

## COMMISSION DECISION

of 5 December 2012

**on access rights to the European Central Repository of Safety Recommendations and their responses established by Article 18(5) of Regulation (EU) No 996/2010 of the European Parliament and of the Council on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC**

(Text with EEA relevance)

(2012/780/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC<sup>(1)</sup>, and in particular Article 18(5) thereof,

Whereas:

- (1) Pursuant to Article 18(5) of Regulation (EU) No 996/2010 the European Commission has developed the European Safety Recommendation database, which became operational in February 2012.
- (2) Pursuant to Article 18(5) of Regulation (EU) No 996/2010, the database mentioned in paragraph 1 includes all safety recommendations issued by Safety Investigation Authorities in accordance with Article 17(1) and (2) as well as the responses. It also includes safety recommendations Safety Investigation Authorities received from third countries.
- (3) Pursuant to Article 7(3)(g) of Regulation (EU) No 996/2010, Safety Investigation Authorities have full access to the database mentioned in paragraph 1.
- (4) Pursuant to Article 7(3)(a) of Regulation (EU) No 996/2010, the Commission asked for the opinion of the European Network of Civil Aviation Safety Investigation Authorities.
- (5) Safety recommendations are implicitly public as they often conclude safety investigation reports, which have a public status according to Regulation (EU) No 996/2010. In addition, safety recommendations can also be released through letters, interim statements/

reports or safety studies. In all these cases, having them publicly available represents strong incentives for their addressees to reply and to improve the safety of the aviation system.

- (6) The status of responses to safety recommendations is not defined in Regulation (EU) No 996/2010,

HAS ADOPTED THIS DECISION:

*Article 1***Subject matter**

This Decision lays down measures concerning access rights to the European database of safety recommendations set up in accordance with Article 18(5) of Regulation (EU) No 996/2010 on the investigation and prevention of accidents and incidents in civil aviation which contains the safety recommendations issued or received by Safety Investigation Authorities as well as the responses to the safety recommendations they issued.

*Article 2***Status of safety recommendations**

All safety recommendations contained in the database mentioned in Article 1 shall be made available to the general public through a public website.

*Article 3***Status of responses to safety recommendations**

1. The access to safety recommendations responses shall be limited to addressees of safety recommendations.
2. Any addressee of a safety recommendation may request access to the responses contained in the database mentioned in Article 1, in particular the Member States Civil Aviation Authorities and the European Aviation Safety Agency. Safety Investigation Authorities outside the European Union may also request access to the responses contained in the database mentioned in Article 1.
3. Addressees of safety recommendations shall address their request to the European Commission.

<sup>(1)</sup> OJ L 295, 12.11.2010, p. 35.

4. The European Commission shall assess the request and decide on a case-by-case basis whether the request is justified and practicable.

*Article 4*

**Use of database information**

Safety recommendations and their responses shall not be used to apportion blame or liability.

*Article 5*

**Status of civil aviation occurrences linked to safety recommendations**

Access to civil aviation occurrences linked to safety recommendations mentioned in Article 1 is defined in Commission Regulation (EC) No 1321/2007 of 12 November 2007 laying down implementing rules for the integration into a central repository of information on civil aviation occurrences exchanged in accordance with Directive 2003/42/EC of the European Parliament and of the Council <sup>(1)</sup> and Commission Regulation (EC) No 1330/2007 of 24 September 2007 laying down implementing rules for the dissemination to interested parties of information on civil aviation occurrences referred to in Article 7(2) of Directive 2003/42/EC of the European Parliament and of the Council <sup>(2)</sup>.

*Article 6*

**Access to documents and protection of personal data**

This Decision shall apply without prejudice to Regulation (EC) No 1049/2001 of the European Parliament and of the Council

of 30 May 2001 regarding public access to European Parliament, Council and Commission documents <sup>(3)</sup>.

This Decision shall apply in accordance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data <sup>(4)</sup> and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data <sup>(5)</sup>.

*Article 7*

**Entry into force**

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels, 5 December 2012.

*For the Commission*  
*The President*

José Manuel BARROSO

<sup>(1)</sup> OJ L 294, 13.11.2007, p. 3.

<sup>(2)</sup> OJ L 295, 14.11.2007, p. 7.

<sup>(3)</sup> OJ L 145, 31.5.2001, p. 43.

<sup>(4)</sup> OJ L 281, 23.11.1995, p. 31.

<sup>(5)</sup> OJ L 8, 12.1.2001, p. 1.