

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 (Text with EEA relevance)

## CHAPTER IV

### JOINT CERTIFICATION, OVERSIGHT AND ENFORCEMENT SYSTEM

#### *Article 62*

#### **Certification, oversight and enforcement**

1 The Commission, the Agency and the Member States shall cooperate within a single European aviation safety system to ensure compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof.

2 To ensure compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof, the Agency and the national competent authorities shall:

- a receive and assess the applications made to them, and, where applicable, issue or renew certificates and receive declarations made to them, in accordance with Chapter III;
- b perform oversight of holders of certificates, of natural and legal persons that made declarations, and of products, parts, equipment, ATM/ANS systems and ATM/ANS constituents, flight simulation training devices and aerodromes subject to this Regulation;
- c conduct the necessary investigations, inspections, including ramp inspections, audits and other monitoring activities to identify possible infringements by legal or natural persons subject to this Regulation of the requirements set out in this Regulation and in the delegated and implementing acts adopted on the basis thereof;
- d take all necessary enforcement measures, including amending, limiting, suspending or revoking certificates issued by them, grounding of aircraft and imposing penalties, in order to terminate identified infringements;
- e prohibit, limit or make subject to certain conditions the activities referred to in Chapter III, in the interest of safety;
- f ensure an appropriate level of qualification of their staff involved in certification, oversight and enforcement tasks, including by providing adequate training.

3 Member States shall ensure that their national competent authorities are independent when taking technical decisions on certification, oversight and enforcement and exercise their tasks impartially, and transparently and are organised, staffed and managed accordingly. Member States shall also ensure that their national competent authorities have the necessary resources and capabilities to carry out the tasks assigned to them under this Regulation in an efficient and timely manner.

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4 The responsibilities for the tasks related to certification, oversight and enforcement referred to in paragraph 2 shall be determined in accordance with this paragraph.

The Agency shall be responsible where those tasks have been attributed to it pursuant to Articles 77 to 82 and where those tasks have been allocated to it pursuant to Articles 64 and 65.

However, where a Member State grants an exemption in accordance with Article 41(6), point (a) of Article 80(1) shall no longer apply and that Member State shall be responsible for oversight and enforcement in respect of the provider of ATM/ANS concerned as provided for in that exemption.

The national competent authority of the Member State where the aerodrome is located shall be responsible for those tasks with respect to the aerodrome certificate referred to in Article 34(1) and the certificate for an aerodrome operator referred to in Article 37(1).

That national competent authority shall also be responsible for the oversight and enforcement tasks with respect to organisations responsible for the provision of groundhandling services or AMS at that aerodrome.

In all other cases, the national competent authority of the Member State where the natural or legal person applying for the certificate or making the declaration has its principal place of business or, if that person has no principal place of business, where it has its place of residence or place of establishment, shall be responsible for those tasks, unless the effective performance of the tasks related to certification, oversight, and enforcement requires their allocation to a national competent authority of a different Member State in accordance with the detailed rules referred to in point (d) of paragraph 14.

However, where the implementing acts referred to in paragraph 15 so provide:

- a aero-medical examiners, aero-medical centres and general medical practitioners shall be responsible for issuing the pilot medical certificates referred to in Article 21(1) and the air traffic controller medical certificates referred to in Article 49(1);
- b cabin crew training organisations that have been issued an approval in accordance with Article 24 and aircraft operators that have been issued a certificate in accordance with Article 30 shall be responsible for issuing the cabin crew attestations referred to in Article 22.

5 Member States may decide that, by way of derogation from paragraph 4, their national competent authorities shall be jointly responsible for the tasks related to certification, oversight and enforcement in respect of an aircraft operator involved in commercial air transport where both of the following conditions are met:

- a such joint responsibility was provided for in an agreement concluded between those Member States before 1 January 1992;
- b those Member States have ensured that their national competent authorities effectively carry out those tasks in compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof.

The Member States concerned shall, by 12 March 2019 at the latest, notify the Commission and the Agency of that joint-responsibility decision and provide them with all relevant information, in particular the agreement referred to in point (a) and the measures taken to ensure that those tasks are carried out effectively in accordance with point (b).

Where the Commission, after consulting the Agency, considers that the conditions specified in the first subparagraph have not been met, the Commission shall adopt implementing acts setting out its decision to that effect. Once the Commission has notified such implementing acts to the Member States concerned, those Member States shall without delay modify or revoke their joint-responsibility decision and shall inform the Commission and the Agency accordingly.

The Agency shall include in the repository referred to in Article 74 all of the decisions of the Commission and of the Member States that have been notified pursuant to this paragraph.

6 The oversight conducted by the Agency and national competent authorities shall be continuous and based on priorities set in the light of the risks to civil aviation.

7 When conducting the ramp inspections referred to in point (c) of paragraph 2, the Agency shall cooperate with the national competent authority of the Member State in the territory of which the ramp inspection takes place.

8 The Agency shall manage and operate the tools and procedures necessary for the collection, exchange and analysis of safety-related information obtained from ramp inspections referred to in point (c) of paragraph 2.

9 In order to facilitate the effective exercise of their tasks related to certification, oversight and enforcement, the Commission, the Agency and national competent authorities, shall exchange relevant information, including on possible or identified infringements.

10 The Agency shall promote a common understanding and application of the requirements contained in this Regulation and in the delegated and implementing acts adopted on the basis thereof, inter alia, by developing the guidance material referred to in Article 76(3) in consultation with the national competent authorities.

11 Any legal or natural person subject to this Regulation may bring to the attention of the Agency any alleged differences in the application of the rules between the Member States. Where such differences seriously hamper the activities of those persons, or otherwise lead to substantial difficulties, the Agency and the national competent authorities of the Member States concerned shall cooperate to address, and where necessary, promptly eliminate those differences. Where those differences cannot be eliminated, the Agency shall present the matter to the Commission.

12 The Agency and the national competent authorities shall undertake the necessary and effective actions to increase and promote awareness of civil aviation safety and disseminate safety related information relevant for the prevention of accidents and incidents.

13 With regard to the tasks of the Agency related to certification, oversight and enforcement under this Regulation, the Commission is empowered to adopt delegated acts, in accordance with Article 128, laying down detailed rules concerning:

- a the conditions for conducting certification and for conducting the investigations, inspections, audits and other monitoring activities necessary to ensure effective oversight by the Agency of the natural and legal persons, products, parts, equipment, ATM/ANS systems and ATM/ANS constituents, flight simulation training devices and aerodromes subject to this Regulation;
- b the conditions for conducting ramp inspections by the Agency and for the grounding of aircraft when the aircraft, its operator or its aircrew do not comply with the requirements of this Regulation or with the delegated and implementing acts adopted on the basis thereof;

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- c the conditions in accordance with which the activities regulated by Chapter III may be prohibited, limited or subject to certain conditions in the interest of safety;
- d the conditions for issuing and disseminating mandatory information and recommendations by the Agency in accordance with Article 76(6), in order to ensure the safety of the activities regulated by Chapter III;
- e the conditions for issuing and disseminating mandatory information by the Agency, in accordance with Article 77, to ensure the continuing airworthiness and environmental compatibility of products, parts, non-installed equipment and equipment to control the aircraft remotely, and conditions for approval of alternative means of compliance to that mandatory information;
- f the conditions and procedures for the accreditation by the Agency of a qualified entity for the purpose of Article 69.

14 In order to ensure the uniform implementation of and compliance with paragraphs (2) to (9) of this Article, with regard to the tasks of the national competent authorities related to certification, oversight and enforcement under this Regulation, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:

- a the rules and procedures for conducting certification and for conducting the investigations, inspections, audits and other monitoring activities necessary to ensure effective oversight by the national competent authority of the natural and legal persons, products, parts, equipment, ATM/ANS systems and ATM/ANS constituents, flight simulation training devices and aerodromes subject to this Regulation;
- b the rules and procedures for conducting ramp inspections by the national competent authority and for the grounding of aircraft when the aircraft, its operator or its aircrew do not comply with the requirements of this Regulation or with the delegated and implementing acts adopted on the basis thereof;
- c the rules and procedures in accordance with which the activities regulated in Chapter III may be prohibited, limited or subject to certain conditions in the interest of safety;
- d in respect of paragraph 4, the rules and procedures for allocation of responsibilities between the national competent authorities, with a view to ensuring the effective performance of the tasks related to certification, oversight and enforcement;
- e the rules and procedures for the accreditation by the national competent authority of a qualified entity for the purpose of Article 69.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

15 In order to ensure the uniform implementation of and compliance with paragraphs (2) to (9) of this Article, with regard to the tasks of the Agency and national competent authorities related to certification, oversight and enforcement under this Regulation, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:

- a the rules and procedures for the gathering, exchange and dissemination of relevant information between the Commission, the Agency and the national competent authorities for the effective performance of their tasks related to certification, oversight and enforcement, including information on possible or identified infringements;
- b the rules and procedures for the qualifications of the Agency and national competent authorities staff involved in certification, oversight and enforcement tasks and of the organisations involved in their training;

- c the rules and procedures for the administration and management systems of the Agency and national competent authorities relating to the exercise of the certification, oversight and enforcement tasks;
- d in respect of paragraph 4 of this Article, the rules and procedures for allocation of responsibilities to aero-medical examiners and aero-medical centres for the purpose of issuing pilot medical certificates and air traffic controller medical certificates, as well as the conditions under which general medical practitioners are to be given such responsibilities, with a view to ensuring effective performance of the tasks related to medical certification of pilots and air traffic controllers;
- e in respect of paragraph 4 of this Article, the rules and procedures for allocation of responsibilities to cabin crew training organisations and aircraft operators for the purpose of issuing cabin crew attestations, with a view to ensuring effective performance of the tasks related to certification of cabin crew.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

### *Article 63*

#### **Pool of European aviation inspectors**

1 The Agency shall establish, in cooperation with the national competent authorities, a mechanism for the voluntary pooling and sharing of inspectors and other personnel with expertise relevant for the exercise of the certification and oversight tasks under this Regulation.

To that end, the Agency shall, in cooperation with the national competent authorities, define the required qualification and experience profiles on the basis of which those authorities and the Agency shall designate, subject to availability, candidates for participation in the pooling and sharing mechanism in the role of European aviation inspectors.

2 The Agency and each national competent authority may request assistance from the pool of European aviation inspectors in the performance of oversight and certification activities. The Agency shall coordinate the responses to those requests and develop appropriate procedures for that purpose, in consultation with the national competent authorities.

3 The European aviation inspectors shall perform their oversight and certification activities under the control, instructions and responsibility of the Agency or the national competent authority that requested their assistance.

4 The costs of the assistance provided by the European aviation inspectors shall be covered by the authority that requested the assistance.

That authority may decide to finance that assistance by means of fees invoiced and collected on the basis of the rules established in accordance with point (c) of paragraph 6, from the legal or natural person which was subject to the certification and oversight activities performed by those European aviation inspectors.

In that case, that authority shall transfer the amount collected to the authority that provided the assistance.

5 Any statements, records and reports by European aviation inspectors carrying out their activities in accordance with this Article shall be, in all aspects, treated as equivalent to those of the national inspectors and shall constitute admissible evidence in administrative or judicial proceedings.

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- 6 As regards the mechanism for the pooling and sharing referred to in paragraph 1 of this Article, the Commission may adopt implementing acts laying down detailed rules with regard to:
- a the rules and procedures in accordance with which the Agency and the national competent authorities request, receive or provide assistance through that mechanism;
  - b the rules and procedures for the authorisations of and the detailed rules applicable to the European aviation inspectors when they are providing such assistance;
  - c the rules and procedures for the fixing and collection of the fees referred to in paragraph 4 of this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

#### *Article 64*

### **Reallocation of responsibility upon request of Member States**

1 A Member State may request the Agency to carry out the tasks related to certification, oversight and enforcement referred to in Article 62(2) with respect to any or all natural and legal persons, aircraft, safety related aerodrome equipment, ATM/ANS systems and ATM/ANS constituents, flight simulation training devices and aerodromes for which the Member State concerned is responsible under this Regulation and the delegated and implementing acts adopted on the basis thereof.

Once the Agency accepts such a request, it shall become the competent authority responsible for the tasks covered by that request and the requesting Member State shall be relieved of the responsibility for those tasks.

In relation to the Agency's exercise of that responsibility for those tasks, Chapters IV and V shall apply.

2 A Member State may request another Member State to carry out the tasks related to certification, oversight and enforcement referred to in Article 62(2) with respect to any or all natural and legal persons, aircraft, safety related aerodrome equipment, ATM/ANS systems and ATM/ANS constituents, flight simulation training devices and aerodromes for which the Member State concerned is responsible under this Regulation and under the delegated and implementing acts adopted on the basis thereof.

Once the Member State accepts such a request, it shall become responsible for the tasks covered by that request and the requesting Member State shall be relieved of the responsibility for those tasks.

In relation to the exercise of the responsibility for the tasks reallocated in accordance with this paragraph, Chapters II and IV and Articles 131 and 132, as well as the applicable provisions of the national law of the accepting Member State, shall apply.

3 As regards enforcement, the Member State which accepted the request, or the Agency, shall only be responsible for matters related to the procedures leading up to the adoption of decisions by the national competent authority of that Member State, or of the Agency, and pertaining to the certification and oversight tasks reallocated to it in accordance with this Article, as well as to the application of those decisions. For all other matters regarding enforcement, the allocation of responsibilities provided for in this Regulation and in the delegated and implementing acts adopted on the basis thereof shall remain unaffected.

4 The Agency or a Member State, as applicable, shall only accept the request referred to in paragraph 1 or 2 when the Agency or the national competent authority of the Member State concerned considers that it has the necessary resources and it can effectively exercise the responsibility for the tasks concerned.

5 When a Member State wishes to apply paragraph 1 or 2, it shall conclude with the Agency or with the other Member State, as applicable, detailed arrangements concerning the reallocation of responsibility for the tasks in question. The natural and legal persons concerned by the reallocation and, in case of the reallocation referred to in paragraph 2, the Agency, shall be consulted on those detailed arrangements before they are finalised. Those detailed arrangements shall, at least, identify clearly the tasks which are being reallocated, and shall include the legal, practical and administrative arrangements necessary to ensure an orderly transfer and the effective and uninterrupted continuation of the performance of the tasks concerned in compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof, as well as a seamless continuation of the activities undertaken by the natural and legal persons concerned. The detailed arrangements shall also include provisions on the transfer of relevant technical records and documentation.

The Agency and the Member State or Member States concerned, as applicable, shall ensure that the reallocation of the responsibility for the tasks is carried out in accordance with those detailed arrangements.

6 The Agency shall make available, through the repository established under Article 74, a list of Member States that have applied paragraphs 1 and 2 of this Article. That list shall clearly identify the reallocated tasks and the competent authority responsible for the tasks after their reallocation.

The Agency shall take account of the reallocation of the responsibility for the tasks when conducting inspections and other monitoring activities in accordance with Article 85.

7 The reallocations of responsibility under this Article shall be without prejudice to the rights and obligations of the Member States under the Chicago Convention.

When a Member State reallocates, in accordance with this Article, the responsibility for the tasks which are attributed to it by the Chicago Convention, it shall notify ICAO about the fact that the Agency or another Member State carries out on its behalf the functions and duties ascribed to it under the Chicago Convention.

8 A Member State which has reallocated the responsibility for the tasks to the Agency or another Member State pursuant to paragraph 1 or 2, may, at any time, decide to revoke the reallocation. In that case, paragraphs 4, 5, 6 and the second subparagraph of paragraph 7 shall apply *mutatis mutandis*.

#### Article 65

### **Reallocation of responsibility upon request of organisations operating in more than one Member State**

1 An organisation may request that the Agency acts as the competent authority responsible for the tasks related to certification, oversight and enforcement with respect to that organisation, by way of derogation from Article 62(4), where that organisation holds a certificate or is eligible to apply for a certificate in accordance with Chapter III to the national competent authority from one Member State, but it has or it intends to have a substantial proportion of facilities and personnel covered by that certificate located in one or more other Member States.

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Such a request may also be made by two or more organisations forming part of a single business grouping, each of which has a principal place of business in a different Member State and each of which holds a certificate or is eligible to apply for a certificate in accordance with Chapter III for the same type of aviation activity.

2 The request referred to in paragraph 1 shall be sent by the organisations concerned to the Agency and the national competent authorities of the Member States in which they have their principal places of business.

Upon receipt of that request, the Agency and the national competent authorities concerned shall, without undue delay, consult each other and, if needed, seek supplementary views from the organisations that made the request. In those consultations consideration shall be given by the Agency and by the national competent authorities to making use of inspectors and of other personnel available to the national competent authorities concerned in the case of an agreement on reallocation.

If, following those consultations, the Agency or a national competent authority concerned considers that the request would have an adverse effect on its own ability to effectively conduct certification, oversight and enforcement tasks under this Regulation and under the delegated and implementing acts adopted on the basis thereof, or would otherwise adversely impact the effective functioning of the authority it shall, within a maximum period of 180 days from the date of receipt of that request, inform the organisations concerned that it considers that the request would have such adverse effect, providing its justification. That letter of information shall also be communicated to the other party. In that case, the request shall be considered to have been dismissed.

3 Unless the request has been dismissed in accordance with paragraph 2, the Agency and the national competent authorities concerned shall conclude detailed arrangements concerning the reallocation of responsibility for the tasks concerned. The organisations that requested the Agency to act as their competent authority shall be consulted on those detailed arrangements before they are finalised. Those detailed arrangements shall, at least, identify clearly the tasks which are being reallocated, and shall include the legal, practical and administrative arrangements necessary for ensuring an orderly transfer, and the effective and uninterrupted continuation of the performance of the tasks concerned, in compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof, as well as a seamless continuation of the activities undertaken by the organisations concerned. The detailed arrangements shall also include provisions on the transfer of relevant technical records and documentation.

The Agency and the Member State or Member States concerned, as applicable, shall ensure that the reallocation of the responsibility for the tasks is carried out in accordance with those detailed arrangements. When implementing those arrangements, the Agency shall use to the extent possible the inspectors and other personnel available in the Member States.

4 Upon the conclusion of the detailed arrangements pursuant to paragraph 3, the Agency shall become the competent authority responsible for the tasks covered by the request and the Member State or Member States concerned shall be relieved of the responsibility for those tasks. In relation to the exercise of the responsibility for the reallocated tasks by the Agency, Chapters IV and V shall apply.

5 Article 64(3), (6) and (7) shall apply *mutatis mutandis* to any reallocation of responsibility for the tasks pursuant to this Article.



6 Organisations in respect of which the Agency acts as a competent authority pursuant to this Article may request that the Member States where those organisations have their principal places of business resume responsibility for the tasks related to certification, oversight and enforcement with respect to those organisations. In that case, Articles 64(4) to (7) shall apply *mutatis mutandis*.

## Article 66

### Oversight support mechanism

- 1 Where all of the following conditions have been met:
- a the results of inspections and other monitoring activities conducted by the Agency in accordance with Article 85 indicate a serious and persisting inability of a Member State to effectively perform certain or all of its certification, oversight and enforcement tasks under this Regulation;
  - b the Commission has requested the Member State concerned to remedy the deficiencies identified in accordance with point (a);
  - c the Member State has not remedied the deficiencies in a satisfactory manner and the resulting situation endangers civil aviation safety,

the Member State concerned and the Agency shall, at the request of the Commission, establish jointly a temporary technical assistance programme with the aim of remedying the identified deficiencies and assisting the Member State concerned to restore its ability to perform the certification, oversight and enforcement tasks covered by this Regulation by the end of the support phase. That technical assistance programme shall include, in particular, the timeline of the programme, the planning and exercise of certification, oversight and enforcement tasks in cases where deficiencies have been identified, the training and qualifications of relevant inspectors and personnel, and the organisation of the work of the national competent authority of the Member State concerned, where it has direct influence on the identified deficiencies.

2 The Member State concerned shall be responsible for the implementation of the technical assistance programme to remedy the identified deficiencies. For that purpose, the Member State concerned shall cooperate with the Agency when implementing that technical assistance programme, including by issuing all necessary instructions to the national competent authority and providing all material facilities necessary for the successful conduct of the assistance programme.

During the implementation of the technical assistance programme, the Member State concerned shall remain responsible for the certification, oversight and enforcement tasks, in accordance with Article 62(2). The Agency shall bear its own costs when providing assistance to the Member State concerned.

When implementing the technical assistance programme, the Member State concerned shall, if appropriate, given the nature of the deficiencies, make use of the pool of European aviation inspectors established under Article 63, of the qualified entities under Article 69, and of the training possibilities envisaged under Article 92.

3 The Agency shall provide updates to the Commission and the other Member States on the progress made in the implementation of the technical assistance programme.

4 The Member State concerned shall make all possible efforts to restore its ability to perform certification, oversight and enforcement tasks under this Regulation. If the Member State concerned recognises that the technical support programme cannot be implemented as

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planned, it shall inform the Commission thereof and shall either reallocate its responsibilities for certification, oversight and enforcement tasks to the Agency or to another Member State in accordance with Article 64 or take other measures to resolve the deficiencies. The scope of the reallocation shall be limited to what is strictly necessary in order to address the deficiencies identified. The Agency shall include in the repository established under Article 74 the information about the tasks that have been reallocated and shall make that information public.

5 This Article shall be without prejudice to the application of other measures, including Article 67 of this Regulation and Regulation (EC) No 2111/2005.

### *Article 67*

#### **Validity and recognition of certificates and declarations**

1 Certificates issued by the Agency or the national competent authorities, and declarations made by natural and legal persons in accordance with this Regulation and with the delegated and implementing acts adopted on the basis thereof shall be subject exclusively to the rules, conditions and procedures laid down in this Regulation and national administrative requirements and shall be valid and recognised in all Member States, without further requirements or evaluation.

2 If the Commission considers that a legal or a natural person to which a certificate has been issued or which has made a declaration no longer complies with the applicable requirements of this Regulation or of the delegated and implementing acts adopted on the basis thereof, the Commission shall, based on a recommendation from the Agency, require the Member State responsible for the oversight of that person to take appropriate corrective action and safeguard measures, including limitation or suspension of the certificate. The Commission shall adopt implementing acts containing that decision. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 127(2). On duly justified imperative grounds of urgency relating to aviation safety, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 127(4).

From the date at which that implementing act takes effect, the certificate or declaration concerned shall, by way of derogation from paragraph 1, no longer be valid and recognised in all Member States.

3 When the Commission considers that the Member State referred to in paragraph 2 has taken appropriate corrective action and safeguard measures, it shall decide, based on a recommendation from the Agency, that the certificate or declaration concerned shall again be valid and recognised in all Member States, in accordance with paragraph 1.

The Commission shall adopt implementing acts containing that decision. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 127(2). On duly justified imperative grounds of urgency relating to aviation safety, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 127(4).

4 This Article shall be without prejudice to Regulation (EC) No 2111/2005.

## Article 68

### Acceptance of third-country certification

1 The Agency and the national competent authorities may either issue the certificates provided for in this Regulation, and in the delegated and implementing acts adopted on the basis thereof, on the basis of certificates issued in accordance with the laws of a third country, or accept certificates and other relevant documentation attesting compliance with civil aviation rules which were issued in accordance with the laws of a third country, where such possibility is provided for in:

- a international agreements concerning the recognition of certificates concluded between the Union and a third country;
- b the delegated acts adopted on the basis of paragraph 3; or
- c in the absence of an international agreement and of a relevant delegated act as referred to in points (a) and (b) of this paragraph respectively, and without prejudice to Article 140(6) of this Regulation, an agreement concerning the recognition of certificates concluded between a Member State and a third country before the entry into force of Regulation (EC) No 1592/2002 that has been notified to the Commission and the other Member States in accordance with point (a) of Article 9(2) of Regulation (EC) No 1592/2002 or point (a) of Article 12(2) of Regulation (EC) No 216/2008.

2 In order to achieve and maintain confidence in the regulatory systems of third countries, the Agency shall be authorised to conduct the necessary technical assessments and evaluations of the laws of third countries and of foreign aviation authorities. For the purpose of conducting such assessments and evaluations, the Agency may conclude working arrangements in accordance with Article 90(2).

3 The Commission is empowered to adopt delegated acts in accordance with Article 128 laying down detailed rules with regard to the acceptance of certificates and other documentation attesting to compliance with civil aviation rules issued in accordance with the laws of a third country and ensuring an equivalent level of safety to that provided for in this Regulation, including the conditions and procedures for achieving and maintaining the necessary confidence in regulatory systems of third countries.

## Article 69

### Qualified entities

1 The Agency and the national competent authorities may allocate their tasks related to certification and oversight under this Regulation to qualified entities that have been accredited in accordance with the delegated acts referred to in point (f) of Article 62(13) or the implementing acts referred to in point (e) of the first subparagraph of Article 62(14) as being compliant with the criteria set out in Annex VI.

Without prejudice to paragraph 4, the Agency and the national competent authorities which make use of the qualified entities shall establish a system for that accreditation and for the assessment of the compliance of qualified entities with those criteria, both at the moment of accreditation and continuously thereafter.

A qualified entity shall be accredited either individually by the Agency or by a national competent authority, or jointly by two or more national competent authorities or by the Agency and one or more national competent authorities.

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2 The Agency or the national competent authority or authorities, as applicable, shall amend, limit, suspend or revoke the accreditation of a qualified entity that they granted, when that entity no longer complies with the criteria set out in Annex VI.

3 The Agency or the competent national authority or authorities accrediting a qualified entity may grant it a privilege to issue, renew, amend, limit, suspend and revoke certificates, or to receive declarations, on behalf of the Agency or the national competent authority. That privilege shall be included in the scope of the accreditation.

4 The Agency and the national competent authorities shall recognise, without further technical requirements or evaluation, accreditations of qualified entities granted by the Agency and by other national competent authorities in accordance with paragraph 1.

However, the Agency and the national competent authorities shall not be obliged to use the full scope of the accreditation granted by another national competent authority or the Agency, nor to use the full scope of the privileges granted to that qualified entity by another national competent authority or the Agency in accordance with paragraph 3.

5 The Agency and the national competent authorities shall exchange information about the accreditations granted, limited, suspended and revoked, including information about the scope of the accreditation and the privileges granted. The Agency shall make that information available through the repository referred to in Article 74.

#### *Article 70*

### **Safeguard provisions**

1 This Regulation and the delegated acts and implementing acts adopted on the basis thereof shall not prevent a Member State from reacting immediately to a problem relating to civil aviation safety, where all of the following conditions have been met:

- a the problem involves a serious risk to aviation safety and immediate action by that Member State is required to address it;
- b it is not possible for the Member State to adequately address the problem in compliance with this Regulation and with the delegated acts and implementing acts adopted on the basis thereof;
- c the action taken is proportionate to the severity of the problem.

In such a case, the Member State concerned shall immediately notify the Commission, the Agency and the other Member States, through the repository established under Article 74, of the measures taken, their duration and the reasons for taking them.

2 Once the Agency receives the notification referred to in paragraph 1 of this Article, it shall, without undue delay, assess whether the conditions set out in paragraph 1 of this Article have been met. The results of that assessment shall be included by the Agency in the repository established under Article 74.

Where the Agency considers that those conditions have been met, it shall assess, without undue delay, whether it is able to address the problem identified by the Member State by taking the decisions referred to in the first subparagraph of Article 76(4), thereby obviating the need for the measures taken by the Member State. Where the Agency considers that it can address the problem in that manner, it shall take the appropriate decision to that effect and inform the Member States thereof through the repository established under Article 74. Where it considers that the problem cannot be addressed in that manner, it shall recommend to the Commission that it amends any delegated acts

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or implementing acts adopted on the basis of this Regulation in the way that it considers necessary in light of the application of paragraph 1 of this Article.

Where the Agency considers that those conditions have not been met it shall issue, without undue delay, a recommendation to the Commission as regards the outcome of that assessment. The Agency shall include that recommendation in the repository established under Article 74.

3 The Commission shall assess, taking account of the Agency recommendation referred to in the third subparagraph of paragraph 2, whether the conditions set out in paragraph 1 have been met.

4 Where it considers that those conditions have not been met or where it departs from the outcome of the assessment by the Agency, the Commission shall adopt, without undue delay, implementing acts containing its decision and setting out its findings to that effect. Those implementing acts shall be published in the *Official Journal of the European Union* and shall be entered by the Agency into the repository established under Article 74.

Upon notification of an implementing act confirming that those conditions have not been met, the Member State concerned shall immediately revoke the measure taken in accordance with paragraph 1.

#### *Article 71*

### **Flexibility provisions**

1 Member States may grant exemptions to any natural or legal person subject to this Regulation from the requirements applicable to that person pursuant to Chapter III, other than the essential requirements laid down in that Chapter, or to the delegated or implementing acts adopted on basis of that Chapter in the event of urgent unforeseeable circumstances affecting those persons or urgent operational needs of those persons, where all of the following conditions have been met:

- a it is not possible to adequately address those circumstances or needs in compliance with the applicable requirements;
- b safety, environmental protection and compliance with the applicable essential requirements are ensured, where necessary through the application of mitigation measures;
- c the Member State has mitigated any possible distortion of market conditions as a consequence of the granting of the exemption as far as possible; and
- d the exemption is limited in scope and duration to the extent strictly necessary and it is applied in a non-discriminatory manner.

In such a case, the Member State concerned shall immediately notify the Commission, the Agency and the other Member States, through the repository established under Article 74, of the exemption granted, its duration, the reason for granting it and, where applicable, the necessary mitigation measures applied.

2 Where the exemption referred to in paragraph 1 of this Article was granted for a duration that exceeds eight consecutive months or where a Member State has granted the same exemption repetitively and its total duration exceeds eight months, the Agency shall assess whether the conditions set out in paragraph 1 of this Article have been met and shall issue, within three months from the date of the reception of the last notification referred to in paragraph 1 of this Article, a recommendation to the Commission as regards the outcome of that assessment. The Agency shall include that recommendation in the repository established under Article 74.

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In that case, the Commission shall, taking account of that recommendation, assess whether those conditions have been met. Where it considers that those conditions have not been met or where it departs from the outcome of the assessment by the Agency, the Commission shall adopt, within 3 months from the date of the reception of that recommendation, an implementing act containing its decision to that effect. Those implementing acts shall be published in the *Official Journal of the European Union* and entered by the Agency into the repository established under Article 74.

Upon notification of an implementing act confirming that those conditions have not been met, the Member State concerned shall immediately revoke the exemption granted pursuant to paragraph 1 of this Article.

3 Where a Member State considers that the compliance with the applicable essential requirements set out in the Annexes can be demonstrated by other means than those laid down in the delegated and implementing acts adopted on the basis of this Regulation, and that those means present significant advantages in terms of civil aviation safety or of efficiency for the persons subject to this Regulation or for the authorities concerned, it may submit to the Commission and the Agency, through the repository established under Article 74, a reasoned request for amendment of the delegated or implementing act concerned so as to allow for the use of those other means.

In that case, the Agency shall, without undue delay, issue a recommendation to the Commission on whether the Member State's request fulfils the conditions set out in the first subparagraph. Where necessary as a result of the application of this paragraph, the Commission shall, without delay and taking account of that recommendation, consider amending the delegated or implementing act concerned.

## Article 72

### Information gathering, exchange and analysis

1 The Commission, the Agency and the national competent authorities shall exchange any information available to them in the context of the application of this Regulation and of the delegated and implementing acts adopted on the basis thereof, which is relevant to the other parties for the performance of their tasks under this Regulation. The competent authorities of the Member States entrusted with the investigation of civil aviation accidents and incidents, or with the analysis of occurrences, shall also be entitled to access to that information for the performance of their tasks. That information may also be disseminated to interested parties in accordance with the implementing acts referred to in paragraph 5.

2 Without prejudice to Regulations (EU) No 996/2010 and (EU) No 376/2014, the Agency shall coordinate at Union level the gathering, exchange and analysis of information on matters falling within the scope of this Regulation, including operational flight data. For that purpose, the Agency may enter into arrangements on information gathering, exchange and analysis with natural and legal persons subject to this Regulation or with associations of such persons. When gathering, exchanging and analysing the information and entering into and giving effect to such arrangements, the Agency shall limit the administrative burden on the persons concerned as much as possible and ensure appropriate protection of the information, including of any personal data contained therein, in accordance with paragraph 6 of this Article and with Articles 73(1), 123 and 132 of this Regulation.

3 The Agency shall, upon request, assist the Commission in the management of the European Central Repository referred to in Article 8 of Regulation (EU) No 376/2014.

4 Upon a request by the Commission, the Agency shall analyse urgent or important issues falling within the scope of this Regulation. Where relevant, the national competent authorities shall cooperate with the Agency for the purpose of conducting such analysis.

5 The Commission shall adopt implementing acts laying down detailed rules for the exchange of the information referred to in paragraph 1 of this Article between the Commission, the Agency and the national competent authorities and the dissemination of such information to interested parties. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

The detailed rules referred to in the first subparagraph of this paragraph shall take account of the need to:

- a provide natural and legal persons subject to this Regulation with the information they need to ensure compliance with and further the objectives set out in Article 1;
- b limit the dissemination and use of information to what is strictly necessary for achieving the objectives set out in Article 1;
- c prevent making the information available or prevent the information being used in order to attribute blame or liability, without prejudice to applicable national criminal law.

6 The Commission, the Agency and the national competent authorities, as well as the natural and legal persons and the associations of those persons referred to in paragraph 2 of this Article, shall, in accordance with Union and national law, take the necessary measures to ensure appropriate confidentiality of the information received by them pursuant to this Article. This paragraph is without prejudice to any stricter confidentiality requirements provided for in Regulations (EU) No 996/2010, (EU) No 376/2014, or other Union legislation.

7 In order to inform the general public of the overall level of civil aviation safety in the Union, the Agency shall annually, and, when special circumstances apply, publish a safety review. That review shall contain an analysis of the general safety situation in wording that is simple and easy to understand and it shall indicate whether there are increased safety risks.

### *Article 73*

#### **Protection of the source of information**

1 When the information referred to in Article 72(1) and (2) has been provided to a national competent authority, the source of such information shall be protected in accordance with the applicable Union and national law on the protection of the source of information relating to civil aviation safety. Where such information is provided by a natural person to the Commission or the Agency, the source of such information shall not be revealed and personal details of that source shall not be recorded together with the information provided.

2 Without prejudice to applicable national criminal law, Member States shall refrain from instituting proceedings in respect of unpremeditated or inadvertent infringements of the law which come to their attention only because the information about those infringements have been provided pursuant to this Regulation and to the delegated and implementing acts adopted on the basis thereof.

The first subparagraph shall not apply in cases of wilful misconduct or in cases where there has been a manifest, severe and serious disregard of an obvious risk and profound failure of professional responsibility to take such care as is evidently required in the circumstances, causing foreseeable damage to a person or property, or which seriously compromises the level of civil aviation safety.

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3 Member States may retain or adopt measures to strengthen the protection of sources of information referred to in paragraph 1.

4 Employees and contracted personnel who provide information in application of this Regulation and of the delegated and implementing acts adopted on the basis thereof shall not be subject to any prejudice by their employer or by the organisation for which they provide services, on the basis of the information provided.

The first subparagraph shall not apply in cases of wilful misconduct or in cases where there has been a manifest, severe and serious disregard of an obvious risk and profound failure of professional responsibility to take such care as is evidently required in the circumstances, causing foreseeable damage to a person or property, or which seriously compromises aviation safety.

5 This Article shall not prevent the Commission, the Agency and the Member States from taking any action necessary for maintaining or improving civil aviation safety.

6 This Article shall be without prejudice to the rules on protection of the source of information set out in Regulations (EU) No 996/2010 and (EU) No 376/2014.

#### *Article 74*

### **Repository of information**

1 The Agency shall, in cooperation with the Commission and the national competent authorities, establish and manage a repository of information necessary to ensure effective cooperation between the Agency and the national competent authorities concerning the exercise of their tasks relating to certification, oversight and enforcement under this Regulation.

That repository shall include information about:

- a certificates issued and declarations received by the Agency and by national competent authorities in accordance with Chapter III and Articles 64 and 65 and Articles 77 to 82;
- b certificates issued and declarations received by qualified entities on behalf of the Agency and national competent authorities in accordance with Article 69(3);
- c accreditations granted by the Agency and by national competent authorities to qualified entities in accordance with Article 69, including information about the scope of the accreditation and the privileges granted;
- d the measures taken by Member States pursuant to Article 2(6) and (7), as well as the corresponding Commission decisions;
- e Member State decisions taken pursuant to Article 2(8);
- f Member States decisions taken pursuant to Article 41(5);
- g the reallocation by Member States of the responsibility for tasks to the Agency or to another Member State in accordance with Articles 64 and 65, including details about the reallocated tasks;
- h Commission decisions taken in accordance with Article 67;
- i notifications by national competent authorities concerning individual flight time specification schemes submitted to the Agency on the basis of the delegated acts adopted in accordance with point (b) of Article 32(1), and the corresponding Agency opinions issued in accordance with Article 76(7);
- j notifications by Member States concerning the measures taken to react immediately to a problem relating to civil aviation safety and concerning the granting of exemptions,



- and the corresponding Agency recommendations and Commission decisions, pursuant to Articles 70(1) and 71(1);
- k requests by Member States concerning other means of compliance with the essential requirements, and the corresponding Agency recommendations pursuant to Article 71(3);
  - l notifications by the Agency and the corresponding Commission decisions pursuant to Article 76(4);
  - m information which is available to the national competent authorities and related to the activities by aircraft involved in operations other than commercial air transport;
  - n information related to the implementation of international standards and recommended practices, referred to in Article 90(4);
  - o Member State and Commission decisions that have been notified pursuant to Article 62(5), including information about the tasks which are being exercised jointly;
  - p exemptions granted by Member States pursuant to Article 41(6) and the corresponding Commission decisions;
  - q measures of the Agency concerning flights above conflict zones applied in accordance with Article 88(3);
  - r other information that may be necessary for ensuring effective cooperation between the Agency and the national competent authorities concerning the exercise of their tasks related to certification, oversight and enforcement under this Regulation.
- 2 The national competent authorities, aeromedical examiners and aeromedical centres shall also exchange through the repository information concerning medical fitness of pilots. Any such information which constitutes personal data, including health data, shall be limited to what is strictly necessary for ensuring effective certification and oversight of pilots in accordance with Article 21.
- 3 Any personal data, including health data, included in the repository shall be stored for no longer than is necessary for the purposes for which the data were collected or for which they are further processed.
- 4 Member States and the Agency shall ensure that data subjects whose personal data are processed in the repository are informed, *ex ante*, thereof.
- 5 Member States and the Agency may restrict the scope of the rights of the data subject to access, rectify and erase personal data included in the repository to the extent that it is strictly necessary to safeguard civil aviation safety, in accordance with Article 23 of Regulation (EU) 2016/679 and Article 20 of Regulation (EC) No 45/2001.
- 6 Without prejudice to paragraph 7, the Commission, the Agency, national competent authorities and any competent authority of the Member States entrusted with the investigation of civil aviation accidents and incidents shall, for the exercise of their tasks, have on-line and secure access to all information included in the repository.
- Where relevant, the Commission and the Agency may disseminate certain information included in the repository, other than information referred to in paragraph 2, to interested parties or make it publicly available.
- The Agency shall in any case make publicly available information concerning:
- a any certificates issued and any declarations received in accordance with Article 2(4);
  - b any decision of the Commission or of a Member State that has been notified to it pursuant to Article 2(6) and (7);

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- c any decision of a Member State that has been notified to it pursuant to the second subparagraph of Article 2(11).

7 The information included in the repository shall be protected from unauthorised access by appropriate tools and protocols. The access to and disclosure of the information referred to in paragraph 2 shall be restricted to persons who are responsible for the certification and oversight of the medical fitness of pilots, for the purpose of fulfilling their tasks under this Regulation. Limited access to this information may also be granted to other authorised persons for the purpose of ensuring the proper functioning of the repository, in particular for its technical maintenance. Persons authorised to have access to information which contains personal data shall receive prior training on the applicable personal data protection legislation and related safeguards.

8 The Commission shall adopt implementing acts laying down the necessary rules for the functioning and management of the repository and detailed requirements with regard to:

- a the technical aspects of the establishment and maintenance of the repository;
- b the classification of the information to be transmitted by the Commission, the Agency and the national competent authorities for inclusion in the repository, including the form and manner of transmitting such information;
- c regular and standardised updates of the information included in the repository;
- d the detailed arrangements for the dissemination and publication of certain information included in the repository in accordance with paragraph 6 of this Article;
- e the classification of information concerning the medical fitness of pilots to be transmitted by the national competent authorities, aero-medical examiners and aeromedical centres, for inclusion in the repository, including the form and manner of transmitting such information;
- f the detailed arrangements for protecting the information included in the repository from unauthorised access, restricting access to the information and protecting any personal data included in the repository in accordance with the applicable Union law on the protection of personal data, in particular against accidental or unlawful destruction, loss, alteration, or disclosure;
- g the maximum storage period allowed with regard to the personal data included in the repository, including the information concerning the medical fitness of pilots which constitutes personal data;
- h the detailed conditions in accordance with which Member States and the Agency may restrict the rights of the data subject to access, rectify and erase personal data included in the repository, for the purpose of paragraph 5 of this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

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