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Chairman

Foreign and European Union Affairs Committee

House of Representatives

Parliament Building

Freedom Square

Valletta

Chairman

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

On 1 March 2016, the Maltese Parliament submitted a Reasoned Opinion to the European Institutions 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, objecting to the proposal due to non compliance with the principle of subsidiarity.

1 Objective of the proposal

The main objective of the proposal is to maintain the high European safety levels while allowing the EU aviation sector to continue to grow in the future. The proposal introduces a risk and performance based approach to safety regulation and proposes to close existing safety gaps and better take into account interdependencies between aviation safety and other technical domains of regulation, such as aviation security or environmental protection.

Another objective of the proposal is to create an effective regulatory framework for the integration of new business models and emerging technologies. In particular this initiative proposes to create a Union framework for the safe integration of unmanned aircraft into the European airspace.

In order to address the challenges faced by some national authorities in maintaining and financing the resources necessary for their oversight and certification responsibilities, the initiative also proposes a framework for pooling and sharing of technical resources between the national authorities and the European Union Aviation Safety Agency (EASA), which includes

the possibility of transferring responsibilities for implementation of Union legislation on a voluntary basis.

Reasoned Opinion

The Reasoned Opinion which was submitted concluded that 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 obligations and responsibilities of the Member States towards the International Civil Aviation Organisation (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 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.

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 also considered 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 and recommended the use of implementing acts rather than delegated acts.

Progress made with the dossier

General comments

The proposal was first presented to the Aviation Working Party on 7 December 2015, during the Luxembourg Presidency. The Working Party began the detailed examination of the Commission proposal, together with its impact assessment, in early January 2016. The Dutch and the Slovak Presidencies have worked intensively on this file. Given the size and the technical complexity of the proposal and in order to facilitate the work, the Presidency decided to divide it into thematic blocks which were then examined individually. The Working Party sought solutions to the various issues highlighted which were common to many of the delegations including Malta. Legal issues were often discussed and the opinion of the Legal Service was sought on several occasions in order to ensure the legal consistency of the text. As a result, solid progress at working party level has been made on the file and the Slovak Presidency intends to reach a General Approach during the COREPER meeting within the next few weeks.

Specific issues

With regard to the extensive use of delegated acts throughout the whole regulation, it is to be noted that efforts were made to reduce these as much as possible. As a result, various textual amendments were made and the use of delegated acts in areas which were considered as being the most problematic, were replaced with implementing acts. However, there were some other areas, in particular areas which concern the modification of annexes to the Regulation on which Member States still maintain a reservation and are insisting for the use of implementing acts instead of delegated acts. In this regard, it remains to be seen on what compromise is to be reached in the coming few days.

With regard to the financing of EASA through enroute charges, the text has been modified and clarifications were made to the Member States ensuring that the system which is to be adopted is to remain one which guarantees cost-neutrality. Moreover, the details of how this mechanism is to work, is to be further studied and adopted through the use of implementing rules to be drafted after the entry into force of the proposed EASA Regulation.

Moreover, progress has also been made on other remaining areas of concern which include the emergency mechanism, the transfer of responsibilities to EASA or other Member States including the proposed new Article on joint responsibility of certification, oversight and enforcement tasks between one or more Member States. All the clarifications and amendments made to the text aimed at addressing the concerns of many Member States were welcomed by Malta. It is to be noted that at the time of writing this information note, the discussions are still ongoing. The objective is that the Member States manage to reach agreement on the best compromise text which is acceptable to all **Reserves**

In the light of the substantial progress achieved within the Council bodies as well as the clarifications and the changes made to the text aimed at addressing the issues which were of concern to Malta and to many other Member States, Malta will be lifting all its reservations and objections so as not to stall the progress which will lead to further work under the lead of the Maltese Presidency during the first six months of 2017.

Yours sincerely



Joe Mizzi

Minister

cc. Permanent Secretary, MTI

Director, Policy Development and Programme Implementation, MTI

Head, EU Secretariat MEAIM