



HM Government of Gibraltar

Deputy Chief Minister

PRESS RELEASE

No. 152/2015

Date: 10th March 2015

Suspension of Gibraltar Airport from EU legislation would be illegal

The Government does not agree with the proposal made by the Spanish Foreign Minister Jose Manuel Garcia-Margallo that the application to Gibraltar of EU law on civil aviation should be subject to a bilateral agreement between the United Kingdom and Spain. These comments were made following an informal meeting of EU Foreign Ministers in Riga.

The reality is that Spain should be made to honour its obligations under the EU Treaties and the agreement that they entered into at Cordoba in 2006 by which they would no longer seek the exclusion of Gibraltar airport from EU legislation.

It will be recalled that Clause 14(iv) of the Ministerial Statement on Gibraltar Airport says that with effect from 18 September 2006, Spain will “cease to seek the suspension of Gibraltar Airport from any EU Aviation measure not yet adopted”. The Spanish Government are now doing the exact opposite of what is stated in the agreement that was entered into at the time by their predecessors.

The reality is that any bilateral agreement which seeks to suspend or exclude Gibraltar from EU aviation legislation would be contrary to the EU treaties, to our terms of membership of the European Union and therefore illegal. Gibraltar’s terms of membership of the EU are spelt out in Articles 28-30 of the UK Act of Accession. This lists the areas of EU law from which Gibraltar is excluded, like the Common Agricultural Policy or the Customs Union, for example. It does not list or include Civil Aviation which means that EU law on civil aviation must apply automatically to Gibraltar Airport as of right.

Moreover, the Spanish proposal would allow for the creation in Gibraltar Airport of a regime which is discriminatory with regards to that which applies to EU nationals travelling by air to and from other parts of the European Union. One of the measures that is currently held up is the Air Passenger Rights legislation. The Spanish proposal would mean that EU nationals travelling by air through Gibraltar would enjoy fewer rights and fewer benefits in law than EU nationals travelling through other airports of the European Union. This is also totally unacceptable.



The Spanish Foreign Minister has said that the reason why Spain is holding up EU aviation legislation is because the airport is constructed on land which was not ceded under the Treaty of Utrecht and Spain is concerned at the possible recognition of UK sovereignty in that zone. This is confirmation that all that Spain is doing is seeking to advance its sovereignty claim.

The Government maintains that the whole of Gibraltar is British, from the frontier fence up to Europa Point including the territorial waters around the Rock and the airspace above them.

Commenting on the matter, the Deputy Chief Minister Dr Joseph Garcia, who is responsible for Civil Aviation, said:

“It is important to emphasise that the European Commission has no standing in the sovereignty argument that Spain has chosen to make over the land on which the airport is sited. However, the Commission, as the guardians of the Treaties must act to secure respect for those Treaties and for EU law. The two are distinct and separate issues. One is the sovereignty issue and the other is the application of EU law to a part of the European Union. This means that Gibraltar Airport, as an airport of the European Union, must be included in EU civil aviation legislation.

Spain is holding the whole of Europe to ransom in order to advance its claim to Gibraltar. Their argument does not even make sense given that the EU law that will apply to the Airport is the same as applies in the rest of the European Union including to airports in both the United Kingdom and in Spain. They should also bear in mind that EU law first applied to the Airport when we acceded to the European Community, as it was then, in 1973 which is 13 years before Spain joined.”