

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)

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)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

Having regard to the opinion of the Committee of the Regions⁽²⁾,

Acting in accordance with the ordinary legislative procedure⁽³⁾,

Whereas:

- (1) A high and uniform level of civil aviation safety should be ensured at all times by the adoption of common safety rules and by measures ensuring that any goods, persons and organisations involved in civil aviation activity in the Union comply with such rules.
- (2) In addition, a high and uniform level of environmental protection should be ensured at all times by measures ensuring that any goods, persons and organisations involved in civil aviation activity in the Union comply with relevant Union law, and with international standards and recommended practices.
- (3) In addition, third-country aircraft that are operated into, within or out of the territory where the relevant provisions of the Treaty on European Union ('TEU') and the Treaty

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on the Functioning of the European Union ('TFEU') (the 'Treaties') apply should be subject to appropriate oversight at Union level within the limits set by the Convention on International Civil Aviation, signed in Chicago on 7 December 1944 (the 'Chicago Convention'), to which all Member States are parties.

- (4) It would not be appropriate to subject all aircraft to common rules. In particular, in light of their limited risk to civil aviation safety, aircraft that are of simple design or operate mainly on a local basis, and those which are home-built or particularly rare or only exist in a small number, should remain under the regulatory control of the Member States, without any obligation under this Regulation on other Member States to recognise such national arrangements. However, in order to facilitate the development of national rules for aircraft falling outside the scope of this Regulation, the European Union Aviation Safety Agency ('the Agency') can adopt guidance material for that purpose.
- (5) However, provision should be made for the possibility to apply certain provisions under this Regulation to certain types of aircraft which are otherwise excluded from the scope of this Regulation, especially those which are produced in an industrial manner and which could benefit from free circulation within the Union. Therefore, organisations involved in the design of such aircraft should be allowed to apply for a type certificate to the Agency or, if applicable, to make a declaration to the Agency in respect of an aircraft type which is to be put on the market by such organisations.
- (6) This Regulation should provide for a number of new tools that should support the implementation of simple and proportionate rules for sport and recreational aviation. The measures taken in accordance with this Regulation to regulate this segment of the aviation sector should be proportionate, cost-efficient, flexible and based on existing best practices in the Member States. Those measures should be developed in a timely manner, in close cooperation with the Member States and should avoid creating unnecessary administrative and financial burden for the manufacturers and operators.
- (7) It would not be appropriate to subject all aerodromes to common rules. Aerodromes which are not open to public use or aerodromes which do not serve commercial air transport or aerodromes without paved instrument runways of more than 800 metres and which do not exclusively serve helicopters using instrument approach or departure procedures should remain under the regulatory control of the Member States, without any obligation under this Regulation on other Member States to recognise such national arrangements.
- (8) Member States should be allowed to exempt from this Regulation aerodromes with low volumes of traffic, provided that the aerodromes concerned meet the minimum common safety objectives laid down in the relevant essential requirements set out in this Regulation. When a Member State grants such exemptions, those exemptions should also apply to the equipment used at the aerodrome concerned and to the providers of groundhandling services and apron management services ('AMS') operating at the exempted aerodromes. Exemptions granted by Member States to aerodromes before the entry into force of this Regulation should remain valid, and information about those exemptions should be made available to the public.

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- (9) Aerodromes that are controlled and operated by the military, as well as air traffic management and air navigation services ('ATM/ANS') that are provided or made available by the military, should be excluded from the scope of this Regulation. However, Member States should ensure, in accordance with their national law, that such aerodromes, when opened to the public, and such ATM/ANS when serving air traffic to which Regulation (EC) No 549/2004 of the European Parliament and of the Council⁽⁴⁾ applies, offer a level of safety and interoperability with civil systems that is as effective as that resulting from the application of the essential requirements for aerodromes and ATM/ANS set out in this Regulation.
- (10) Where Member States consider it preferable, in particular with a view to achieving safety, interoperability or efficiency gains, to apply, instead of their national law, this Regulation to aircraft carrying out military, customs, police, search and rescue, firefighting, border control and coastguard or similar activities and services undertaken in the public interest, they should be allowed to do so. Member States making use of this possibility should cooperate with the Agency, in particular by providing all the information necessary for confirming that the aircraft and activities concerned comply with the relevant provisions of this Regulation.
- (11) In order to take into account the interests and views of their aeronautical industry and aircraft operators, Member States should be allowed to exempt from this Regulation the design, production, maintenance and operation activities which are performed in respect of certain small aircraft, other than unmanned aircraft, unless, in respect of those aircraft, a certificate in accordance with this Regulation or with Regulation (EC) No 216/2008 of the European Parliament and of the Council⁽⁵⁾ has been issued, or has been deemed to have been issued, or a declaration has been made in accordance with this Regulation. Such exemptions should not create any obligation under this Regulation for other Member States to recognise such national arrangements. However, such exemptions should not prevent an organisation with a principal place of business in the territory of the Member State which has granted that exemption from deciding to conduct its design and production activities in respect of aircraft covered by that decision in accordance with this Regulation and with the delegated and implementing acts adopted on the basis thereof.
- (12) The measures taken in accordance with this Regulation to regulate civil aviation in the Union, and the delegated and implementing acts adopted on the basis thereof, should correspond and be proportionate to the nature and risks associated with the different types of aircraft, operations and activities they address. Such measures should also, in as far as possible, be formulated in a manner which focuses on objectives to be achieved, while allowing different means of achieving those objectives, and should also foster a systemic approach to civil aviation, taking into account interdependencies between safety and other technical domains of aviation regulation, including cyber security. This should contribute to a more cost-efficient achievement of required safety levels and to the stimulation of technical and operational innovation. Use should be made of recognised industry standards and practices, where it has been found that they ensure compliance with the essential requirements set out in this Regulation.

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- (13) Application of sound safety management principles is essential for continuous improvement of civil aviation safety in the Union, anticipating emerging safety risks, and making best use of limited technical resources. It is therefore necessary to establish a common framework for planning and implementing safety improvement actions. To that end, a European Plan for Aviation Safety and a European Aviation Safety Programme should be drawn up at Union level. Each Member State should also draw up a State Safety Programme in accordance with the requirements contained in Annex 19 to the Chicago Convention. That Programme should be accompanied by a plan describing the actions to be taken by the Member State to mitigate the identified safety risks.
- (14) In accordance with Annex 19 to the Chicago Convention, Member States are to establish an acceptable level of safety performance in relation to the aviation activities under their responsibility. In order to assist the Member States in meeting this requirement in a coordinated manner, the European Plan for Aviation Safety should lay down a level of safety performance for the Union in respect to the different categories of aviation activities. That level of safety performance should not have a binding character but should rather express the ambition of the Union and of the Member States with regard to civil aviation safety.
- (15) The Chicago Convention provides for minimum standards to ensure the safety of civil aviation and environmental protection relating thereto. The Union's essential requirements and further rules for their implementation established in this Regulation should ensure that Member States fulfil, in a uniform manner, the obligations laid down in the Chicago Convention, including those vis-à-vis third countries. Where Union rules differ from the minimum standards established by the Chicago Convention, the obligations of Member States to notify the International Civil Aviation Organization accordingly are not affected.
- (16) In line with the international standards and recommended practices set by the Chicago Convention, essential requirements applicable to aeronautical products, parts, non-installed equipment, aerodromes and the provision of ATM/ANS should be established. Furthermore, essential requirements applicable to persons and organisations involved in the operation of aircraft, the operation of aerodromes and in the provision of ATM/ANS, and essential requirements applicable to persons and products involved in the training and medical examination of aircrew and air traffic controllers should also be established.
- (17) It is important that personnel used by ATM/ANS providers, such as Air Traffic Safety Electronics Personnel ('ATSEP') are appropriately qualified and trained to perform their duties. ATM/ANS providers should also implement training and checking programmes, taking into account the different types of safety-related tasks performed by their personnel. The implementing acts adopted under this Regulation and concerning responsibilities of ATM/ANS providers should lay down further detailed harmonised rules for such personnel, including ATSEP to ensure the necessary level of safety.
- (18) The essential requirements concerning environmental compatibility of the design of aeronautical products should address, where necessary, both aircraft noise and

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emissions to protect the environment and human health from harmful effects of those products. They should correspond to the requirements which have been established in this regard at international level, as laid down in the Chicago Convention. In order to ensure full consistency, it is appropriate to refer in this Regulation to the relevant provisions of that Convention. However, products, parts and non-installed equipment should be made subject to the essential requirements for environmental compatibility laid down in Annex III to this Regulation to the extent that the provisions of the Chicago Convention do not contain environmental protection requirements. As regards those products, parts and non-installed equipment, provision should also be made for the possibility of laying down detailed environmental protection requirements.

- (19) Essential requirements should also be laid down for the safe provision of groundhandling services and AMS.
- (20) In view of the increasing reliance of civil aviation on modern information and communication technologies essential requirements should be laid down to ensure the security of information used by the civil aviation sector.
- (21) The obligations of an aerodrome operator can be fulfilled directly by the aerodrome operator or, in some cases, by a third party. In such cases, the aerodrome operator should have arrangements in place with that third party to ensure compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof.
- (22) Essential requirements should be laid down concerning reporting and analysis of safety occurrences. The detailed rules adopted in order to ensure uniform implementation of, and compliance with, those essential requirements should be consistent with Regulation (EU) No 376/2014 of the European Parliament and of the Council⁽⁶⁾.
- (23) Aeronautical products, parts and non-installed equipment, aerodromes and their safety-related equipment, operators of aircraft and aerodromes, ATM/ANS systems and ATM/ANS constituents and ATM/ANS providers, as well as pilots, air traffic controllers and persons, products and organisations involved in their training and medical examination, should be certified or licensed once they have been found to comply with relevant essential requirements or, where relevant, the other requirements established in, or pursuant to, this Regulation. In order to facilitate the process of certification, the necessary detailed rules for the issuance of those certificates and, where relevant, the declarations to be made to this effect, should be adopted, taking into account the objectives of this Regulation and the nature and risk of the particular activity concerned.
- (24) Cabin crew involved in commercial air transport should be subject to certification and, as a result of that certification, should be issued with an attestation. In order to ensure uniform rules for the issuing of that attestation, implementing powers should be conferred on the Commission to establish detailed rules and procedures for the qualification of cabin crew members. It should also be possible for the Commission in those implementing acts, taking into account the nature and risk of the activity concerned, to require that cabin crew involved in other types of operations be subject to certification and hold an attestation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁽⁷⁾.

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- (25) The possibility should be given to the organisations involved in the design and production of aeronautical products, parts, and non-installed equipment to declare the compliance of the design of products, parts and non-installed equipment with the relevant industry standards, where it is considered that this will ensure an acceptable level of safety. That possibility should be limited to products used in sport and recreational aviation, and under appropriate limitations and conditions to ensure safety.
- (26) Since unmanned aircraft also operate within the airspace alongside manned aircraft, this Regulation should cover unmanned aircraft, regardless of their operating mass. Technologies for unmanned aircraft now make possible a wide range of operations and those operations should be subject to rules that are proportionate to the risk of the particular operation or type of operations.
- (27) In order to implement a risk-based approach and the principle of proportionality, a degree of flexibility should be provided for the Member States as regards unmanned aircraft operations, taking into account various local characteristics within individual Member States, such as population density, while ensuring an adequate level of safety.
- (28) The rules regarding unmanned aircraft should contribute to achieving compliance with relevant rights guaranteed under Union law, and in particular the right to respect for private and family life, set out in Article 7 of the Charter of Fundamental Rights of the European Union, and with the right to protection of personal data, set out in Article 8 of that Charter and in Article 16 TFEU, and regulated by Regulation (EU) 2016/679 of the European Parliament and of the Council⁽⁸⁾.
- (29) The essential requirements applicable to unmanned aircraft and their engines, propellers, parts and non-installed equipment should also cover matters relating to electromagnetic compatibility and the radio spectrum, in order to ensure that they do not cause harmful interference, that they use the radio spectrum effectively and that they support the efficient use of the radio spectrum. However, many types of aviation equipment are not necessarily intended specifically for use in either unmanned aircraft or in manned aircraft but could rather be used in both. Therefore, those requirements relating to electromagnetic compatibility and the radio spectrum should only apply from the moment that, and in as far as, the design of the unmanned aircraft and of their engines, propellers, parts and non-installed equipment are subject to certification in accordance with this Regulation. The reason for this is to ensure that the regime applicable to such aviation equipment is aligned with the regime applicable to other aircraft and their engines, propellers, parts and non-installed equipment in respect of which such certification is also required under this Regulation. In terms of content, in order to ensure consistency, those requirements should be equivalent to those in Directive 2014/30/EU of the European Parliament and of the Council⁽⁹⁾ and Directive 2014/53/EU of the European Parliament and of the Council⁽¹⁰⁾.
- (30) For some types of unmanned aircraft, the application of the provisions of this Regulation related to registration, certification, identification, oversight and enforcement, as well as of the provisions regarding the Agency is not necessary in order to reach adequate levels of safety. Market surveillance mechanisms provided by Union product harmonisation legislation should be made applicable to those cases.

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- (31) In view of the risks that unmanned aircraft can present for safety, privacy, protection of personal data, security or the environment, requirements should be laid down concerning the registration of unmanned aircraft and of operators of unmanned aircraft. It is also necessary to establish digital, harmonised and interoperable national registration systems in which information, including the same basic data, about unmanned aircraft and operators of unmanned aircraft registered in accordance with this Regulation and the implementing acts adopted on the basis thereof should be stored. Those national registration systems should comply with the applicable Union and national law on privacy and processing of personal data, and the information stored in those registration systems should be easily accessible.
- (32) The conditions, rules and procedures for situations in which the design, production, maintenance and operation of unmanned aircraft, as well as the personnel and organisations involved in those activities, should be subject to certification, should take into account the nature and risk of the type of operation concerned. Those conditions, rules and procedures should, in particular, take into account the type, scale, and complexity of the operation, including, where relevant, the size and type of the traffic handled by the responsible organisation or person; whether the operation is open to members of the public; the extent to which other air traffic or persons and property on the ground could be endangered by the operation; the purpose of the flight and type of airspace used; and the complexity and performance of the unmanned aircraft involved.
- (33) It should be possible to prohibit, limit or make subject to certain conditions the activities referred to in Chapter III of this Regulation where necessary in the interest of civil aviation safety. That possibility should be exercised in accordance with the delegated and implementing acts adopted by the Commission for that purpose. Member States have the possibility to take measures, in accordance with Union law, falling outside the scope of this Regulation, for reasons including public security and the protection of the right to privacy and protection of personal data.
- (34) Model aircraft are considered to be unmanned aircraft for the purposes of this Regulation and are used primarily for leisure activities. Delegated and implementing acts concerning unmanned aircraft, adopted on the basis of this Regulation, should take into account that such model aircraft have so far had a good safety record, especially those operated by members of model aircraft associations or clubs which have developed specific codes of conduct for such activities. In addition, when adopting those delegated and implementing acts, the Commission should take account of the need for a seamless transition from the different national systems to the new Union regulatory framework so that model aircraft can continue to operate as they do today, as well as take into account existing best practices in the Member States.
- (35) In order to achieve the objectives of this Regulation, the Commission, the Agency and the competent authorities of the Member States should, by sharing resources and working jointly, act as a single European aviation safety system. The Agency should actively promote a common certification and oversight culture and the sharing of best administrative practices including by facilitating personnel exchanges between competent authorities in order to contribute to the achievement of the objectives of this

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Regulation, taking into account feedback from stakeholders. The monitoring activities of the Agency with regard to the application of this Regulation by the Member States should also aim to reinforce the capacity of the competent authorities of the Member States to fulfil their obligations related to certification and oversight and at transferring knowledge between those authorities.

- (36) It is necessary to support Member States in performing their certification, oversight – and in particular cooperative and cross-border oversight – and enforcement tasks, by establishing an efficient framework for pooling and sharing of aviation inspectors and other specialists with relevant expertise. In this respect, and in order to facilitate such personnel exchanges between the national competent authorities, the Agency should be given a coordinating role.
- (37) The Agency and the national competent authorities should work in partnership in order to improve the detection of unsafe conditions and take remedial measures as appropriate. Member States should in particular be able to reallocate to each other or to the Agency the responsibilities under this Regulation related to certification, oversight and enforcement, especially where that is necessary for enhanced safety or more efficient use of resources. Such reallocation should be voluntary, should only take place where there is sufficient assurance that those tasks can be performed effectively and should, considering the close relationship between certification, oversight and enforcement, necessarily cover all those responsibilities in respect of the legal or natural person, aircraft, equipment, aerodrome, ATM/ANS system or ATM/ANS constituent concerned by the reallocation. The reallocation of responsibility should be subject to mutual consent, the possibility to revoke the reallocation and the conclusion of arrangements setting out the necessary details to ensure a smooth transition and the continued effective performance of the tasks concerned. When concluding those detailed arrangements, due account should be taken of the views and legitimate interests of the legal or natural persons concerned and, where applicable, of the views of the Agency.
- (38) Upon such reallocation of responsibility to another Member State, the national competent authority of the Member State which accepted the reallocation request should become the competent authority and should consequently have all powers and responsibilities in respect of the legal or natural persons concerned provided for in this Regulation, in the delegated and implementing acts adopted on the basis thereof and in the national law of the Member State which accepted the request. The reallocation in respect of enforcement should concern only decisions and measures related to tasks in the area of certification and oversight that were reallocated to the national competent authority of the Member State which accepted the request. Those decisions and measures should be subject to review by the national courts of the Member State which accepted the request in accordance with the national law of that Member State. It is possible that the Member State which accepted the request will be held liable for the performance of the tasks in question. All other enforcement responsibilities of the Member State which made the request should remain unaffected by the reallocation.

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- (39) The possibility to reallocate responsibility for the tasks related to certification, oversight and enforcement provided for in this Regulation to the Agency or another Member State should be without prejudice to the rights and obligations of the Member States under the Chicago Convention. Consequently, although such reallocation implies a transfer of responsibility to the Agency or to another Member State for the purposes of Union law, it does not affect the responsibility under the Chicago Convention of the Member State which made the request.
- (40) Since cooperation between the Agency and the national competent authorities is essential in order to ensure a high and uniform level of safety in the Union, where certification, oversight, and enforcement tasks are reallocated from national competent authorities to the Agency in respect of organisations that have a substantial proportion of facilities and personnel in more than one Member State, such reallocation should not endanger the sustainability of national competent authorities in terms of their knowledge, skills, resources and economic viability, should not generate forms of competition between the Agency and national competent authorities and should not affect the independence of the Agency when conducting standardisation inspections for the purpose of verifying the uniform implementation of this Regulation.
- (41) An oversight support mechanism should be established in situations where verified safety-related evidence coming from inspections and other monitoring activities conducted by the Agency indicates a serious and persisting inability of a Member State in effectively ensuring certain or all of its certification, oversight and enforcement tasks under this Regulation, and where such situations endanger civil aviation safety. In such cases, the Agency and the Member State concerned should, at the request of the Commission, establish a temporary technical assistance programme in order to assist the Member State concerned in resolving the identified deficiencies. Such a technical assistance programme might include, in particular, the training of inspectors and other relevant personnel, assistance in development of oversight documentation and procedures, as well as other practical and tangible support necessary to restore safety. When designing the technical assistance programme and during its implementation, the needs and views of the Agency and Member State concerned should be taken into account. However, if the Member State concerned recognises that the programme cannot be successfully implemented as planned, it should inform the Commission, and either reallocate responsibility for the certification, oversight and enforcement tasks to which the deficiencies pertain to the Agency or another Member State, or take other measures to resolve the deficiencies.
- (42) In order to achieve the main objectives of this Regulation, as well as objectives related to the free movement of goods, persons, services and capital, the certificates issued and declarations made in accordance with this Regulation and with the delegated and implementing acts adopted on the basis thereof should be valid and should be recognised, without further requirements or evaluation, in all Member States.
- (43) When issuing certificates pursuant to this Regulation, account might need to be taken of certificates, or other relevant documentation attesting compliance, issued in accordance with the laws of third countries. That should be done where the relevant international

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agreements concluded by the Union with third countries or the delegated acts adopted by the Commission pursuant to this Regulation so provide, and in accordance with those agreements or delegated acts.

- (44) In light of the rules on the acceptance of certificates and other relevant documentation attesting compliance, issued in accordance with the laws of third countries, for which this Regulation provides, any international agreements concluded between a Member State and a third country should be terminated or updated where such agreements are not compatible with those rules.
- (45) A degree of flexibility should be provided for with respect to the application of the rules set out in this Regulation or in the delegated and implementing acts adopted on the basis thereof, in order to allow Member States to take the necessary measures to react immediately to problems relating to civil aviation safety or to grant exemptions in the event of certain urgent unforeseeable circumstances or urgent operational needs, subject to appropriate conditions to ensure, in particular, proportionality, objective control and transparency. For reasons of proportionality, the Agency and the Commission should only assess the exemptions in question with a view to issuing a recommendation or taking a decision, respectively, where their duration exceeds the duration of one airline scheduling season, that is, eight months, without prejudice to the powers of the Commission under Article 258 TFEU. Where the Agency is the competent authority with respect to the issuing of certain certificates in accordance with this Regulation, it should also have the power to grant such exemptions, in the same situations and subject to the same conditions as those that apply with respect to the Member States. In this connection, provision should also be made for possible amendments, where appropriate, of the relevant rules as laid down in the delegated and implementing acts adopted on the basis of this Regulation, in particular so as to allow other means of compliance while still ensuring an acceptable level of civil aviation safety in the Union.
- (46) With a view to ensuring the proper application of this Regulation and having regard to the need to identify, assess and mitigate the risks for civil aviation safety, the Commission, the Agency and the national competent authorities should exchange any information available to them in the context of the application of this Regulation. For this purpose, the Agency should be allowed to organise a structured cooperation on gathering, exchange and analysis of relevant safety-related information using, where possible, existing information systems. To this end, it should be allowed to enter into the necessary arrangements with natural and legal persons subject to this Regulation or with associations of such persons. It should be clarified that, when carrying out any of its coordinating tasks relating to the gathering, exchange and analysis of information, the Agency remains bound by the restrictions regarding the Agency's access to information from recordings of cockpit voice or image recorders and of flight data recorders set out in Regulation (EU) No 996/2010 of the European Parliament and of the Council⁽¹¹⁾, and in particular point (d) of Article 8(2), point (g) of Article 14(1) and Article 14(2) thereof.
- (47) It is necessary to establish measures to ensure the appropriate protection of information gathered, exchanged and analysed under this Regulation by the Commission, the Agency and the national competent authorities, as well as to ensure the protection

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of the sources of such information. Those measures should not unduly interfere with the justice systems of the Member States. They should therefore be without prejudice to the applicable national material and procedural criminal laws, including the use of information as evidence. In addition, the rights of third parties to institute civil proceedings should not be affected by those measures and should be subject only to national law.

- (48) In order to facilitate the exchange of information between the Commission, the Agency and the Member States, including data, which is relevant for certification, oversight and enforcement activities, an electronic repository of such information should be established and managed by the Agency in cooperation with the Commission and the Member States.
- (49) Regulation (EU) 2016/679 applies to the processing of personal data carried out in application of this Regulation. Pursuant to that Regulation, Member States may provide for exemptions and restrictions in respect of some of the rights and obligations provided for therein, including as regards the processing of medical and health data. The processing of personal data, and in particular medical and health data, included in the repository established under this Regulation, is necessary to enable effective cooperation between the Member States in certification and oversight of medical fitness of pilots. Exchange of personal data should be subject to strict conditions, and limited to what is absolutely necessary for achieving the objectives of this Regulation. Thus, the principles set out in Regulation (EU) 2016/679 should be supplemented or clarified in this Regulation, where necessary.
- (50) Regulation (EC) No 45/2001 of the European Parliament and of the Council⁽¹²⁾ and in particular the provisions thereof concerning confidentiality and security of processing, apply to the processing of personal data by the Agency when carrying out its responsibilities in application of this Regulation and more specifically in the management of the repository established under this Regulation. Thus, the principles set out in Regulation (EC) No 45/2001 should be supplemented or clarified in this Regulation, where necessary.
- (51) The Agency has been established by Regulation (EC) No 1592/2002 of the European Parliament and of the Council⁽¹³⁾ within the Union's existing institutional structure and balance of powers, is independent in relation to technical matters and has legal, administrative and financial autonomy. The Agency has received further competences in accordance with Regulation (EC) No 216/2008. Certain adjustments should be made in its structure and functioning in order to better accommodate the new tasks conferred on it by this Regulation.
- (52) Under the institutional system of the Union, implementation of Union law is primarily the responsibility of the Member States. Certification, oversight and enforcement tasks required by this Regulation, and by the delegated and implementing acts adopted on the basis thereof, should therefore, in principle, be carried out at national level by one or more competent authorities of the Member States. In certain clearly defined cases, however, the Agency should also have the power to conduct those tasks. In those cases the Agency should also be allowed to take the necessary measures related to the

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operation of aircraft, the qualification of aircrew or the use of third-country aircraft, where this is the best means to ensure uniformity and facilitate the functioning of the internal market.

- (53) The Agency should provide the technical expertise to the Commission in the preparation of the necessary legislation and assist, where appropriate, the Member States and industry in its implementation. It should be able to issue certification specifications and guidance material, along with other detailed specifications and guidance material, and to make technical findings and issue certificates or register declarations, as required.
- (54) Global navigation satellite systems ('GNSS'), and in particular the Union Galileo programme, established by Regulation (EU) No 1285/2013 of the European Parliament and of the Council⁽¹⁴⁾, will play a pivotal role in the implementation of a European air traffic management system. In this regard, it should be clarified that services which augment signals emitted by satellites of core constellations of GNSS for the purpose of air navigation, such as those provided by the operator of the European Geostationary Navigation Overlay Service (EGNOS) and by other providers, should be considered to be ATM/ANS. The Agency should also have the power to develop the necessary technical specifications and to certify organisations providing pan-European ATM/ANS, such as service provider of EGNOS, to ensure a high, uniform level of safety, interoperability and operational efficiency.
- (55) Regulation (EC) No 2111/2005 of the European Parliament and of the Council⁽¹⁵⁾ imposes a duty on the Agency to communicate all information that could be relevant for the updating of the list of air carriers which, for safety reasons, are subject to an operating ban in the Union. The Agency should also assist the Commission in the implementation of that Regulation, by conducting the necessary evaluations of third country operators and authorities responsible for their oversight, and making appropriate recommendations to the Commission.
- (56) In order to ensure compliance with this Regulation, it should be possible to impose fines or periodic penalty payments, or both, on holders of certificates issued by the Agency and on undertakings that made declarations to the Agency, where they infringed the rules applicable to them pursuant to this Regulation. The Commission should impose such fines and periodic penalty payments on the recommendation of the Agency. In this regard, the Commission should, in light of the circumstances of each individual case, respond to such infringements in a proportionate and adequate manner, taking account of other possible measures such as the withdrawal of a certificate.
- (57) With a view to contributing to the uniform application of this Regulation, the Agency should be empowered to monitor such application by Member States, including by conducting inspections.
- (58) On the basis of its technical expertise, the Agency should assist the Commission in the definition of research policy and in the implementation of Union research programmes. It should be allowed to conduct research which is immediately needed and to participate in ad hoc research projects under the Union Framework Programme for Research and Innovation or other Union and non-Union private or public funding programmes.

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- (59) Having regard to the existing interdependencies between safety and security in civil aviation, the Agency should take part in the cooperation concerning the area of aviation security, including cyber-security. It should contribute its expertise to the implementation, by the Commission and by Member States, of Union rules in that area.
- (60) The Agency should, on request, assist the Member States and Commission in the field of international relations relating to matters covered by this Regulation, in particular as regards the harmonisation of rules and the mutual recognition of certificates. It should be entitled to establish the appropriate relations, through working arrangements, with the authorities of third countries and international organisations competent in matters covered by this Regulation, after consulting the Commission. In order to promote safety at the worldwide level, in light of the high standards applied within the Union, the Agency should be allowed to engage, within its field of competence, in *ad hoc* technical cooperation, research and assistance projects with third countries and international organisations. The Agency should also assist the Commission in the implementation of Union law in other technical domains of civil aviation regulation, such as security or the Single European Sky, where the Agency has the relevant expertise.
- (61) In order to promote best practices and a uniform implementation of Union aviation safety legislation, the Agency should be able to approve providers of aviation training and provide such training.
- (62) The Agency should be governed and operated in accordance with the principles of the Joint Statement of the European Parliament, the Council and the European Commission on decentralised agencies of 19 July 2012.
- (63) The Commission and the Member States should be represented within the Management Board of the Agency in order to effectively control its functions. That Management Board should be entrusted with the necessary powers in particular to appoint the Executive Director, and to adopt the consolidated annual activity report, the programming document, the annual budget, and the financial rules applicable to the Agency.
- (64) In the interests of transparency, interested parties should be given observer status within the Management Board of the Agency.
- (65) Public interest requires the Agency to base its safety-related action solely on independent expertise, strictly applying this Regulation and the delegated and implementing acts adopted on the basis thereof. To that end, safety-related decisions of the Agency should be made by its Executive Director, who should enjoy a high degree of flexibility in respect of obtaining advice and organising the internal functioning of the Agency.
- (66) It is necessary to ensure that parties affected by decisions made by the Agency have access to the necessary remedies, which should be suited to the special character of the field of aviation. Therefore, an appropriate appeal mechanism should be set up so that decisions of the Agency can be subject to appeal to a Board of Appeal, the decisions of which can be subject to action before the Court of Justice of the European Union in accordance with the TFEU.

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- (67) All decisions taken by the Commission under this Regulation are subject to review by the Court of Justice in accordance with the TFEU. The Court of Justice should, in accordance with Article 261 TFEU, be given unlimited jurisdiction in respect of decisions by which the Commission imposes fines or periodic penalty payments.
- (68) When the Agency develops draft rules of a general nature to be implemented by national authorities, Member States should be consulted. Furthermore, where such draft rules could have important social implications, stakeholders, including Union social partners, should be appropriately consulted by the Agency.
- (69) With a view to effectively carrying out its tasks under this Regulation, the Agency should cooperate, as necessary, with Union institutions, bodies, offices and agencies in areas where their activities affect technical aspects of civil aviation. In particular, the Agency should collaborate with the European Chemicals Agency established by Regulation (EC) No 1907/2006 of the European Parliament and of the Council⁽¹⁶⁾ in the exchange of information on the safety of chemical substances, their impact on aviation safety and related scientific and technical aspects. When consultation relating to military aspects is required, the Agency should consult, in addition to the Member States, the European Defence Agency established by Council Decision (CFSP) 2015/1835⁽¹⁷⁾ and military experts designated by the Member States.
- (70) It is necessary to provide the public with adequate information pertaining to the level of civil aviation safety and environmental protection relating thereto, taking into account Regulation (EC) No 1049/2001 of the European Parliament and of the Council⁽¹⁸⁾ and relevant national legislation.
- (71) In order to guarantee the full autonomy and independence of the Agency, it should be granted an autonomous budget principally funded from a contribution from the Union and from fees and charges paid by the users of the European aviation safety system. No financial contribution received by the Agency from Member States, third countries, or other entities or persons should compromise its independence and impartiality. The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the Union are concerned, while the auditing of accounts should be carried out by the European Court of Auditors. In order to enable the Agency to participate in all relevant future projects, it should be given the possibility to receive grants.
- (72) In order to ensure that the Agency can respond to demand for the activities it carries out, in particular as regards certification and activities related to a possible reallocation of responsibility from Member States, in an efficient and timely manner, while respecting sound financial management, the establishment plan should take into account the resources required to meet demands for certification and for other activities of the Agency in an efficient and timely manner, including those resulting from reallocation of responsibility. To this end, a set of indicators should be established to measure the Agency's workload and efficiency in relation to activities financed through fees and charges. Having regard to those indicators the Agency should adapt its staff planning and management of resources related to fees and charges so as to be able to adequately respond to such demand and to any fluctuations in revenue from fees and charges.

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- (73) It is necessary to establish appropriate measures to ensure the necessary protection of sensitive safety-related information.
- (74) The fees and charges levied by the Agency should be set in a transparent, fair, non-discriminatory and uniform manner. They should not jeopardise the competitiveness of the Union's industry concerned. Furthermore, they should be established on a basis which takes due account of the ability of the legal or natural persons concerned to pay, in particular regarding small and medium-sized enterprises.
- (75) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. The majority of those implementing powers, and in particular those relating to the laying down of detailed provisions concerning rules and procedures, should be exercised in accordance with Regulation (EU) No 182/2011.
- (76) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to corrective action and safeguard measures, imperative grounds of urgency so require.
- (77) In order to take into account technical, scientific, operational or safety needs, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending, or, if applicable, supplementing, the provisions on airworthiness related to design and production, flight time limitations, aerodrome operators, ATM/ANS systems and ATM/ANS constituents and the design, production and maintenance of unmanned aircraft and their engines, propellers, parts, non-installed equipment and equipment to control the aircraft remotely, as well as the provisions on personnel, including remote pilots, and organisations involved in those activities, third-country operators, on certain aspects of oversight and enforcement, on acceptance of third-country certification, on fines and periodic penalty payments, on the Board of Appeal and on the requirements set out in Annexes II to IX to this Regulation. In addition, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending the reference in this Regulation to the environmental protection requirements contained in Amendment 12 of Volume I, Amendment 9 of Volume II, and in the initial issue of Volume III, all as applicable on 1 January 2018, of Annex 16 to the Chicago Convention, in order to update them in light of subsequent amendments to Annex 16 to that Convention.
- (78) When adopting the delegated acts amending the Annexes II to IX to this Regulation, the Commission should take due account of the international standards and recommended practices, and in particular of the international standards set out in all of the Annexes to the Chicago Convention.
- (79) When adopting delegated acts under this Regulation, it is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁽¹⁹⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the

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- same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (80) ANS Providers should establish and implement contingency planning for a disruption of ATM services.
- (81) The involvement of European third countries should be pursued to ensure the improvement of civil aviation safety throughout Europe. European third countries that have concluded international agreements with the Union to adopt and apply the Union *acquis* in the field covered by this Regulation should be associated with the work of the Agency in accordance with rules and procedures set in the framework of those agreements.
- (82) This Regulation sets common rules in the field of civil aviation and maintains the establishment of the Agency. Regulation (EC) No 216/2008 should therefore be repealed.
- (83) Since the rules necessary for the interoperability of the European air traffic management network (EATMN) are either contained in this Regulation or will be contained in delegated or implementing acts adopted on the basis thereof, Regulation (EC) No 552/2004 of the European Parliament and of the Council⁽²⁰⁾ should be repealed. However, a certain period of time will be required before necessary delegated and implementing acts can be prepared, adopted and can start to apply.
The implementing rules adopted on the basis of Regulation (EC) No 552/2004 should therefore remain applicable for the time being, namely Commission Regulations (EC) No 1033/2006⁽²¹⁾, (EC) No 1032/2006⁽²²⁾, (EC) No 633/2007⁽²³⁾, (EC) No 262/2009⁽²⁴⁾, (EC) No 29/2009⁽²⁵⁾, (EU) No 73/2010⁽²⁶⁾ and Commission Implementing Regulations (EU) No 1206/2011⁽²⁷⁾, (EU) No 1207/2011⁽²⁸⁾, and (EU) No 1079/2012⁽²⁹⁾. Certain Articles of Regulation (EC) No 552/2004, and the Annexes thereto to which they refer, should therefore also continue to apply in respect of the subject matter covered, until the date of application of the implementing and delegated acts concerned.
- (84) Regulation (EC) No 216/2008 amends Council Regulation (EEC) No 3922/91⁽³⁰⁾ by deleting Annex III thereto with effect from the entry into force of the corresponding measures referred to in Article 8(5) of Regulation (EC) No 216/2008. Such measures still awaiting adoption concern flight time limitations and rest requirements with regard to air taxi, emergency medical services and single pilot commercial air transport operations by aeroplanes. The other provisions of Regulation (EEC) No 3922/91 have become obsolete. Regulation (EEC) No 3922/91 should therefore be repealed from the date of application of those measures still awaiting adoption. However, Regulation (EEC) No 3922/91 also establishes the Air Safety Committee, within the meaning of Regulation (EU) No 182/2011, and that committee also assists the Commission in the context of Regulation (EC) No 2111/2005. Regulation (EC) No 2111/2005 should therefore be amended so as to ensure that, for the purposes of that Regulation, that Committee continues to assist the Commission even after the repeal of Regulation (EEC) No 3922/91.
- (85) The changes brought about by this Regulation have an impact on the implementation of other Union legislation. Regulation (EC) No 1008/2008 of the European Parliament and

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of the Council⁽³¹⁾ and Regulations (EU) No 996/2010, (EU) No 376/2014 and (EC) No 2111/2005 should therefore be amended accordingly. In particular, it should be possible for the responsible safety investigation authorities to decide, taking into account the expected lessons to be drawn for the improvement of aviation safety, not to initiate a safety investigation when an accident or serious incident concerns an unmanned aircraft for which a certificate or declaration is not required under this Regulation and no person has been fatally or seriously injured. It should be clarified that, in such a case, those certificates and declarations are those which pertain to the compliance of the design of unmanned aircraft with the applicable requirements and which are under the oversight of the Agency. That flexibility of the safety investigation authorities should apply from the date of entry into force of this Regulation.

- (86) Regulation (EC) No 1008/2008 should be amended to take due account of the possibility, established by this Regulation, that the Agency might become the competent authority for the issuance and oversight of air operator certificates. Moreover, given the growing importance of air carriers with operational bases in several Member States, which results in the competent authority for the operating licences and the competent authority for air operator certificates no longer being necessarily identical, there is a need to reinforce the efficient supervision of those air carriers. Regulation (EC) No 1008/2008 should therefore be amended to ensure close cooperation between the authorities responsible for the oversight in respect of the air operator certificate and the operating licence respectively.
- (87) In view of the changes to the Union regulatory regime governing especially unmanned aircraft introduced by this Regulation, Directives 2014/30/EU and 2014/53/EU should be amended. In particular, in respect of aircraft other than unmanned aircraft, as well as the engines, propellers, parts and non-installed equipment associated to aircraft other than unmanned aircraft, it should be ensured that any such aviation equipment continues to be excluded from the scope of those Directives. Unmanned aircraft and their engines, propellers, parts and non-installed equipment should also be excluded from the scope of those Directives, but only from the moment and in as far as the design of the unmanned aircraft and of their engines, propellers, parts and non-installed equipment are certified by the Agency in accordance with this Regulation, given that under this Regulation they are, in that case, subject to essential requirements relating to electromagnetic compatibility and radio spectrum and that compliance with those requirements is to be assessed and ensured as part of the rules on certification, oversight and enforcement provided by this Regulation. However, the exclusion of any such aviation equipment from the scope of Directives 2014/30/EU and 2014/53/EU should only concern aviation equipment which falls within the scope of this Regulation and which is intended exclusively for airborne use on protected aeronautical frequencies. As a consequence, equipment to control unmanned aircraft remotely, as well as equipment which is intended for airborne use but also for certain other uses, is not excluded from the scope of Directives 2014/30/EU and 2014/53/EU and thus can be subject to the rules of both this Regulation and those Directives.
- (88) Since the objectives of this Regulation, namely establishing and maintaining a high uniform level of civil aviation safety, while ensuring a high uniform level

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of environmental protection, cannot be sufficiently achieved by the Member States because of the largely transnational nature of aviation and its complexity, but can rather, by reason of their Union-wide scope, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

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- (1) [OJ C 75, 10.3.2017, p. 111.](#)
- (2) [OJ C 88, 21.3.2017, p. 69.](#)
- (3) Position of the European Parliament of 12 June 2018 (not yet published in the Official Journal) and decision of the Council of 26 June 2018.
- (4) Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) ([OJ L 96, 31.3.2004, p. 1.](#))
- (5) Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC ([OJ L 79, 19.3.2008, p. 1.](#))
- (6) Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 ([OJ L 122, 24.4.2014, p. 18.](#))
- (7) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers ([OJ L 55, 28.2.2011, p. 13.](#))
- (8) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) ([OJ L 119, 4.5.2016, p. 1.](#))
- (9) Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility ([OJ L 96, 29.3.2014, p. 79.](#))
- (10) Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC ([OJ L 153, 22.5.2014, p. 62.](#))
- (11) 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 ([OJ L 295, 12.11.2010, p. 35.](#))
- (12) 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 ([OJ L 8, 12.1.2001, p. 1.](#))
- (13) Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency ([OJ L 240, 7.9.2002, p. 1.](#))
- (14) Regulation (EU) No 1285/2013 of the European Parliament and of the Council of 11 December 2013 on the implementation and exploitation of European satellite navigation systems and repealing Council Regulation (EC) No 876/2002 and Regulation (EC) No 683/2008 of the European Parliament and of the Council ([OJ L 347, 20.12.2013, p. 1.](#))
- (15) 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 ([OJ L 344, 27.12.2005, p. 15.](#))
- (16) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC ([OJ L 396, 30.12.2006, p. 1.](#))
- (17) Council Decision (CFSP) 2015/1835 of 12 October 2015 defining the statute, seat and operational rules of the European Defence Agency ([OJ L 266, 13.10.2015, p. 55.](#))

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- (18) 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 (OJ L 145, 31.5.2001, p. 43).
- (19) OJ L 123, 12.5.2016, p. 1.
- (20) Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the interoperability Regulation) (OJ L 96, 31.3.2004, p. 26).
- (21) Commission Regulation (EC) No 1033/2006 of 4 July 2006 laying down the requirements on procedures for flight plans in the pre-flight phase for the single European sky (OJ L 186, 7.7.2006, p. 46).
- (22) Commission Regulation (EC) No 1032/2006 of 6 July 2006 laying down requirements for automatic systems for the exchange of flight data for the purpose of notification, coordination and transfer of flights between air traffic control units (OJ L 186, 7.7.2006, p. 27).
- (23) Commission Regulation (EC) No 633/2007 of 7 June 2007 laying down requirements for the application of a flight message transfer protocol used for the purpose of notification, coordination and transfer of flights between air traffic control units (OJ L 146, 8.6.2007, p. 7).
- (24) Commission Regulation (EC) No 262/2009 of 30 March 2009 laying down requirements for the coordinated allocation and use of Mode S interrogator codes for the single European sky (OJ L 84, 31.3.2009, p. 20).
- (25) Commission Regulation (EC) No 29/2009 of 16 January 2009 laying down requirements on data link services for the single European sky (OJ L 13, 17.1.2009, p. 3).
- (26) Commission Regulation (EU) No 73/2010 of 26 January 2010 laying down requirements on the quality of aeronautical data and aeronautical information for the single European sky (OJ L 23, 27.1.2010, p. 6).
- (27) Commission Implementing Regulation (EU) No 1206/2011 of 22 November 2011 laying down requirements on aircraft identification for surveillance for the single European sky (OJ L 305, 23.11.2011, p. 23).
- (28) Commission Implementing Regulation (EU) No 1207/2011 of 22 November 2011 laying down requirements for the performance and the interoperability of surveillance for the single European sky (OJ L 305, 23.11.2011, p. 35).
- (29) Commission Implementing Regulation (EU) No 1079/2012 of 16 November 2012 laying down requirements for voice channels spacing for the single European sky (OJ L 320, 17.11.2012, p. 14).
- (30) Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation (OJ L 373, 31.12.1991, p. 4).
- (31) Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3).

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