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 (Text with EEA relevance)

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

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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)], and in particular Article 7(6) thereof,

Whereas:

(1) The Commission, in close cooperation with the Member States and the European Union Aviation Safety Agency ('Agency') through the network of aviation safety analysts, developed a methodology for the classification of occurrences in terms of safety risk, by taking into account the need for compatibility with existing risk classification schemes. The common European risk classification scheme ('ERCS') was developed by 15 May 2017 in accordance with the target date set out in Article 7(5) of Regulation (EU) No 376/2014. The ERCS should be now set out in this Regulation.

(2) It should support the competent authorities of the Member States and the Agency in their assessment of occurrences, its key purpose should be the identification and classification in a harmonised manner of the level of risk posed by each occurrence to aviation safety. Its purpose should not be the identification of the outcome of the occurrence.

(3) The ERCS should also allow for the identification of rapid actions needed in reply to high-risk safety occurrences. It should also enable the identification of key risk areas from aggregated information and the identification and comparison of their risk levels.

(4) The ERCS should facilitate an integrated and harmonised approach to risk management across the European aviation system and therefore enable the competent authorities of Member States and the Agency to focus on safety improvement efforts in a harmonised manner as part of the European Plan for Aviation Safety referred to in Article 6 of Regulation (EU) 2018/1139 of the European Parliament and of the Council[(2)].

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/2034. (See end of Document for details)*

(5) Commission Implementing Regulation (EU) 2019/317[3] laying down a performance and charging scheme in the single European sky establishes the rate of runway incursions and separation minima infringement at Union level with a safety impact as the indicators to be monitored on an annual basis during the third reference period (RP3) that covers the calendar years 2020 to 2024 inclusive. This Regulation should be applied as of 1 January 2021 to align the use of the ERCS with the start of the RP3 second annual monitoring period and ensure the harmonised assessment of occurrences,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation sets out the common European risk classification scheme (ERCS) for the determination of the safety risk of an occurrence.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(1) ‘European risk classification scheme’ or ‘ERCS’ means the methodology applied for the assessment of the risk posed by an occurrence to civil aviation in the form of a safety risk score;

(2) ‘ERCS matrix’ means a grid made up of the variables described in Article 3(3) which serves for the illustrative representation of the safety risk score;

(3) ‘safety risk score’ means the result of the risk classification of an occurrence by combining the values of the variables described in Article 3(3);

(4) ‘high-risk area’ means an area where an aircraft impact would cause numerous injuries, result in a high number of fatalities, or both because of the nature of the activities in that area, such as nuclear or chemical plants;

(5) ‘populated area’ means an area with clustered or scattered buildings and a permanent human population, such as city, settlement, town, or village;

(6) ‘life changing injury’ means an injury reducing the person’s quality of life in regard to reduced mobility or reduced cognitive or physical ability in daily life.

Article 3

Common European risk classification scheme

1 The ERCS is set out in the Annex.

2 The ERCS shall address the safety risk of an occurrence and not its actual outcome. The assessment of each occurrence shall determine the worst likely accident outcome that the occurrence might have led to, and how close to that accident outcome the occurrence was.

3 The ERCS shall be based on the ERCS matrix composed of the following two variables:

a severity: identification of the worst likely accident outcome that would have resulted if the occurrence under assessment had escalated into an accident;

b probability: identification of the likelihood of the occurrence under assessment to escalate into the worst likely accident outcome referred to in point (a).

Article 4

Entry into force

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

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6 October 2020.

For the Commission

The President

Ursula VON DER LEYEN

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/2034. (See end of Document for details)*

ANNEX

The common European risk classification scheme

The ERCS shall consist of the following two steps:

STEP 1: Determination of the values of the two variables: severity and probability.

STEP 2: Scoring of the safety risk within the ERCS matrix based on the two determined values of variables.

STEP 1: DETERMINATION OF THE VALUES OF THE VARIABLES

1. Severity of the potential accident outcome

1.1. Identification

The identification of the severity of the potential accident outcome shall follow the following two steps:

(a) a determination of the most likely type of accident that the occurrence under assessment could have escalated to (the so called key risk area);

(b) a determination of the potential loss of life category based on aircraft size and proximity to populated or high-risk areas.

There are following key risk areas:

a. airborne collision: a collision between aircraft while both aircraft are airborne; or between aircraft and other airborne objects (excluding birds and wildlife);

b. aircraft upset: an undesired aircraft state characterised by unintentional divergences from parameters normally experienced during operations, which might ultimately lead to an uncontrolled impact with terrain;

c. collision on runway: a collision between an aircraft and another object (other aircraft, vehicles, etc.) or person that occurs on a runway of an aerodrome or other predesignated landing area. It does not include collisions with birds or wildlife;

d. excursion: an occurrence when an aircraft leaves the runway or movement area of an aerodrome or landing surface of any other predesignated landing area, without getting airborne. It includes high-impact vertical landings for rotorcraft or vertical take-off and landing aircraft and balloons or airships;

e. fire, smoke and pressurisation: an occurrence involving cases of fire, smoke, fumes or pressurisation situations that may become incompatible with human life. This includes occurrences involving fire, smoke or fumes affecting any part of an aircraft, in flight or on the ground, which is not the result of impact or malicious acts;

f. ground damage: damage to aircraft induced by operation of aircraft on ground on any other ground area than a runway or predesignated landing area, as well as damage during maintenance;

g. obstacle collision in flight: collision between an airborne aircraft and obstacles rising from the surface of the earth. Obstacles include tall buildings, trees, power cables, telegraph wires and antennae as well as tethered objects;

h. terrain collision: an occurrence where an airborne aircraft collides with terrain, without indication that the flight crew was unable to control the aircraft. It includes instances when the flight crew is affected by visual illusions or degraded visual environment;

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i. other injuries: an occurrence where fatal or non-fatal injuries have been inflicted, which cannot be attributed to any other key risk area;

j. security: an act of unlawful interference against civil aviation. It includes all incidents and breaches related to surveillance and protection, access control, screening, implementation of security controls and any other acts intended to cause malicious or wanton destruction of aircraft and property, endangering or resulting in unlawful interference with civil aviation and its facilities. Includes both physical and cyber security events.

The potential loss of life shall be categorised in the following way:

(a) more than 100 possible fatalities – where the occurrence under assessment involves at least any of the following:
- one large certified aircraft with more than 100 potential passengers on board;
- an equivalent size aircraft for cargo;
- one aircraft of any type in a heavily populated area or in a high-risk area or both;
- any situation involving any type of aircraft where more than 100 fatalities may be possible;

(b) between 20 to 100 possible fatalities – where the occurrence under assessment involves at least any of the following:
- one medium certified aircraft with 20 to100 potential passengers on board or equivalent size for cargo aircraft;
- any situation where 20 to 100 fatalities may be possible;

(c) between 2 to 19 possible fatalities where the occurrence under assessment involves at least any of the following:
- one small certified aircraft with up to 19 potential passengers on board;
- an equivalent size for cargo aircraft;
- any situation where 2 to 19 fatalities may be possible;

(d) 1 possible fatality – where the occurrence under assessment involves at least any of the following:
- one uncertified aircraft, that is aircraft not subject to European Union Aviation Safety Agency certification requirements;
- any situation where a single fatality may be possible;

(e) 0 possible fatalities – where the occurrence under assessment involves personal injuries only, regardless of the number of minor and serious injuries as long as there are no fatalities.

1.2. Determination

The severity of the accident shall result in one of the following severity scores:
- **'A'** which stands for no likelihood of an accident;
- **'E'** which stands for an accident involving minor and serious injury (not life changing) or minor aircraft damage;
- **'I'** which stands for an accident involving a single fatality, life changing injury or substantial damage accident;
- **'M'** which stands for a major accident with limited amount of fatalities, life changing injuries or destruction of the aircraft;