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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

(Text with EEA relevance)

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(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,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) A high general level of safety should be ensured in civil aviation in the Union and every effort should be made to reduce the number of accidents and incidents with a view to ensuring public confidence in aviation transport.

(2) The rate of fatal accidents in civil aviation has remained fairly constant over the last decade. Nevertheless, the number of accidents could rise over the decades to come, due to an increase in air traffic and an increase in the technical complexity of aircraft.

(3) Regulation (EU) No 996/2010 of the European Parliament and of the Council aims to prevent accidents by facilitating the prompt holding of efficient and high-quality safety investigations. This Regulation should not interfere with the process of accident and incident investigations managed by national safety investigation authorities as defined in Regulation (EU) No 996/2010. In the event of an accident or a serious incident, notification of the occurrence is also subject to Regulation (EU) No 996/2010.

(4) Existing legislative acts of the Union, in particular Regulation (EC) No 216/2008 of the European Parliament and of the Council and its implementing regulations, impose obligations on certain organisations to establish occurrence reporting systems in the context of their safety management systems. Compliance with Regulation (EC) No 216/2008 and its implementing regulations should not exempt organisations from compliance with this Regulation. Likewise, compliance with this Regulation should not exempt organisations from compliance with Regulation (EC) No 216/2008 and its implementing regulations. However, this should not give rise to two parallel reporting systems, and Regulation (EC) No 216/2008, its implementing regulations, and this Regulation should be seen as

complementary.

(5) Experience has shown that accidents are often preceded by safety-related incidents and deficiencies revealing the existence of safety hazards. Safety information is therefore an important resource for the detection of potential safety hazards. In addition, whilst the ability to learn from an accident is crucial, purely reactive systems have been found to be of limited use in continuing to bring forward improvements. Reactive systems should therefore be complemented by proactive systems which use other types of safety information to make effective improvements in aviation safety. The Union, its Member States, the European Aviation Safety Agency ('the Agency') and organisations should contribute to the improvement of aviation safety through the introduction of more proactive and evidence based safety systems which focus on accident prevention based on the analysis of all relevant safety information, including information on civil aviation occurrences.

(6) In order to improve aviation safety, relevant civil aviation safety information should be reported, collected, stored, protected, exchanged, disseminated and analysed, and appropriate safety action should be taken on the basis of the information collected. This proactive and evidence-based approach should be implemented by the relevant aviation safety authorities of Member States, by organisations as part of their safety management system and by the Agency.

(7) The imposition on organisations of occurrence reporting obligations should be proportionate to the size of the organisation concerned and the scope of its activity. It should therefore be possible, in particular for smaller organisations, to decide to join or merge functions related to occurrence handling within the organisation, to share occurrence reporting tasks with other organisations of the same nature or to outsource the collection, evaluation, processing, analysis and storage of details of occurrences to specialised entities approved by the competent authorities of the Member States. Such entities should comply with the protection and confidentiality principles established by this Regulation. The outsourcing organisation should maintain appropriate control of the outsourced tasks and should be ultimately accountable and responsible for the application of the requirements prescribed by this Regulation.

(8) It is necessary to ensure that front-line aviation professionals report occurrences that pose a significant risk to aviation safety. Voluntary reporting systems should complement the mandatory reporting systems, and both should allow individuals to report details of aviation safety-related occurrences. Mandatory and voluntary reporting systems should be set up within organisations, the Agency and competent authorities of the Member States. The information collected should be transferred to the authority competent for appropriate monitoring in order to enhance aviation safety. Organisations should analyse those occurrences that could have an impact on safety, in order to identify safety hazards and take any appropriate corrective or preventive action. Organisations should send the preliminary results of their analyses to the competent authority of their Member States or to the Agency and should also send them the final results if those results identify an actual or potential aviation safety risk. The competent authorities of the Member States and the Agency should put in place a similar procedure for those occurrences that have been directly submitted to them and should adequately monitor the organisation's assessment and any corrective or preventive action taken.

(9) Various categories of staff working or otherwise engaged in civil aviation witness events which are of relevance to accident prevention. They should therefore have access to tools enabling them to report such events, and their protection should be guaranteed. In order to encourage staff to report occurrences and enable them to appreciate more fully the positive impact which occurrence reporting has on air safety, they should be regularly informed about action taken under occurrence reporting systems.

(10) The hazards and risk associated with complex motor-powered aircraft are very different from those associated with other types of aircraft. Therefore, while the entire aviation sector should be covered by this Regulation, the obligations imposed by it should be proportionate to the sphere of activity and the complexity of different types of aircraft. Accordingly, information collected on occurrences involving aircraft other than complex motor-powered ones should be subject to simplified reporting obligations which are better suited to that branch of aviation.

(11) The development of other means of collecting safety information in addition to the systems required by this Regulation should be encouraged, with a view to collecting further information which could contribute to the improvement of aviation safety. Where organisations have existing and well-functioning safety information collection systems, they should be allowed to continue to use those systems alongside the systems to be established for the purpose of this Regulation.

(12) Safety investigation authorities and any entity entrusted with regulating civil aviation safety within the Union should have full access to details of occurrences collected and occurrence reports stored by their

Member States, in order to decide which incidents require a safety investigation, as well as to identify where lessons can be learned in the interest of aviation safety and to fulfil their oversight obligations.

(13) It is essential to have high-quality and complete data, as analysis and trends derived from inaccurate data may show misleading results and may lead to effort being focused on inappropriate action. In addition, such inaccurate data may lead to a loss of confidence in the information produced by occurrence reporting schemes. In order to ensure the quality of occurrence reports, and to facilitate their completeness, they should contain certain minimum information, which may vary depending on the occurrence category. In addition, procedures should be implemented for checking the quality of information and avoiding inconsistency between an occurrence report and the details of the occurrence that were initially collected. Moreover, with the support of the Commission, adequate guidance material should be developed, notably to ensure the quality and to facilitate the completeness of data as well as the consistent and uniform integration of data into databases. Workshops should also be organised, notably by the Commission, to provide necessary support.

(14) The Commission should develop a common European risk classification scheme to ensure the identification of any rapid action needed when looking at high-risk individual safety occurrences. That scheme should also enable key risk areas to be identified from aggregated information. Such a scheme should help the relevant entities in their assessment of occurrences and in determining where best to focus their efforts. A common European risk classification scheme should facilitate an integrated and harmonised approach to risk management across the European aviation system and thus enable organisations, Member States, the Commission and the Agency to focus on safety improvement efforts in a harmonised manner.

(15) A common European risk classification scheme should also both enable key risk areas within the Union to be identified on the basis of aggregated information from a European perspective and support the work done in the area of the European Aviation Safety Programme and the European Aviation Safety Plan. Appropriate support should be given by the Commission to ensure consistent and uniform risk classification across Member States.

(16) To facilitate information exchange, occurrence reports should be stored in databases which should be compatible with the European Coordination Centre for Aircraft Incident Reporting Systems (ECCAIRS) (the software used by all Member States and by the European Central Repository to store occurrence reports) and with the ADREP taxonomy (the International Civil Aviation Organisation (ICAO) taxonomy, also used for the ECCAIRS software). The Agency and the Commission should provide technical support for the interoperability of the systems.

(17) Organisations should store occurrence reports derived from details of occurrences collected under the mandatory and, where applicable, the voluntary reporting systems in one or more databases. It should be possible for the complexity of the database to be proportionate to the size of the organisation concerned and/or its significance with respect to the objectives of this Regulation, and it should at least consist of a data file containing common mandatory data fields and, where applicable, specific mandatory data fields.

(18) An occurrence involving an aircraft registered in a Member State or operated by an organisation established in a Member State should be reported even if it happened outside the territory of that Member State.

(19) Information on occurrences should be exchanged within the Union to enhance the detection of actual or potential hazards. This information exchange should also enable Member States to have access to all information on occurrences which occur on their territory or in their airspace but which are reported to another Member State. It should also allow the Agency to obtain precise information about occurrences and access to all occurrence reports collected in the Union in order, where necessary, to take corrective action to counteract a risk identified in the Union. This information exchange should enable the competent authorities of the Member States to obtain precise information about occurrences in their airspace and, where necessary, to take corrective action to counteract a risk identified on their territory.

(20) The objective of the exchange of information on occurrences should be the prevention of aviation accidents and incidents. It should not be used to attribute blame or liability or to establish benchmarks for safety performance.

(21) The most efficient way to ensure the exchange of large quantities of safety information between the Member States, the Commission and the Agency is through the European Central Repository, provided that the Member States, the Commission and the Agency have full access to it.

(22) All safety-related information derived from occurrence reports collected in the Union should be transferred in the European Central Repository in a timely manner. This should include the collection of information on incidents but also information on accidents and serious incidents investigated pursuant to Regulation (EU) No 996/2010.

(23) This Regulation should apply to information on occurrences which is stored in the databases of organisations, Member States or the Agency.

(24) All safety-related information contained in the European Central Repository should be available to entities entrusted with regulating civil aviation safety within the Union, including the Agency, and to the authorities responsible for investigating accidents and incidents within the Union.

(25) It should be possible for interested parties to request access to certain information contained in the European Central Repository, subject to the rules concerning the confidentiality of such information and the anonymity of the persons involved.

(26) As national points of contact have the best knowledge of interested parties established in a given Member State, it should be for each national point of contact to deal with requests from interested parties established in the territory of its own Member State. The Commission should deal with requests from interested parties from third countries or from international organisations.

(27) Information contained in occurrence reports should be analysed, and safety risks identified. Any appropriate consequent action for improving aviation safety should be identified and implemented in a timely manner. Information on the analysis and follow-up of occurrences should be disseminated within organisations, competent authorities of the Member States and the Agency, since providing feedback on occurrences that have been reported incentivises individuals to report occurrences. Where applicable and when possible, information on the analysis and follow-up of occurrences should also be provided to individuals who have directly reported occurrences to the competent authorities of the Member States or to the Agency. Such feedback should comply with the rules on confidentiality and protection of the reporter and the persons mentioned in occurrence reports pursuant to this Regulation.

(28) This Regulation should assist Member States, the Agency and organisations in managing aviation safety risks. The safety management systems of organisations are complemented by the safety management systems of the Member States and of the Agency. While organisations manage safety risks associated with their specific activities, the competent authorities of the Member States and the Agency manage safety risks for the aviation systems of, respectively, entire Member States and of the Union as a whole, addressing common safety risks for aviation in the Member State concerned or at Union level. The responsibilities of the Agency and of the competent authorities of the Member States should not exonerate organisations from their direct responsibilities in managing safety inherent in the products and in the services they provide. For that purpose, organisations should collect and analyse information on occurrences in order to identify and mitigate hazards associated with their activities. They should also assess associated safety risks and allocate resources to take prompt and appropriate safety risk mitigation measures. The overall process should be monitored by the relevant competent authority, which should, when necessary, require that additional action be taken to ensure that the safety deficiencies are correctly addressed. On the other hand, the competent authorities of the Member States and the Agency should complement the safety management systems of the organisations at Member State and European levels respectively.

(29) When determining the action to be included within their State Safety Programme and State Safety Plan, and in order to ensure that the action is evidence-based, Member States should use the information derived from the occurrence reports that have been collected and from their analysis. State Safety Programmes and State Safety Plans are complemented at European level by the European Aviation Safety Programme and the European Aviation Safety Plan.

(30) Since the objective of aviation safety improvement cannot be sufficiently achieved by the Member States because reporting systems operated by Member States in isolation are less efficient than a coordinated network with exchange of information allowing identification of possible safety problems and key risk areas at Union level, analysis at national level should be complemented by analysis and follow-up at Union level in order to ensure better prevention of aviation accidents and incidents. This Union-level task should be carried out by a network of aviation safety analysts in coordination with the Agency and the Commission. It should be possible for that network to decide, by consensus, to invite observers to their meetings, including industry employees or representatives.

(31) The European Aviation Safety Programme and the European Aviation Safety Plan should benefit in particular from the work of the network of aviation safety analysts for the purpose of determining what action needs to be implemented at Union level from an evidence-based perspective.

(32) The general public should be provided with general aggregated information on the level of aviation safety in Member States and in the Union. That information should cover, in particular, trends and analysis deriving from the implementation of this Regulation by the Member States, as well as information in an aggregated form on the content of the European Central Repository, and may be provided by publishing safety performance indicators (SPI).

(33) The civil aviation safety system is established on the basis of feedback and lessons learned from accidents and incidents. Occurrence reporting and the use of occurrence information for the improvement of safety depend on a relationship of trust between the reporter and the entity in charge of the collection and assessment of the information. This requires strict application of rules on confidentiality. The purpose of protecting safety information from inappropriate use, and of limiting access to the European Central Repository solely to interested parties participating in the improvement of civil aviation safety, is to ensure the continuing availability of safety information so that appropriate and timely preventive action can be taken and aviation safety improved. In this context, sensitive safety information should be protected in an appropriate way and its collection should be ensured by guaranteeing its confidentiality, protecting its source and ensuring the confidence of staff working in civil aviation in occurrence reporting systems. Appropriate measures should be put in place to ensure that information collected through occurrence reporting schemes is kept confidential and that access to the European Central Repository is restricted. National rules on freedom of information should take into account the necessary confidentiality of such information. The information collected should be adequately protected from unauthorised use or disclosure. It should be used strictly for the purpose of maintaining or improving aviation safety and should not be used to attribute blame or liability.

(34) In order to ensure the confidence of employees or contracted personnel in the occurrence reporting system of the organisation, the information contained in occurrence reports should be protected appropriately and should not be used for purposes other than maintaining or improving aviation safety. The internal ‘just culture’ rules adopted by organisations pursuant to this Regulation should contribute in particular to the achievement of this objective. In addition, the limitation of the transmission of personal details, or of information allowing the identification of the reporter or of the other persons mentioned in occurrence reports, by a clear separation between the departments handling occurrence reports and the rest of the organisation, may be an efficient way to achieve this objective.

(35) A reporter or a person mentioned in occurrence reports should be adequately protected. In this context, occurrence reports should be disidentified and details relating to the identity of the reporter and of the persons mentioned in occurrence reports should not be entered into databases.

(36) In addition, the civil aviation system should promote a ‘safety culture’ facilitating the spontaneous reporting of occurrences and thereby advancing the principle of a ‘just culture’. ‘Just culture’ is an essential element of a broader ‘safety culture’, which forms the basis of a robust safety management system. An environment embracing ‘safety culture’ principles should not prevent action being taken where necessary to maintain or improve the level of aviation safety.

(37) A ‘just culture’ should encourage individuals to report safety-related information. It should not, however, absolve individuals of their normal responsibilities. In this context, employees and contracted personnel should not be subject to any prejudice on the basis of information provided pursuant to this Regulation, except in cases of wilful misconduct or where there has been manifest, severe and serious disregard with respect to 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 to property, or seriously compromising the level of aviation safety.

(38) In order to encourage reporting of occurrences, it should be appropriate to protect not only reporters, but also persons mentioned in the occurrence reports concerned. However, such protection should not exonerate those persons from their reporting obligations under this Regulation. In particular, in a situation where a person is mentioned in an occurrence report and has himself or herself the obligation to report that same occurrence, and intentionally fails to report it, then that person should lose his or her protection and face penalties in application of this Regulation.

(39) Without prejudice to national criminal law and the proper administration of justice, it is important to clearly demarcate the extent of the protection of the reporter and other persons mentioned in occurrence reports from prejudice or prosecution.

(40) In order to enhance the confidence of individuals in the system, the handling of occurrence reports should be organised in such a way as to appropriately safeguard the confidentiality of the identity of the reporter and other persons mentioned in occurrence reports with regard to fostering a ‘just culture’. The aim, wherever possible, should be to enable an independent occurrence handling system to be

established.

(41) Staff of organisations, of the competent authorities of the Member States and of the Agency who are involved in the evaluation, processing or analysis of occurrences have a significant role to play in the identification of safety hazards and safety deficiencies. Experience shows that when occurrences are analysed with the benefit of hindsight following an accident, the analysis leads to the identification of risks and deficiencies that might otherwise not have been identified. It is possible, therefore, that the persons involved in the evaluation, processing or analysis of occurrences may fear potential consequences in terms of prosecution before judicial authorities. Without prejudice to national criminal law and the proper administration of justice, Member States should not institute proceedings against persons who, in the competent authorities of the Member States, are involved in the evaluation, processing or analysis of occurrences in respect of decisions taken as part of their duties which subsequently, and with the benefit of hindsight, prove to have been erroneous or ineffective but which, when they were taken and on the basis of the information available at that time, were proportional and appropriate.

(42) Employees and contracted personnel should have the opportunity to report breaches of the principles delimiting their protection as established by this Regulation, and should not be penalised for so doing. Member States should define the consequences for those who infringe the principles of protection of the reporter and of other persons mentioned in occurrence reports and should adopt remedies or impose penalties as appropriate.

(43) Individuals may be discouraged from reporting occurrences by the fear of self-incrimination and the potential consequences in terms of prosecution before judicial authorities. The objectives of this Regulation can be achieved without interfering unduly with the justice systems of the Member States. It is therefore appropriate to provide that unpremeditated or inadvertent infringements of the law that come to the attention of the authorities of the Members States solely through reporting pursuant to this Regulation should not be the subject of disciplinary, administrative or legal proceedings, unless where otherwise provided by applicable national criminal law. However, the rights of third parties to institute civil proceedings should not be covered by this prohibition and should be subject only to national law.

(44) Nevertheless, in the context of developing a ‘just culture’ environment, Member States should retain the option of extending the prohibition on using occurrence reports as evidence against reporters in administrative and disciplinary proceedings to civil or criminal proceedings.

(45) In addition, the cooperation between safety authorities and judicial authorities should be enhanced and formalised by means of advance arrangements between themselves which should respect the balance between the various public interests at stake and which should in particular cover, for example, access to and the use of occurrence reports contained in the national databases.

(46) To support the increased responsibilities of the Agency under this Regulation, it should be given sufficient resources to enable it to carry out the additional tasks assigned to it.

(47) In order to supplement or amend this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(48) In applying this Regulation, the Commission should consult the Agency and the network of aviation safety analysts referred to herein.

(49) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

(50) The rules on data processing and the protection of individuals as laid down in Directive 95/46/EC of the European Parliament and of the Council and in Regulation (EC) No 45/2001 of the European Parliament and of the Council should be fully respected in the application of this Regulation. The rules on access to data as laid down in Regulation (EC) No 1049/2001 of the European Parliament and of the Council should be fully respected in the application of this Regulation except as regards the dissemination of data and information contained in the European Central Repository, which are protected under stricter access rules laid down in this Regulation.

(51) Penalties should, in particular, be applicable against any person who or entity which, contrary to this Regulation, misuses information protected by this Regulation; acts in a prejudicial manner against the

reporter or other persons mentioned in occurrence reports, except in cases where the exemptions laid down in this Regulation apply; does not establish an environment appropriate for allowing the collection of details of occurrences; does not analyse the information collected; does not act to address any safety or potential safety deficiencies detected; or does not share the information collected in application of this Regulation.

(52) Since the objective of this Regulation, namely the establishment of common rules in the field of occurrence reporting in civil aviation, cannot be sufficiently achieved by the Member States but can rather, by reason of its Union-wide scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. 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 that objective.

(53) Regulation (EU) No 996/2010 should therefore be amended accordingly.

(54) Directive 2003/42/EC of the European Parliament and of the Council, Commission Regulation (EC) No 1321/2007 and Commission Regulation (EC) No 1330/2007 should therefore be repealed.

(55) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on 10 April 2013,

HAVE ADOPTED THIS REGULATION:

Article 1

Objectives

1. This Regulation aims to improve aviation safety by ensuring that relevant safety information relating to civil aviation is reported, collected, stored, protected, exchanged, disseminated and analysed.

This Regulation ensures:

(a) that, where appropriate, safety action is taken in a timely manner based on analysis of the information collected;

(b) the continued availability of safety information by introducing rules on confidentiality and on the appropriate use of information and through the harmonised and enhanced protection of reporters and persons mentioned in occurrence reports; and

(c) that aviation safety risks are considered and dealt with.

2. The sole objective of occurrence reporting is the prevention of accidents and incidents and not to attribute blame or liability.

Article 2

Definitions

For the purposes of this Regulation the following definitions apply:

(1) ‘reporter’ means a natural person who reports an occurrence or other safety-related information pursuant to this Regulation;

(2) ‘aircraft’ means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface;

(3) ‘incident’ means an incident within the meaning of Regulation (EU) No 996/2010;

(4) ‘serious incident’ means a serious incident within the meaning of Regulation (EU) No 996/2010;

(5) ‘accident’ means an accident within the meaning of Regulation (EU) No 996/2010;

(6) ‘disidentified information’ means information arising from occurrence reports from which all personal data such as names or addresses of natural persons have been removed;

(7) ‘occurrence’ means any safety-related event which endangers or which, if not corrected or addressed, could endanger an aircraft, its occupants or any other person and includes in particular an accident or serious incident;

(8) ‘organisation’ means any organisation providing aviation products and/or which employs, contracts or uses the services of persons required to report occurrences in accordance with Article 4(6);

(9) ‘anonymisation’ means the removal from occurrence reports of all personal details relating to the reporter and to the persons mentioned in occurrence reports and any details, including the name of the organisation(s) involved in the occurrence, which may reveal the identity of the reporter or of a third party or lead to that information being inferred from the occurrence report;

(10) ‘hazard’ means a situation or an object with the potential to cause death or injury to a person, damage to equipment or a structure, loss of material, or a reduction of ability to perform a prescribed function;

(11) ‘safety investigation authority’ means the permanent national civil aviation safety investigation authority conducting or supervising safety investigations as referred to in Article 4 of Regulation (EU) No 996/2010;

(12) ‘just culture’ means a culture in which front-line operators or other persons are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but in which gross negligence, wilful violations and destructive acts are not tolerated;

(13) *Omitted*

(14) *Omitted*

(15) ‘State Safety Programme’ means an integrated set of legal acts and activities aimed at managing civil aviation safety in Gibraltar;

(16) *Omitted*

(17) *Omitted*

(18) ‘safety management system’ means a systematic approach to managing aviation safety including the necessary organisational structures, accountabilities, policies and procedures, and includes any management system that, independently or integrated with other management systems of the organisation, addresses the management of safety.

(19) ‘the Director’ means the Director of Civil Aviation, as defined in the Civil Aviation Act 2009;

(20) ‘the Minister’ means the Minister with responsibility for Civil Aviation.

Article 3

Subject matter and scope

1. This Regulation lays down rules on:

(a) the reporting of occurrences which endanger or which, if not corrected or addressed, would endanger an aircraft, its occupants, any other person, equipment or installation affecting aircraft operations; and the reporting of other relevant safety-related information in that context;

(b) analysis and follow-up action in respect of reported occurrences and other safety-related information;

(c) the protection of aviation professionals;

(d) appropriate use collected safety information;

(e) *Omitted*

(f) the dissemination of anonymised information to interested parties for the purpose of providing such parties with the information they need in order to improve aviation safety.

2. This Regulation applies to occurrences and other safety-related information involving civil aircraft to which Regulation (EU) 2018/1139 of the European Parliament and of the Council applies.

However, this Regulation shall not apply to occurrences and other safety-related information involving unmanned aircraft for which a certificate or declaration is not required pursuant to Article 56(1) and (5) of Regulation (EU) 2018/1139, unless the occurrence or other safety-related information involving such unmanned aircraft resulted in a fatal or serious injury to a person or it involved aircraft other than unmanned aircraft.

The Minister may decide to apply this Regulation also to occurrences and other safety-related information involving the aircraft to which Regulation (EU) 2018/1139 does not apply.

Article 4

Mandatory reporting

1. Occurrences which may represent a significant risk to aviation safety and which fall into the following categories shall be reported by the persons listed in paragraph 6 through the mandatory occurrence reporting systems pursuant to this Article:

(a) occurrences related to the operation of the aircraft, such as:
  (i) collision-related occurrences;
  (ii) take-off and landing-related occurrences;
  (iii) fuel-related occurrences;
  (iv) in-flight occurrences;
  (v) communication-related occurrences;
  (vi) occurrences related to injury, emergencies and other critical situations;
  (vii) crew incapacitation and other crew-related occurrences;
  (viii) meteorological conditions or security-related occurrences;

(b) occurrences related to technical conditions, maintenance and repair of aircraft, such as:
  (i) structural defects;
  (ii) system malfunctions;
  (iii) maintenance and repair problems;
  (iv) propulsion problems (including engines, propellers and rotor systems) and auxiliary power unit problems;

(c) occurrences related to air navigation services and facilities, such as:
  (i) collisions, near collisions or potential for collisions;
  (ii) specific occurrences of air traffic management and air navigation services (ATM/ANS);
  (iii) ATM/ANS operational occurrences;

(d) occurrences related to aerodromes and ground services, such as:

(i) occurrences related to aerodrome activities and facilities;

(ii) occurrences related to handling of passengers, baggage, mail and cargo;

(iii) occurrences related to aircraft ground handling and related services.

2. Each organisation established in Gibraltar shall establish a mandatory reporting system to facilitate the collection of details of occurrences referred to in paragraph 1.

3. The Director shall establish a mandatory reporting system to facilitate the collection of details of occurrences including the collection of details of occurrences collected by organisations pursuant to paragraph 2.

4. *Omitted*

5. The Minister shall, by means of regulations, adopt a list classifying occurrences to be referred to when reporting occurrences pursuant to paragraph 1. Those regulations shall be adopted in accordance with the examination procedure referred to in Article 19(2).

The Minister shall include in those regulations a separate list classifying occurrences applicable to aircraft other than complex motor-powered aircraft. The list shall be a simplified version of the list referred to in the first subparagraph and shall, where appropriate, be adapted to the specificities of that branch of aviation.

6. The following natural persons shall report the occurrences referred to in paragraph 1 through the system established in accordance with paragraph 2 by the organisation which employs, contracts or uses the services of the reporter or, failing that, through the system established in accordance with paragraph 3 by the Director:

(a) the pilot in command, or, in cases where the pilot in command is unable to report the occurrence, any other crew member next in the chain of command of an aircraft registered in Gibraltar or an aircraft registered outside Gibraltar but used by an operator for which Gibraltar ensures oversight of operations or an operator established in Gibraltar;

(b) a person engaged in designing, manufacturing, continuous airworthiness monitoring, maintaining or modifying an aircraft, or any equipment or part thereof, under the oversight of the Director;

(c) a person who signs an airworthiness review certificate, or a release to service in respect of an aircraft or any equipment or part thereof, under the oversight of the Director;

(d) a person who performs a function which requires him or her to be authorised by the Director as a staff member of an air traffic service provider entrusted with responsibilities related to air navigation services or as a flight information service officer;

(e) a person who performs a function connected with the safety management of an airport to which Regulation (EC) No 1008/2008 of the European Parliament and of the Council applies;

(f) a person who performs a function connected with the installation, modification, maintenance, repair, overhaul, flight-checking or inspection of air navigation facilities for which the Director ensures the oversight;

(g) a person who performs a function connected with the ground handling of aircraft, including fuelling, loadsheet preparation, loading, de-icing and towing at an airport covered by Regulation (EC) No 1008/2008.

7. The persons listed in paragraph 6 shall report occurrences within 72 hours of becoming aware of the occurrence, unless exceptional circumstances prevent this.

8. Following notification of an occurrence, any organisation established in Gibraltar shall report to the the Director the details of occurrences collected in accordance with paragraph 2 of this Article as soon as possible, and in any event no later than 72 hours after becoming aware of the occurrence.

Article 5

Voluntary reporting

1. Each organisation established in Gibraltar shall establish a voluntary reporting system to facilitate the collection of:

(a) details of occurrences that may not be captured by the mandatory reporting system;

(b) other safety-related information which is perceived by the reporter as an actual or potential hazard to aviation safety.

2. The Director shall establish a voluntary reporting system to facilitate the collection of:

(a) details of occurrences that may not be captured by the mandatory reporting system;

(b) other safety-related information which is perceived by the reporter as an actual or potential hazard to aviation safety.

That system shall also include, but shall not be limited to, the collection of information transferred by organisations pursuant to paragraph 6.

3. *Omitted*

4. The voluntary reporting systems shall be used to facilitate the collection of details of occurrences and safety-related information:

(a) not subject to mandatory reporting pursuant to Article 4(1);

(b) reported by persons who are not listed in Article 4(6).

5. *Omitted*

6. Each organisation established in Gibraltar shall, in a timely manner, report to the the Director, the details of occurrences and other safety-related information which have been collected pursuant to paragraph 1 of this Article and which may involve an actual or potential aviation safety risk. The Director may require any organisation established in Gibraltar to report the details of all occurrences collected pursuant to paragraph 1 of this Article.

7. The Director and organisations may establish other safety information collection and processing systems to collect details of occurrences that might not be captured by the reporting systems referred to in Article 4 and in paragraphs 1 and 2 of this Article. Those systems may include reporting to entities other than the Director and may involve the active participation of:

(a) the aviation industry;

(b) professional organisations of aviation staff.

8. Information received from voluntary and mandatory reporting may be integrated into a single system.

Article 6

Collection and storage of information

1. Each organisation established in Gibraltar shall designate one or more persons to handle independently the collection, evaluation, processing, analysis and storage of details of occurrences reported pursuant to Articles 4 and 5.

The handling of the reports shall be done with a view to preventing the use of information for purposes other than safety, and shall appropriately safeguard the confidentiality of the identity of the reporter and of the persons mentioned in occurrence reports, with a view to promoting a ‘just culture’.

2. By agreement with the Director, small organisations may put in place a simplified mechanism for the collection, evaluation, processing, analysis and storage of details of occurrences. They may share those tasks with organisations of the same nature, while complying with the rules on confidentiality and protection pursuant to this Regulation.

3. The Director must establish a mechanism to independently collect, evaluate, process, analyse and store details of occurrences reported pursuant to Articles 4 and 5.

The handling of the reports shall be done with a view to preventing the use of information for purposes other than safety, and shall appropriately safeguard the confidentiality of the identity of the reporter and of the persons mentioned in occurrence reports, with a view to promoting a ‘just culture’.

4. *Omitted*

The handling of the reports shall be done with a view to preventing the use of information for purposes other than safety, and shall appropriately safeguard the confidentiality of the identity of the reporter and of the persons mentioned in occurrence reports, with a view to promoting a ‘just culture’.

5. Organisations shall store occurrence reports drawn up on the basis of details of occurrences collected in accordance with Articles 4 and 5 in one or more databases.

6. The the Director shall store occurrence reports drawn up on the basis of details of occurrences collected in accordance with Articles 4 and 5 in a national database.

7. Relevant information on accidents and serious incidents collected or issued by safety investigation authorities shall also be stored in the national database.

8. *Omitted*

9. The safety investigation authority shall have full access to the national database referred to in paragraph 6 for the purpose of discharging its responsibilities pursuant to Article 5(4) of Regulation (EU) No 996/2010.

10. The Director is to have full access to the national database referred to in paragraph 6 for the purposes of its safety-related responsibilities.

Article 7

Quality and content of occurrence reports

1. Occurrence reports referred to in Article 6 shall contain at least the information listed in Annex I.

2. Occurrence reports referred to in paragraphs 5, 6 and 8 of Article 6 shall include a safety risk classification for the occurrence concerned. That classification shall be reviewed and if necessary amended, and shall be endorsed by the competent authority of the Member State or the Agency, in accordance with the common European risk classification scheme referred to in paragraph 5 of this Article.

3. Organisations and the Director shall establish data quality checking processes to improve data consistency, notably between the information collected initially and the report stored in the database.

4. The databases referred to in paragraphs 5 and 6 of Article 6 shall use formats which are:

(a) standardised to facilitate information exchange; and

(b) compatible with the ECCAIRS software and the ADREP taxonomy.

5. The Director must develop a risk classification scheme to enable organisations and the Director to classify occurrences in terms of safety risk. In so doing, the Director must take into account the need for compatibility

with existing risk classifications schemes.

Articles 8 to 12

Omitted

Article 13

Occurrence analysis and follow-up

1. Each organisation established in Gibraltar shall develop a process to analyse occurrences collected in accordance with Articles 4(2) and 5(1) in order to identify the safety hazards associated with identified occurrences or groups of occurrences.

Based on that analysis, each organisation shall determine any appropriate corrective or preventive action, required to improve aviation safety.

2. When, following the analysis referred to in paragraph 1, an organisation established in Gibraltar identifies any appropriate corrective or preventive action required to address actual or potential aviation safety deficiencies, it shall:

(a) implement that action in a timely manner; and

(b) establish a process to monitor the implementation and effectiveness of the action.

3. Each organisation established in Gibraltar shall regularly provide its employees and contracted personnel with information concerning the analysis of, and follow-up on, occurrences for which preventive or corrective action is taken.

4. Where an organisation established in Gibraltar identifies an actual or potential aviation safety risk as a result of its analysis of occurrences or group of occurrences reported pursuant to Articles 4(8) and 5(6), it shall transmit to the Director, within 30 days from the date of notification of the occurrence by the reporter:

(a) the preliminary results of the analysis performed pursuant to paragraph 1, if any; and

(b) any action to be taken pursuant to paragraph 2.

The organisation shall report the final results of the analysis, where required, as soon as they are available and, in principle, no later than three months from the date of notification of the occurrence.

The Director may request organisations to transmit to it the preliminary or final results of the analysis of any occurrence of which it has been notified but in relation to which it has received no follow-up or only the preliminary results.

5. *Omitted*

6. The Director and the Agency shall develop a process to analyse the information relating to occurrences which are directly reported to them in accordance with Articles 4(6) and 5(2) in order to identify the safety hazards associated with those occurrences. Based on that analysis, they shall determine any appropriate corrective or preventive action required to improve aviation safety.

7. When, following the analysis referred to in paragraph 6, the Director identifies any appropriate corrective or preventive action required to address actual or potential aviation safety deficiencies, it shall:

(a) implement that action in a timely manner; and

(b) establish a process to monitor the implementation and effectiveness of the action.

8. For each occurrence or group of occurrences monitored in accordance with paragraph 4 or 5, the Director shall have access to the analysis made and shall appropriately monitor action taken by the organisations for which it is respectively responsible.

If the Director concludes that the implementation and the effectiveness of the reported action is inappropriate to address actual or potential safety deficiencies, it shall ensure that additional appropriate action is taken and implemented by the relevant organisation.

9. *Omitted*

10. The Minister and the Director shall use information obtained from the analysis of occurrence reports to identify remedial action to be taken, if any, within the State Safety Programme.

11. In order to inform the public of the level of safety in civil aviation, the Director shall publish a safety review at least once a year. The safety review shall:

(a) contain aggregated and anonymised information on the type of occurrences and safety-related information reported through its national mandatory and voluntary reporting systems;

(b) identify trends;

(c) identify the action it has taken.

12. The Director may also publish anonymised occurrence reports and risk analysis outcomes.

Article 14

Omitted

Article 15

Confidentiality and appropriate use of information

1. The Director and organisations, in accordance with national law, shall take the necessary measures to ensure the appropriate confidentiality of the details of occurrences received by them pursuant to Articles 4 and 5.

The Director and each organisation established in Gibraltar shall process personal data only to the extent necessary for the purposes of this Regulation and without prejudice to data protection legislation within the meaning of section 2(1) of the Data Protection Act 2004.

2. Without prejudice to the provisions relating to the protection of safety information in Articles 12, 14 and 15 of Regulation (EU) No 996/2010, information derived from occurrence reports shall be used only for the purpose for which it has been collected.

The Director and organisations shall not make available or use the information on occurrences:

(a) in order to attribute blame or liability; or

(b) for any purpose other than the maintenance or improvement of aviation safety.

3. *Omitted*

4. The Director and competent authorities for the administration of justice must cooperate with each other through advance administrative arrangements. These advance administrative arrangements shall seek to ensure the correct balance between the need for proper administration of justice, on the one hand, and the necessary continued availability of safety information, on the other.

Article 16

Protection of the information source

1. For the purposes of this Article, ‘personal details’ includes in particular names or addresses of natural persons.

2. Each organisation established in Gibraltar shall ensure that all personal details are made available to staff of that organisation other than persons designated in accordance with Article 6(1) only where absolutely necessary in order to investigate occurrences with a view to enhancing aviation safety.

Disidentified information shall be disseminated within the organisation as appropriate.

3. The Director shall ensure that no personal details are ever recorded in the national database referred to in Article 6(6). Such disidentified information shall be made available to all relevant parties, for example to allow them to discharge their obligations in relation to aviation safety improvement.

4. *Omitted*

5. The Director shall not be prevented from taking any action necessary for maintaining or improving aviation safety.

6. Without prejudice to applicable national criminal law, the Director shall refrain from instituting proceedings in respect of unpremeditated or inadvertent infringements of the law which come to its attention only because they have been reported pursuant to Articles 4 and 5.

The first subparagraph shall not apply in the cases referred to in paragraph 10. The Minister may retain or adopt measures to strengthen the protection of reporters or persons mentioned in occurrence reports. The Minister and the Director may in particular apply this rule without the exceptions referred to in paragraph 10.

7. If disciplinary or administrative proceedings are instituted, information contained in occurrence reports shall not be used against:

(a) the reporters; or

(b) the persons mentioned in occurrence reports.

The first subparagraph shall not apply in the cases referred to in paragraph 10.

The Minister may retain or adopt measures to strengthen the protection of reporters or persons mentioned in occurrence reports. Member States may in particular extend that protection to civil or criminal proceedings.

8. Member States may adopt or maintain in force legislative provisions ensuring a higher level of protection for reporters or for persons mentioned in occurrence reports than those established in this Regulation.

9. Except where paragraph 10 applies, employees and contracted personnel who report or are mentioned in occurrence reports collected in accordance with Articles 4 and 5 shall not be subject to any prejudice by their employer or by the organisation for which the services are provided on the basis of the information supplied by the reporter.

10. The protection under paragraphs 6, 7 and 9 of this Article shall not apply to any of the following situations:

(a) in cases of wilful misconduct;

(b) 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 aviation safety.

11. Each organisation established in Gibraltar shall, after consulting its staff representatives, adopt internal rules describing how 'just culture' principles, in particular the principle referred to in paragraph 9, are guaranteed and implemented within that organisation.

The Director may ask to review the internal rules of the organisations established in Gibraltar before those internal rules are implemented.

12. The Director is responsible for the implementation of paragraphs 6, 9 and 11.

Employees and contracted personnel may report to the Director alleged infringements of the rules established by this Article. Employees and contracted personnel shall not be penalised for reporting alleged infringements.

Article 17

Updating of the annex

The Minister may make regulations in order to:

(a) update the list of mandatory data fields in occurrence reports laid down in Annex I where, in the light of experience gained in the application of this Regulation, changes prove necessary in order to improve aviation safety;

(b) *Omitted*

(c) align Annex I with the ECCAIRS software and the ADREP taxonomy, as well as with legal acts adopted by the Minister and with international agreements.

With a view to updating the list of mandatory fields, the Director shall provide the Minister with appropriate opinion(s).

Article 18

Omitted

Article 19

Regulations

1. The Minister may make regulations under this Regulation.

2. Regulations made under this regulation may –

(a) make different provision for different purposes or areas;

(b) include supplementary, incidental or consequential provision;

(c) make transitional, transitory or saving provision.

Article 20

Access to documents and protection of personal data

1. *Omitted*

2. This Regulation shall apply without prejudice to data protection legislation within the meaning of section 2(1) of the Data Protection Act 2004.

Article 21

Omitted

Article 22

Amendment to Regulation (EU) No 996/2010

Article 19 of Regulation (EU) No 996/2010 is deleted.

However, that Article shall remain applicable until the date of application of this Regulation in accordance with Article 24(3).

Article 23

Repeals

Directive 2003/42/EC, Regulation (EC) No 1321/2007 and Regulation (EC) No 1330/2007 are repealed. They shall remain applicable until the date of application of this Regulation in accordance with Article 24(3).

Article 24

Entry into force and application

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

2. *Omitted*

3. This Regulation shall apply from 15 November 2015 and not before the entry into force of the implementing measures referred to in Article 4(5).

ANNEX I

LIST OF REQUIREMENTS APPLICABLE TO THE MANDATORY AND VOLUNTARY OCCURRENCE REPORTING SCHEMES

Note: The data fields must be completed with the information requested. If it is not possible for the Director to include that information because it has not been provided by the organisation or the reporter, the data field may be completed with the value ‘unknown’. However, with a view to ensuring that the appropriate information is transmitted, use of that ‘unknown’ value should, to the best extent possible, be avoided, and the report should, where possible, be completed with the information later.

1. COMMON MANDATORY DATA FIELDS

When entering, in their respective databases, information on every occurrence mandatorily reported and, to the best extent possible, every occurrence voluntarily reported, organisations and the Director must ensure that occurrence reports recorded in their databases contain at least the following information:

(1) Headline

- Headline

(2) Filing Information

- Responsible Entity
- File Number
- Occurrence Status

(3) When

- UTC Date

(4) Where

- State/Area of Occurrence
- Location of Occurrence

(5) Classification

- Occurrence Class
- Occurrence Category

(6) Narrative

- Narrative (in English)

(7) Events

- Event Type

(8) Risk classification

2. SPECIFIC MANDATORY DATA FIELDS

2.1. **Aircraft-related data fields**

When entering, in their respective databases, information on every occurrence mandatorily reported and, to the best extent possible, every occurrence voluntarily reported, organisations and the Director must ensure that occurrence reports recorded in their databases contain at least the following information:

(1) Aircraft Identification

- State of Registry
- Make/Model/Series
- Aircraft serial number
- Aircraft Registration
- Call sign

(2) Aircraft Operation

- Operator
- Type of operation

(3) Aircraft Description

- Aircraft Category
- Propulsion Type
- Mass Group

(4) History of Flight

- Last Departure Point
- Planned Destination
- Flight Phase

(5) Weather

- Weather relevant

2.2. **Data fields relating to air navigation services**

When entering, in their respective databases, information on every occurrence mandatorily reported and, to the best extent possible, every occurrence voluntarily reported, organisations and the Director must ensure that occurrence reports recorded in their databases contain at least the following information:

(1) ATM relation

- ATM contribution
- Service affected (effect on ATM service)

(2) ATS Unit Name

2.2.1. *Separation Minima Infringement/Loss of Separation and Airspace Infringement-related data fields*

When entering, in their respective databases, information on every occurrence mandatorily reported and, to the best extent possible, every occurrence voluntarily reported, organisations and the Director must ensure that occurrence reports recorded in their databases contain at least the following information:

(1) Airspace

- Airspace type

- Airspace class
- FIR/UIR name

2.3. **Aerodrome-related data fields**

When entering, in their respective databases, information on every occurrence mandatorily reported and, to the best extent possible, every occurrence voluntarily reported, organisations and the Director must ensure that occurrence reports recorded in their databases contain at least the following information:

(1) Location Indicator (ICAO indicator of the airport)

(2) Location on the aerodrome

2.4. **Aircraft damage or personal injury-related data fields**

When entering, in their respective databases, information on every occurrence mandatorily reported and, to the best extent possible, every occurrence voluntarily reported, organisations and the Director must ensure that occurrence reports recorded in their databases contain at least the following information:

(1) Severity

- Highest Damage
- Injury Level

(2) Injuries to persons

- Number of injuries on ground (fatal, serious, minor)
- Number of injuries on aircraft (fatal, serious, minor)

ANNEX II

Omitted

ANNEX III

Omitted