

Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (Text with EEA relevance)

CHAPTER II

COMMUNITY LIST

Article 3

Establishment of the Community List

1 With a view to reinforcing air safety, a list of air carriers that are subject to an operating ban in the Community (hereinafter referred to as the Community list) shall be established. Each Member State shall enforce, within its territory, the operating bans included in the Community list in respect of the air carriers that are the subject of those bans.

2 The common criteria for imposing an operating ban on an air carrier, which shall be based on the relevant safety standards, are set out in the Annex (and are hereinafter referred to as the common criteria). The Commission may modify the Annex, in particular in order to take account of scientific and technical developments, in accordance with the procedure referred to in Article 15(3).

3 For the purpose of establishing the Community list for the first time, each Member State shall, by 16 February 2006, communicate to the Commission the identity of the air carriers that are subject to an operating ban in its territory, together with the reasons which led to the adoption of such bans and any other relevant information. The Commission shall inform the other Member States of these operating bans.

4 Within one month of receiving the information communicated by the Member States, the Commission shall, on the basis of the common criteria, decide on the imposition of an operating ban on the air carriers concerned and shall establish the Community list of air carriers on which it has imposed an operating ban, in accordance with the procedure referred to in Article 15(3).

Article 4

Updating of the Community list

- 1 The Community list shall be updated:
 - a to impose an operating ban on an air carrier and include this air carrier on the Community list, on the basis of the common criteria;
 - b to remove an air carrier from the Community list, if the safety deficiency or deficiencies that gave rise to the inclusion of the air carrier on the Community list have been remedied and there is no other reason, on the basis of the common criteria, to maintain the air carrier on the Community list;

- c to modify the conditions of an operating ban imposed on an air carrier which is included on the Community list.

2 The Commission, acting on its own initiative or at the request of a Member State, shall decide to update the Community list as soon as this is required under paragraph 1, in accordance with the procedure referred to in Article 15(3) and on the basis of the common criteria. At least every three months, the Commission shall verify whether it is appropriate to update the Community list.

3 Each Member State and the European Aviation Safety Agency shall communicate to the Commission all information that may be relevant in the context of updating the Community list. The Commission shall forward all relevant information to the other Member States.

Article 5

Provisional measures for updating of the Community list

1 Where it is evident that the continued operation of an air carrier in the Community is likely to constitute a serious risk to safety, and that such a risk has not been resolved satisfactorily by means of urgent measures taken by the Member State(s) concerned in accordance with Article 6(1), the Commission may provisionally adopt the measures referred to in Article 4(1) (a) or (c), in accordance with the procedure referred to in Article 15(2).

2 As soon as possible, and at most within 10 working days, the Commission shall submit the matter to the Committee referred to in Article 15(1) and shall decide to confirm, amend, revoke or extend the measure which it has adopted under paragraph 1 of this Article, acting in accordance with the procedure referred to in Article 15(3).

Article 6

Exceptional measures

1 In cases of urgency, this Regulation shall not preclude a Member State from reacting to an unforeseen safety problem by imposing an immediate operating ban in respect of its own territory, taking into account the common criteria.

2 A decision by the Commission not to include an air carrier in the Community list in accordance with the procedure referred to in Article 3(4) or 4(2) shall not preclude a Member State from imposing or maintaining an operating ban on the air carrier concerned in view of a safety problem specifically affecting that Member State.

3 In either of the situations referred to in paragraphs 1 and 2, the Member State concerned shall immediately inform the Commission, which shall inform the other Member States. In the situation referred to in paragraph 1, the Member State concerned shall without delay submit a request to the Commission to update the Community list, in accordance with Article 4(2).

Article 7

Rights of defence

The Commission shall ensure that, when it adopts decisions as referred to in Articles 3(4), 4(2) and 5, the air carrier concerned is given the opportunity of being heard, taking into account the need, in some cases, for an urgency procedure.

Article 8

Implementing measures

1 The Commission, acting in accordance with the procedure referred to in Article 15(3), shall, where appropriate, adopt implementing measures in order to lay down detailed rules in respect of the procedures referred to in this Chapter.

2 In deciding these measures the Commission shall take due account of the need for decisions to be taken swiftly on updating the Community list and shall, where appropriate, provide the possibility of an urgency procedure.

Article 9

Publication

1 The Community list and any modification thereto shall be published immediately in the *Official Journal of the European Union*.

2 The Commission and the Member States shall take the measures necessary to facilitate public access to the Community list, as most recently updated, in particular through the use of the Internet.

3 Air carriage contractors, national civil aviation authorities, the European Aviation Safety Agency and airports in the territory of the Member States shall bring the Community list to the attention of passengers, both via their websites and, where relevant, in their premises.