ideali għax din taf tikkomplika l-affarijiet mill-latt legali. Barra minn hekk, l-istess Aġenzija trid tkun sottomessa għal-konformita' u mhux ċar min ha jkun qed iwettaq l-awditjar ta' konformita' ta' din l-Aġenzija.

Il-Parlament Malti huwa tal-fehma li r-rwol prinċipali tal-EASA għandu jibqa dak li jeżerċita' sorveljanza kontinwa fuq l-awtoritajiet nazzjonali kompetenti ibbażat fuq standardisation u attivitajiet ta' moniteragg kontinwi madwar l-Istati Membri kollha tal-Unjoni Ewropea. Ir-rwol il-ġdid tal-EASA hekk kif qed jiġi propost jeħtieġ żiedi fir-rizorsi li jkunu allokatati f'diversi attivitajiet godda li l-ispiza tagħhom tingarr mill-utenti. Hemm ir-riskju li dawn il-miżuri jwasslu għal rigidita' eċċessiva kif ukoll spejjes addizzjonali li idealment għandhom jiġu evitati.

Fir-rigward tal-iffinanzjar tal-EASA permezz tat-tariffi fuq ir-rotot li jiġu miġbura mill-EUROCONTROL, il-Parlament Malti huwa tal-fehma li din il-proposta għandha tiġi riveduta. Barra minn dan, id-distinzjoni tad-diversi kompiti li jiġu mwettqa mill-entitajiet istituzzjonali fuq livell Ewropew, il-Kummissjoni Ewropea, l-EASA u l-EUROCONTROL għandhom ikuni cari halli jiġi evitat xogħol doppju u sabiex id-diversi responsabilitajiet ma jidhru f'xulxin.

Il-Parlament Malti huwa tal-fehma li r-rekwiżiti dwar l-użu tal-atti delegati kif huwa stabbilit fl-Artiklu 290 tat-Trattat dwar il-Funzjonament tal-Unjoni Ewropea m'huwiex jiġi mħares kif suppost. Għandu jiġi kkonsidrat jekk ikunx iktar xieraq l-użu tal-atti ta' implimentazzjoni minflok dawk delegati.

B'mod partikolari, il-Kummissjoni Ewropea ma għandiex tiġi mogħtija setgħat delegati fir-rigward tal-kondizzjonijiet ta' kwalifiċi tal-ispetturi u l-istaff tal-awtoritajiet nazzjonali kompetenti.

Għaldaqstant, il-Parlament Malti ddecieda li joġġezzjona din il-proposta u li jissottometti din l-opinjoni motivata skont il-proċedura definita fl-Artiklu 6 tal-Protokoll Nru 2 dwar l-Applikazzjoni tal-Prinċipji ta' Sussidjarjetà u ta' Proporzjonalità anness mat-Trattat dwar il-Funzjonament tal-Unjoni Ewropea.

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