COUNCIL DECISION (EU) 2022/322

of 18 February 2022

on the position to be taken on behalf of the European Union within the Council of the International Civil Aviation Organization (ICAO) as regards the adoption of amendments to Annexes 1, 6 to 10, 14 and 17 to the Convention on International Civil Aviation

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Convention on International Civil Aviation (the Chicago Convention), which regulates international air transport, entered into force on 4 April 1947. It established the International Civil Aviation Organization (ICAO).

(2) The Member States of the Union are Contracting States to the Chicago Convention and members of the ICAO, while the Union has observer status in certain ICAO bodies. There are currently seven Member States represented in the Council of the ICAO ('ICAO Council').

(3) Pursuant to Article 54 of the Chicago Convention, the ICAO Council is to adopt international standards and recommended practices ('SARPs') and designate them as Annexes to the Chicago Convention.

(4) During its 225th session, the ICAO Council is to adopt Amendment 178 to Annex 1, Amendment 47 to Part I of Annex 6, Amendment 40 to Part II of Annex 6, Amendment 24 to Part III of Annex 6, Amendment 7 to Annex 7, Amendment 109 to Annex 8, Amendment 29 to Annex 9, Amendment 91 to Volume IV of Annex 10, Amendment 17 to Volume I of Annex 14 and Amendment 18 to Annex 17 to the Chicago Convention, as set out in State Letters AN 12/1.1.25-20/112, AN 11/1.1.34-20/75, AN 3/45-20/85, AN 3/1.2-20/76, AN 7/1.3.105-20/42, SP 55/4-20/94, AS 8/2.1-21/48 Confidential, and EC 6/3 – 21/67.

(5) The main purpose of Amendment 178 to Annex 1 to the Chicago Convention is to enable the implementation of an electronic personnel licensing system with a view to improving efficiency.

(6) The main purpose of Amendments 47, 40 and 24 to Parts I, II and III, respectively, of Annex 6 to the Chicago Convention is to strengthen the legal framework for the continued serviceability of flight recorders, to clarify the provisions relating to extended diversion time operations (EDTO) and infant life jackets, to mandate ground proximity warning systems (GPWS) on certain aeroplanes, to add a new standard to equip aeroplanes under certain conditions with runway overrun awareness and alerting systems (ROAAS), to provide operational credit in the context of performance-based aerodrome operating minima (PBAOM), to ensure that adequate rescue and firefighting (RFF) facilities and services are available at the intended aerodrome of operation, to update the provisions relating to offshore alternates for long-range helicopter operations and to add provisions related to the transport of dangerous goods by helicopter and update related training provisions.

(7) The main purpose of Amendment 7 to Annex 7 to the Chicago Convention is to facilitate the transfer of an aircraft from one State to another by adapting the template for the certificate of registration and introducing a template for the certificate of deregistration.

(8) The main purpose of Amendment 109 to Annex 8 to the Chicago Convention is to improve clarity and ensure that States approving any modification and repair have a clear understanding of their continuing airworthiness responsibility and to clarify the design capabilities of cargo compartment fire suppression in large aeroplanes, helicopters and small aeroplanes.

(9) The main purpose of Amendment 29 to Annex 9 to the Chicago Convention is to enhance the preparedness of States for future pandemics by learning from the lessons of the COVID-19 pandemic and setting out adequate mitigation measures for future pandemics. Amendment 29 also addresses the combating of human trafficking through SARPs. Furthermore, it contains minor but useful amendments to the provisions of Annex 9 to the Chicago Convention concerning repatriation flights and the air transport of passengers with disabilities, and an amendment to the notes in the passenger name record (PNR) data section concerning the term 'push'.

(10) The main purpose of Amendment 91 to Volume IV of Annex 10 to the Chicago Convention is to introduce Airborne Collision Avoidance System (ACAS) X and to reduce the occurrence of false ACAS alerts.

(11) The main purpose of Amendment 17 to Volume I of Annex 14 to the Chicago Convention is to exclude general aviation from the rescue and firefighting (RFF) provisions.

(12) The main purpose of Amendment 18 to Annex 17 to the Chicago Convention is to introduce new SARPs and amend existing SARPs related to security culture, aircraft operator security programmes, methods of detecting explosives in hold baggage, and national civil aviation security quality-control programmes.

(13) It is appropriate to establish the position to be taken on the Union's behalf within the ICAO Council, as Amendment 178 to Annex 1, Amendment 47 to Part I of Annex 6, Amendment 40 to Part II of Annex 6, Amendment 24 to Part III of Annex 6, Amendment 7 to Annex 7, Amendment 109 to Annex 8, Amendment 29 to Annex 9, Amendment 91 to Volume IV of Annex 10, Amendment 17 to Volume I of Annex 14 and Amendment 18 to Annex 17 to the Chicago Convention are capable of decisively influencing the content of Union law, namely Commission Regulations (EU) No 1178/2011 ([1]), (EU) No 1332/2011 ([2]), (EU) No 965/2012 ([3]), (EU) No 139/2014 ([4]) and (EU) 2015/640 ([5]), Commission Implementing Regulation (EU) 2015/1998 ([6]) and Regulation of the European Parliament and of the Council (EU) 2018/1139 ([7]).

(14) The Union's position in the 225th session of the ICAO Council or any subsequent session with regard to the adoption of Amendment 178 to Annex 1, Amendment 47 to Part I of Annex 6, Amendment 40 to Part II of Annex 6, Amendment 24 to Part III of Annex 6, Amendment 7 to Annex 7, Amendment 109 to Annex 8, Amendment 29 to Annex 9, Amendment 91 to Volume IV of Annex 10, Amendment 17 to Volume I of Annex 14 and Amendment 18 to Annex 17 to the Chicago Convention should be to support those Amendments in their entirety. That position should be expressed by the Member States of the Union that are members of the ICAO Council, acting jointly on behalf of the Union.

([1]) Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 311, 25.11.2011, p. 1).

([2]) Commission Regulation (EU) No 1332/2011 of 16 December 2011 laying down common airspace usage requirements and operating procedures for airborne collision avoidance (OJ L 336, 20.12.2011, p. 20).

([3]) Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25,10.2012, p. 1)

([4]) Commission Regulation (EU) No 139/2014 of 12 February 2014 laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 44, 14.2.2014, p. 1).

([5]) Commission Regulation (EU) 2015/640 of 23 April 2015 on additional airworthiness specifications for a given type of operations and amending Regulation (EU) No 965/2012 (OJ L 106, 24.4.2015, p. 18).

([6]) Commission Implementing Regulation (EU) 2015/1998 of 5 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security (OJ L 299, 14.11.2015, p. 1).

([7]) Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1).

(15) The Union's position after the adoption by the ICAO Council of Amendment 178 to Annex 1, Amendment 47 to Part I of Annex 6, Amendment 40 to Part II of Annex 6, Amendment 24 to Part III of Annex 6, Amendment 7 to Annex 7, Amendment 109 to Annex 8, Amendment 29 to Annex 9, Amendment 91 to Volume IV of Annex 10, Amendment 17 to Volume I of Annex 14 and Amendment 18 to Annex 17 to the Chicago Convention, to be announced by the ICAO Secretary-General by means of an ICAO State-letter procedure, should be not to register disapproval and to notify compliance, provided that those Amendments are adopted without substantial changes. It is also appropriate to lay down the procedure to be followed for the notification of differences to the ICAO in the event that Union legislation deviates from the newly adopted SARPs after the envisaged date of application of those SARPs. With respect to differences with the standards contained in Annexes 1, 6, 8 and 14 to the Chicago Convention falling within Union exclusive competence, Council Decision (EU) 2021/1092 ([8]) applies. That position should be expressed by all Member States of the Union,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken on the Union's behalf in the 225th session of the Council of the International Civil Aviation Organization, or in any subsequent session, shall be to support the proposed Amendment 178 to Annex 1, Amendment 47 to Part I of Annex 6, Amendment 40 to Part II of Annex 6, Amendment 24 to Part III of Annex 6, Amendment 7 to Annex 7, Amendment 109 to Annex 8, Amendment 29 to Annex 9, Amendment 91 to Volume IV of Annex 10, Amendment 17 to Volume I of Annex 14, and Amendment 18 to Annex 17 to the Convention on International Civil Aviation in their entirety.

2. The position to be taken on the Union's behalf, provided that the ICAO Council adopts without substantial changes the Amendments referred to in paragraph 1, shall be not to register disapproval and to notify compliance with each adopted amendment in reply to the respective ICAO State letter.

In the event that Union legislation differs from the standards contained in the Annexes to the Chicago Convention referred to in paragraph 1, as amended by the ICAO, after they become applicable, thus requiring the notification of differences with those Annexes in accordance with Article 38 of the Chicago Convention, the Commission shall, in due time and at least two months before any deadline set by the ICAO for the notification of differences, submit to the Council, for discussion and approval, a preparatory document setting out the detailed differences to be notified to the ICAO on the Union's behalf by the Member States.

Notwithstanding the second subparagraph of this paragraph, in the event that Union legislation differs from the standards contained in Annexes 1, 6, 8 and 14 to the Chicago Convention as amended by the ICAO, insofar as such standards fall within Union exclusive competence, after they become applicable, thus requiring the notification of differences with those Annexes in accordance with Article 38 of the Chicago Convention, the position to be adopted on behalf of the Union within the ICAO as regards the notification of such differences shall be established on the basis of Decision (EU) 2021/1092.

Article 2

The position referred to in Article 1(1) shall be expressed by the Member States of the Union that are members of the ICAO Council, acting jointly.

The position referred to in Article 1(2) shall be expressed by all Member States of the Union.

Article 3

This Decision shall enter into force on the date of its adoption.

([8]) Council Decision (EU) 2021/1092 of 11 June 2021 establishing the criteria and procedure for the notification of differences with respect to international standards adopted by the International Civil Aviation Organization in the field of aviation safety (OJ L 236, 5.7.2021, p. 51).

Done at Brussels, 18 February 2022.

For the Council
The President
J.-Y. LE DRIAN