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COVER NOTE

from: Eerste Kamer der Staten-Generaal (Dutch Senate)
date of receipt: 8 March 2013
to: General Secretariat of the Council of the European Union

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL on occurrence reporting in civil aviation amending
Regulation (EU) No 996/2010 and repealing Directive No 2003/42/EC,
Commission Regulation (EC) No 1321/2007 and Commission Regulation (EC)
No 1330/2007
[doc. 18118/12 - COM(2012) 776 final]
- Opinion on the application of the Principles of Subsidiarity and
Proportionality¹

Delegations will find annexed a copy of the above letter.

¹ Translation(s) of the opinion may be available at the Interparliamentary EU information exchange site IPEX at the following address: <http://www.ipex.eu/IPEXL-WEB/search.do>



**Eerste
Kamer** *der Staten-Generaal*

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- COURTESY TRANSLATION -

date 8 March 2013
re E120052 - Proposal for a Regulation on occurrence reporting in civil aviation
our reference 152315.01U

Dear Mr Šefcovic,

The members of the standing committees for Security & Justice and for Infrastructure, Environment and Spatial Planning of the Dutch Senate have taken note with interest of the proposal of the European Commission for a Regulation on occurrence reporting in civil aviation (COM(2012) 776). They would like to raise a number of questions about it.

Objective and Public Prosecution Service in the Netherlands

Article 1(2) of the proposed Regulation states that the sole objective of occurrence reporting is the prevention of accidents and incidents and not to attribute blame or liability. Moreover, Article 15(2) provides that the details on occurrences shall only be used for the purpose for which they have been collected. The information may not be used to attribute blame or liability. How does this affect the position of the Dutch Public Prosecution Service (*Openbaar Ministerie*) in investigating and prosecuting occurrences in civil aviation?

Monitoring

Is it the intention that the independent authority envisaged in the draft Regulation for monitoring compliance with the rules on reporting and information sources will also monitor compliance with the rules by the Dutch Public Prosecution Service?

Protection of the privacy of the information source

It is the intention that all occurrence reports collected in the Union and emanating from the national databases should be kept in a European Central Repository (Article 8(1)). Article 16(1) and (2) regulate in a general sense the protection of the privacy of information sources. How will the Commission ensure that the privacy of information sources is indeed guaranteed throughout the Union?

Request for information

According to Article 10(2) of the draft Regulation, interested parties not established in the Union may address a request for access to certain information to the Commission. What criteria will the Commission apply in deciding whether such a request can be granted and what safeguards



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will the Commission demand in order to ensure that the information is not used for the wrong purposes?

Penalties

Article 21 provides that the Member States shall adopt effective, proportionate and dissuasive penalties applicable to infringements of the Regulation. The Member States are required to inform the Commission when penalties are adopted in application of Article 21. Does the Commission envisage a time limit for adoption? And will the Commission be informed at the same time of the content of the penalties?

The members of the standing committees look forward with interest to receiving your reply.

Yours sincerely,

also on behalf of the standing committee for Infrastructure, Environment and Spatial Planning

A. Broekers-Kool

Chair of the standing committee for Security and Justice
