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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the exercise of the power to adopt delegated acts conferred on the Commission pursuant to 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

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1. INTRODUCTION

Regulation (EU) 2018/1139 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 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*[1] sets out the legal basis for the creation of EASA, defines EASA's competences and establishes the scope of common aviation safety requirements. The regulation covers the elements aimed at improving the performance of the European Union aviation system.

Article 128(2) of Regulation (EU) 2018/1139 confers on the European Commission the power to adopt delegated acts which detail how to comply with the essential requirements of said Regulation.

In accordance with Article 128(2) of Regulation (EU) 2018/1139, the European Commission is authorised to adopt delegated acts referred to in:

- Article 19: airworthiness and environmental protection
- Article 28: aircrew
- Article 32: air operations
- Article 39: aerodromes
- Article 47: ATM/ANS
- Article 54: air traffic controllers
- Article 58: unmanned aircraft
- Article 61: aircraft used by a third-country operator into, within or out of the Union
- Article 62(13): certification, oversight and enforcement
- Article 68(3): acceptance of third-country certification
- Article 84(4): fines and periodic penalty payments
- Article 105: powers of the Board of Appeal

[1] OJ L 212, 22.08.2018, p. 1

- Article 106: members of the Board of Appeal.

2. LEGAL BASIS FOR THE REPORT

This report is required under Article 128(2) of Regulation (EU) 2018/1139.

According to this Article, the Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period, thus before 11 December 2022.

3. EXERCISE OF THE DELEGATION

3.1. Use of the delegation of power by the European Commission

The European Commission used the delegation of power in the following areas:

- 2019
  a) Unmanned aircraft systems; and
  b) Environmental protection
- 2020
  a) Initial airworthiness;
  b) Third-country certification of pilots;
  c) Unmanned aircraft systems;
  d) Apron management services;
  e) Common European risk classification scheme; and
  f) Runway safety and aeronautical data
- 2021
  a) Initial airworthiness
  b) References to ICAO provisions in Regulation (EU) 2018/1139;
- 2022
  a) Initial airworthiness;
  b) All-weather operations

At the date of drafting this report, 13 Delegated Regulations have been adopted by the Commission since the entering into force of Article 128(2) of Regulation (EU) 2018/1139 on 11.09.2018.

3.2. Adopted Delegated Regulations

a) The Commission adopted on 12 March 2019 the Delegated Regulation (EU) 2019/945[2]. This Regulation contains the technical requirements for the UAS classes and e-identification of unmanned aircraft systems and on third-country operators of unmanned

[2] Commission Delegated Regulation (EU) 2019/945 of 12 March 2019 on unmanned aircraft systems and on third-country operators of unmanned aircraft systems (OJ L 152, 11.6.2019, p.1).

aircraft systems. Specifically, this Regulation defines the new EU market harmonisation legislation that UAS operated in the 'open' category will have to comply with and the conditions for UAS operations conducted by a third-country operator. Compliance is shown by affixing the CE marking and the UAS class to the UAS when it meets the essential technical requirements. This Regulation should contribute to addressing citizens' concerns regarding security, privacy, data protection, and environmental protection. It is expected to increase the level of safety of UAS operations, to harmonise legislation among the EU MSs, and to create an EU market that will reduce the cost of UAS and allow cross-border operations.

b) The Commission adopted on 12 March 2019 the Delegated Regulation (EU) 2019/897[3]. This Regulation concerns the inclusion of risk-based compliance verification in Annex I of Regulation (EU) No 748/2012[4] (Part-21) to improve the effectiveness, transparency and predictability of the certification process. It includes certain selection criteria to allow determining which compliance demonstrations should be verified by EASA. In addition, this Regulation provides the possibility for production organisations to apply to their competent authority for exemptions from the environmental protection requirements for specific engines or aircraft. This possibility of exemptions is based on the environmental protection requirements contained in Annex 16 of the Chicago Convention. This Regulation also corrects certain inconsistencies of Regulation (EU) No 748/2012 with Regulation (EU) 2018/1139 as regards the content of the type-certification basis and the notification process.

c) The Commission adopted on 28 January 2020 the Delegated Regulation (EU) 2020/570[5]. This Regulation concerns the amendment and correction of Regulation (EU) No 748/2012 (Part-21) for the alignment of rules for continuing airworthiness of aircraft and aeronautical products, parts and appliances with Regulation (EU) No 1321/2014[6]. More specifically, since the provisions relating to certificates of airworthiness, repair design approvals and permits to fly, laid down in Annex I (Part 21) to Regulation (EU) No 748/2012, only refer to Annex I (Part-M) to Regulation (EU) No 1321/2014, that

[3] Commission Delegated Regulation (EU) 2019/897 of 12 March 2019 amending Regulation (EU) No 748/2012 as regards the inclusion of risk-based compliance verification in Annex I and the implementation of requirements for environmental protection (OJ L 146, 5.6.2019, p.116).
[4] Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 224, 21.8.2012, p. 1).
[5] Commission Delegated Regulation (EU) 2020/570 of 28 January 2020 amending and correcting Regulation (EU) No 748/2012 as regards the alignment of rules for continuing airworthiness of aircraft and aeronautical products, parts and appliances with Regulation (EU) No 1321/2014 (OJ L 132, 27.04.2020, p.1).
[6] Commission Regulation (EU) No 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks (OJ L 362, 17.12.2014, p. 1).

Annex I (Part-21) to Regulation (EU) No 748/2012 is amended to adapt its provisions to the new structure of the Annexes to Regulation (EU) No 1321/2014.

d) The Commission adopted on 4 March 2020[7] the Delegated Regulation (EU) 2020/723. This Regulation concerns the acceptance of certificates and other documentation attesting compliance with civil aviation rules issued in accordance with the laws of a third country, whilst ensuring an equivalent level of safety to that provided for in Regulation (EU) 2018/1139, including the conditions and procedures for achieving and maintaining the necessary confidence in regulatory systems of third countries. According to Regulation (EU) No 1178/2011[8] which lists the conditions for the acceptance of licences from third countries, a pilot licence issued by a third country may currently be accepted (under certain conditions) by Member States or the holder of such a third country licence can obtain credit when applying for a licence. Such credit is currently determined based on a recommendation from an approved training organisation. This regulation introduces the 'declared training organisations' and updates the rules concerning the acceptance of licences from third countries in order to permit such organisations to give credit to holders of third country licences who apply for a licence issued under the Union legal framework.

e) The Commission adopted on 27 April 2020 the Delegated Regulation (EU) 2020/1058[9]. This Regulation introduces two standard scenarios (STSs) in Appendix 1 to the Annex to Regulation (EU) 2019/947, defining the conditions when UAS operators can start an operation after having submitted a declaration to the competent authority. Moreover, it introduces two new Parts in the Annex to Regulation (EU) 2019/945, including the technical requirements that UAS need to meet in order to be operated in the STSs, and establishing two new UAS classes — classes C5 and C6. The conditions to conduct the STSs are based on the in-service experience of some Member States and they have been validated through the application of the specific operations risk assessment (SORA).

f) The Commission adopted on 9 June 2020 the Delegated Regulation (EU) 2020/1234[10]. This Regulation establishes authority requirements for the certification and oversight of providers of apron management services, their organisation requirements, operations requirements for the apron, as well as training requirements for personnel involved in the provision of apron management services. This Regulation aims to complete the

[7] Commission Delegated Regulation (EU) 2020/723 of 4 March 2020 laying down detailed rules with regard to the acceptance of third-country certification of pilots and amending Regulation (EU) No 1178/2011 (OJ L 170, 2.6.2020, p.1).
[8] 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).
[9] Commission Delegated Regulation (EU) 2020/1058 of 27 April 2020 amending Delegated Regulation (EU) 2019/945 as regards the introduction of two new unmanned aircraft systems classes (OJ L 232, 20.7.2020, p.1).
[10] Commission Delegated Regulation (EU) 2020/1234 of 9 June 2020 amending Regulation (EU) No 139/2014 as regards the conditions and procedures for the declaration by organisations responsible for the provision of apron management services (OJ L 282, 31.08.2020, p.1).

requirements for aerodrome operations by integrating apron operations, and to allow apron management service providers to offer their services at different aerodromes and in different Member States without the need for multiple certificates.

g) The Commission adopted on 6 October 2020 the Delegated Regulation (EU) 2020/2034[11]. This Regulation establishes the common European risk classification scheme (ERCS) for the determination of the safety risk of an occurrence. The Regulation foresees two steps, one (step 1) related to the determination of the values of the two variables: severity and probability and the other (step 2) on the scoring of the safety risk within the ERCS matrix based on the two determined values of variables. Through this Regulation, the ERCS is expected to facilitate an integrated and harmonised approach to risk management across the European aviation system and therefore enable the competent authorities of Member States and the Agency to focus on safety improvement efforts in a harmonised manner as part of the European Plan for Aviation Safety referred to in Article 6 of Regulation (EU) 2018/1139 of the European Parliament and of the Council.

h) The Commission adopted 8 October 2020 the Delegated Regulation (EU) 2020/2148[12]. This Regulation is expected to mitigate the safety risks associated with runway safety, from an aerodrome's perspective, focusing mainly on the prevention of runway incursions and on runway surface condition assessment and reporting. It addresses issues such as ground collisions, runway configuration, foreign object debris related occurrences as well as runway pavements maintenance. This regulation introduces new organisation and operational requirements of Regulation (EU) No 139/2014[13], which are based on ICAO provisions contained mainly in Annexes 14 and 15 as well as safety recommendations addressed to EASA by certain Member States. Furthermore, this Regulation proposes amendments to the framework for the operation of vehicles at aerodromes, including the authorisation of drivers and the conformance of vehicles operating on the manoeuvring area with certain safety prerequisites, in order to ensure runway safety. Linked to this is also the proposal for a new requirement on communications, as well as a proposal for the control of pedestrians at the aerodrome. In addition, this Regulation includes all the necessary requirements to support the application of the new Global Reporting Format (GRF) of runway surface conditions, including changes to the contents of METAR and SNOWTAM forms and of the special

[11] Commission Delegated Regulation (EU) 2020/2034 of 6 October 2020 supplementing Regulation (EU) No 376/2014 of the European Parliament and of the Council as regards the common European risk classification scheme (OJ L 416, 11.12.2020, p.1).
[12] Commission delegated Regulation (EU) 2020/2148 of 8 October 2020 amending Regulation (EU) No 139/2014 as regards runway safety and aeronautical data (OJ L 428, 18.12.2020, p.10).
[13] 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).

air-report. The Regulation is expected to improve safety by reducing the number of runway-safety-related occurrences from an aerodrome's perspective, and improve harmonisation as a result of the introduction of new common requirements that do not currently exist. It ensures the alignment of the current EU aerodrome regulatory framework with the relevant aerodrome-related ICAO provisions of Annexes 14 and 15, PANS-ATM and PANS-Aerodromes.

i) The Commission adopted on 21 December 2020 the Delegated Regulation (EU) 2021/699[14]. This Regulation addresses safety risks related to ageing phenomena in the structures of large aeroplanes. These risks include fatigue of the basic type design, widespread fatigue damage (WFD), corrosion, fatigue of changes and repairs, and continued operation with unsafe levels of fatigue cracking. This Regulation is expected to ensure that Design Approval Holders (DAHs), or applicants for Type Certificates (TCs), Supplemental Type Certificates (STCs), design changes and repair approvals, will produce the necessary data, procedures, instructions and manuals related to ageing structure failures due to corrosion and fatigue and make them available to those who need to comply with them (operators). This Regulation is also expected to mitigate the risks linked to the uncertainty of the status of the instructions for continued airworthiness (ICA) and, therefore, to avoid leaving room for interpretation in the rules, leading to differences in the use of ICA and causing possible safety risks. To achieve this, this Regulation clarifies that the ICA are part of the type certificate (TC) and merges the requirements related to record keeping, manuals and ICA in the various subparts into a single requirement (in Subpart A). This Regulation is expected to improve the harmonisation of the ICA among the DAHs in relation to the identification, approval, formatting and availability of the ICA to the end users and to ensure that these safety risks are mitigated for both the existing and future fleets of large aeroplanes.

j) The Commission adopted on 7 April 2021 the Delegated Regulation (EU) 2021/1087[15] and the Delegated Regulation (EU) 2021/1088[16]. These two Regulations align the EU regulatory framework with the ICAO Standards and Recommended Practices (SARPs) contained in Annex 16 to the Chicago Convention. In February 2019 the ICAO Committee on Aviation Environmental Protection (CAEP) proposed improvements and updates to the existing noise, aircraft engine emissions, and aeroplane CO2 emissions SARPs, including new non-volatile particulate matter emissions regulatory levels for

[14] Commission Delegated Regulation (EU) 2021/699 of 21 December 2020 amending and correcting Regulation (EU) No 748/2012 as regards the instructions for continued airworthiness, the production of parts to be used during maintenance and the consideration of ageing aircraft aspects during certification, OJ L 145, 28.4.2021, p.1

15 Commission Delegated Regulation (EU) 2021/1087 of 7 April 2021 amending Regulation (EU) 2018/1139 of the European Parliament and of the Council, as regards updating the references to the provisions of the Chicago Convention, OJ L 236, 5.7.2021, p. 1

[16] Commission Delegated Regulation (EU) 2021/1088 of 7 April 2021 amending Regulation (EU) No 748/2012 as regards updating the references to the environmental protection requirements, OJ L 236, 5.7.2021, p. 3

aircraft engines. The ICAO Council adopted the final amendments on 11 March 2020[17]. Thus, these Regulations amend Article 9 'Essential requirements' of Regulation (EU) 2018/1139, Article 9 'Production organisations' of Commission Regulation (EU) No 748/2012 and its Annex I (Part 21). These Regulations are expected to ensure a high uniform level of environmental protection and to provide a level playing field for all actors in the aviation sector.

k) The Commission adopted on 10 December 2021 the Delegated Regulation (EU) 2022/201[18]. This Regulation establishes a safety management system (SMS) framework for design and production (Part 21) as well as maintenance organisations (Part-145), which are the remaining two domains for which ICAO Annex 19 has not been fully transposed yet into the EU regulatory framework. In addition, Annex II 'Essential requirements for airworthiness' to Regulation (EU) 2018/1139 explicitly calls for design, production and maintenance organisations to implement and maintain a management system (MS), including the management of safety risks, and aim for its continuous improvement, supported by the establishment of an occurrence-reporting system. By establishing such an MS framework, aviation safety will be enhanced through a) the establishment of safety policies and objectives associated with sufficient resources, b) the systematic identification of hazards and a risk management system; c) safety assurance systems, giving consideration to the safety performance of organisations; and d) safety promotion and communication. This Regulation is in line with the regulatory concept of MS established for other domains, such as Air Operations or Aerodromes, or for continuing airworthiness management organisations (Part-CAMO). By aligning the MS provisions across all aviation domains, it will be ensured that the organisations which have to comply with several MS requirements in different domains can implement a single MS, and that competent authorities that oversee different organisations in different domains can plan and organise their oversight activities on the basis of the same regulatory principles.

l) The Commission adopted on 14 December 2021 the Delegated Regulation (EU) 2022/208[19]. The objective of this Regulation is to modernise the EU aviation regulatory framework applicable to all-weather operations (AWOs) and flight crew training to ensure the highest level of safety while enabling efficiency gains based on the latest technological advancements. As regards AWOs, this Regulation sets the appropriate balance between performance-based and prescriptive principles depending on the type of air operations. The rules are not technology-dependent and may accommodate future changes. It addresses all relevant disciplines and update the AWO-relevant rules in the

[17] At the fifth meeting of its 219th Session.
[18] Commission Delegated Regulation (EU) 2022/201 of 10 December 2021 amending Regulation (EU) No 748/2012 as regards management systems and occurrence-reporting systems to be established by design and production organisations, as well as procedures applied by the Agency, and correcting that Regulation, OJ L 33, 15.2.2022, p. 7
[19] Commission Delegated Regulation (EU) 2022/208 of 14 December 2021 amending Regulation (EU) No 139/2014 as regards the requirements for all-weather operations, OJ L 35, 17.2.2022, p. 1

domains of air operations, aircrew and aerodromes, in a coordinated manner. As regards flight crew training, this Regulation improves the existing mandatory crew training and checking requirements for air operators. It addresses initial and recurrent training and checking, the conditions for the operation on more than one aircraft type or variant, the acceptance of previous training and checking by non-commercial operators, and multi-pilot operations of single-pilot certified helicopters. This Regulation is expected to increase safety in a cost-effective way and maintain safety, reduce the regulatory burden, increase cost-effectiveness, improve harmonisation regarding AWOs (e.g. with the Federal Aviation Administration), and transpose as much as feasible the Standards and Recommended Practices (SARPs) of ICAO.

Prior to the adoption of all the delegated acts referred to above, the Commission consulted experts from the Member States and the representatives of the European Parliament.

NOTE: *Commission Delegated Regulation (EU) 2022/1358 of 2 June 2022 amending Commission Regulation (EU) No 748/2012 as regards the implementation of more proportionate requirements for aircraft used for sport and recreational aviation (Part 21 Light)* was adopted on 02/06/2022 and is currently under scrutiny by the European Parliament and the Council for 2 months. This Regulation provides a lighter approach to the certification of general aviation aircraft, and introduces the possibility for a declaration of design compliance to be submitted as an alternative to certification. It also provides for the possibility to demonstrate design and production capabilities through a declaration, instead of an approval, and for certain low-risk production activities the demonstration of production capabilities is not required at all. It is expected that the barriers to the entry into the European regulatory system will be lowered while maintaining aviation safety and that it will permit the easier development of new aircraft types.

4. CONCLUSION AND OUTLOOK FOR THE FUTURE

The Commission has exercised its empowerment to adopt all these Delegated Regulations with the objective to improve air safety accross almost every operational domain mandated by Regulation (EU) 2018/1139.

The Commission invites the European Parliament and the Council to take note of this Report.

In the future, the Commission plans to use its delegated powers for further implementation of Regulation (EU) 2018/1139.