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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

on the delegation of power under 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

1. INTRODUCTION

Regulation (EU) No 376/2014 (hereinafter "the Regulation") aims to improve aviation safety by ensuring that relevant safety information relating to civil aviation is reported, stored, protected, exchanged, disseminated and analysed. The sole objective of occurrence reporting is the prevention of accidents and incidents.

Paragraph 6 of Article 7 of this Regulation empowers the Commission to adopt delegated acts in order to define the common European Risk Classification Scheme (ERCS). As a complement to this provision, paragraph 7 of Article 7 of the Regulation furthermore instructs the Commission to adopt arrangements for the implementation of the ERCS by means of implementing acts.

In addition, Article 17 of the Regulation empowers the Commission to adopt delegated acts for the purpose of updating of Annexes I and III of the Regulation, as appropriate, to take account of experience gained and of new developments, and to align any of the Annexes of the Regulation with the ECCAIRS¹ software used to collect civil aviation occurrences and the ADREP² aviation taxonomy operated by ICAO³, as well as with legal acts adopted by the Union and with international agreements.

In connection with this empowerment, paragraph 2 of Article 18 of the Regulation stipulates that the Commission is to present a report to the European Parliament and to the Council in respect of the delegation of power conferred on it by the Regulation.

2. EXERCISE OF THE POWER TO ADOPT DELEGATED ACTS

Common European risk classification scheme (ERCS)

Whereas the relevant delegated act is addressed in paragraph 6 of Article 7 of the Regulation, it is, from a contextual perspective, important to note the link with the provisions of paragraphs 5 and 7 of this Article.

The purpose of Commission Delegated Regulation (EU) 2020/2034⁴ adopted in accordance with paragraph 6 of Article 7 of the Regulation is to define the ERCS, the latter developed in accordance with paragraph 5 of the same Article. Furthermore, the ERCS, as defined in the aforementioned delegated act, is to be implemented in accordance with arrangements established by means of an implementing act adopted in accordance with paragraph 7 of Article 7. Finally, paragraph 3 of Article 24 of the Regulation lays down that paragraph 2 of Article 7 (e.g.

¹ ECCAIRS: European Co-ordination Centre for Accident and Incident Reporting Systems.

² ADREP: Accident/Incident Data Reporting. This system is operated and maintained by ICAO. The ADREP system operates using ECCAIRS software platform.

³ ICAO: International Civil Aviation Organization. It is a UN specialized agency, established by States in 1944 to manage the administration and governance of the Convention on International Civil Aviation (Chicago Convention).

⁴ Commission Delegated Regulation (EU) 2020/2034 of 6 October 2020 supplementing Regulation (EU) No 376/2014 of the European Parliament and of the Council as regards the common European risk classification scheme, OJ L 416, 11.12.2020, p. 1.

obligation to use the ERCS) shall apply once the delegated and implementing acts defining and implementing the ERCS enter into force.

The completion of the ERCS development was achieved by the legal deadline, i.e. 15 May 2017, as stipulated in paragraph 5 of Article 7. The subsequent adoption of the delegated act to cater for its definition took place in 2020. In addition to the delegated act, Commission Implementing Regulation (EU) 2021/2082⁵ laying down the arrangements for the implementation of the ERCS was adopted in November 2021.

Consequently, the empowerment to adopt the delegated act on the common European risk classification scheme has been exercised by the Commission.

Amendment of the Annexes

Article 17 of the Regulation empowers the Commission to adopt delegated acts, as appropriate, to amend Annexes I and III of the Regulation. Whereas it is expected that such amendments will be needed in due course in view of experience gained and of new developments associated with the implementation of the Regulation, it has been determined that the content of the Annexes, as they stand today, is still fit for purpose.

Consequently, the empowerment to adopt delegated acts for the purpose of amending the Annexes has not been exercised within the timeframe provided for in paragraph 2 of Article 18 of the Regulation.

3. CONCLUSIONS

For the reasons outlined in the preceding section, the Commission has exercised its power to adopt the delegated act on the ERCS as provided for in the aforementioned provisions.

Nonetheless, the empowerment stemming from Article 17 of the Regulation has not yet been exercised with regard to adopting delegated acts for amending Annexes I and III of the Regulation. The adoption of such acts may become necessary in view of new developments associated with the implementation of the Regulation.

Consequently, the Commission is of the view that the power to adopt delegated acts conferred on it in Regulation (EU) No 376/2014 should be extended for a period of five years.

With this report, the Commission complies with the reporting requirement under paragraph 2 of Article 18 of Regulation (EU) No 376/2014, and invites the European Parliament and the Council to take note of this report.

⁵ Commission Implementing Regulation (EU) 2021/2082 of 26 November 2021 laying down the arrangements for the implementation of Regulation (EU) No 376/2014 of the European Parliament and of the Council as regards the common European risk classification scheme, OJ L 426, 29.11.2021, p. 32.