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Sent: 22 August 2020 16:13
To: peti-secretariat@europarl.europa.eu
Cc: john fenech <johnfenech@onvol.net>; nasomalta@gmail.com
Subject: Petition No. 0533/2018 - Response by NASoM (Aug 24th 2020 Deadline)

The Secretariat
Committee on Petitions
Subject: Petition No. 0533/2018

Dear Secretariat,

NASoM thank you for the opportunity for further comment.

We do not have fresh input, nevertheless we feel it prudent to clarify the NGO's comments in the attached file. The trust of our complaint was always fixed on, 'the incorrect application of the EU Regulation by the Malta Government.' Other issues mentioned by the Commission in its reply tend to deviate from the aforementioned subject matter.

The complaint is derived from the incorrect application of the following EU Regulations:

1. EU Regulation [168/2013](#) : on the approval and market surveillance of two- or three-wheel vehicles and quadricycles, and
2. EU Regulation [540/2014](#): on the sound level of motor vehicles and of replacement silencing systems, and amending Directive 2007/46/EC and repealing Directive 70/157/EEC

The above EU regulations are incorrectly applied into Maltese legislation by:

[SL 427.43](#) : Approval and Market Surveillance of Two or Three-Wheel Vehicles and Quadricycles Regulations exclude the Sound level limits for the vehicle's category.

[S.L. 427.23](#) : EC Type-Approval of Motor Vehicles and Their Trailers Regulations, and [L.N. 62 of 2016](#) : EC Type-Approval of Motor Vehicles and Their Trailers (Amendment) Regulations, 2016 exclude the sound level limits (Annex III)

Comments:

Comparing Regulations 540/2014 to the Regulations enacted by L.N 62/2016 it is evident that certain pivotal articles and annexes were excluded, explained in detail in Annex 1 & 2 of the attached file.

1. Articles: Measurement of sound, Testing for in-vehicles (when stationary), General obligations of Member State, General Obligations of manufacturers of exhaust systems.
2. Annexes: methods and instruments for measuring the noise made by motor vehicles sound limit values, Stationery measurement of vehicle exhaust limit values

Comparing the sound level values set by EU Regulations and Malta Regulations:

The regulations enacted by S.L. 65.15 run counter, in effect, override the exhaust noise limit values set by EU Regulations 540/2014:

The First Schedule: Regulation 2, 18D and 18E, of the regulations enacted by [SL 65.15](#) sets the exhaust sound limit value of Motorcycles & Motor Vehicle thus: The motor vehicles exhaust sound limit value is between: **100 & 105 dB(A)** and that for motorcycle is: **119dB(A)**.

EU regulations 540/2014 set the exhaust sound limit values for motor vehicles-
between 72 & 82 dB(A),
EU Regulations 168/2013 set the exhaust sound limit values for motorcycles –
between 63 & 80 dB(A).

Hence, we are of the opinion that the Malta Government is breaching European Law with regards to the application of EU Regulations as stated in: "Regulations as Union laws"

Their Community character, which means that they lay down the same law throughout the Community, regardless of international borders, and apply in full in all Member States.

1. A Member State has no power to apply a Regulation **incompletely or too select only those provisions of which it approves** as a means of ensuring that an instrument which is opposed at the time of its adoption or which runs counter to its perceived national interest is not given effect.
2. Nor can it set up provisions or practices of **domestic law to preclude the mandatory application of a Regulation.**

With renewed thanks and best wishes

Yours Sincerely
NASoM, (Noise Abatement Society of Malta)

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