Commission Implementing Regulation (EU) 2020/1992 of 2 December 2020 amending Regulation (EC) No 474/2006 as regards the list of air carriers banned from operating or subject to operational restrictions within the Union (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1992

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amending Regulation (EC) No 474/2006 as regards the list of air carriers banned from operating or subject to operational restrictions within the Union

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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 carrier, and repealing Article 9 of Directive 2004/36/EC[(1)], and in particular Article 4(2) thereof,

Whereas:

(1) Commission Regulation (EC) No 474/2006[(2)] establishes the list of air carriers, which are subject to an operating ban within the Union.

(2) Certain Member States and the European Union Aviation Safety Agency ('the Agency') communicated to the Commission, pursuant to Article 4(3) of Regulation (EC) No 2111/2005, information that is relevant for updating that list. Third countries and international organisations also provided relevant information. The information provided contributes to the determination that the list should be updated.

(3) The Commission informed all air carriers concerned, either directly or through the authorities responsible for their regulatory oversight, about the essential facts and considerations which would form the basis of a decision to impose an operating ban on them within the Union or to modify the conditions of an operating ban imposed on an air carrier which is included in the list in Annex A or B to Regulation (EC) No 474/2006.

(4) The Commission gave the air carriers concerned the opportunity to consult all relevant documentation, to submit written comments and to make an oral presentation to the Commission and to the Committee established by Regulation (EC) No 2111/2005 (the 'EU Air Safety Committee').

(5) The Commission has informed the EU Air Safety Committee about the ongoing joint consultations, within the framework of Regulation (EC) No 2111/2005 and Commission Regulation (EC) No 473/2006[(3)], with the competent authorities and air carriers of Belarus, the Dominican Republic, Kazakhstan, Moldova, Pakistan and

Russia. The Commission also informed the EU Air Safety Committee about the aviation safety situation in Armenia, Congo (Brazzaville), Equatorial Guinea, Indonesia and Kyrgyzstan.

(6) The Agency informed the Commission and the EU Air Safety Committee about the technical assessments conducted for the initial evaluation and the continuous monitoring of third country operator ('TCO') authorisations, issued pursuant to Commission Regulation (EU) No 452/2014[(4)].

(7) The Agency also informed the Commission and the EU Air Safety Committee about the results of the analysis of ramp inspections stemming from the Safety Assessment of Foreign Aircraft ('SAFA') carried out under the EU Ramp Inspection Programme as provided for in Commission Regulation (EU) No 965/2012[(5)].

(8) In addition, the Agency informed the Commission and the EU Air Safety Committee about the technical assistance projects carried out in third countries affected by an operating ban under Regulation (EC) No 474/2006. Furthermore, the Agency provided information on the plans and requests for further technical assistance and cooperation to improve the administrative and technical capability of civil aviation authorities in third countries with a view to helping them resolve non-compliance with applicable international civil aviation safety standards. Member States were invited to respond to such requests on a bilateral basis in coordination with the Commission and the Agency. In that regard, the Commission reiterated the usefulness of providing information to the international aviation community, particularly through the International Civil Aviation Organisation's ('ICAO') Aviation Safety Implementation Assistance Partnership tool, on technical assistance to third countries provided by the Union and Member States to improve aviation safety around the world.

(9) Eurocontrol provided the Commission and the EU Air Safety Committee with an update on the status of the SAFA and TCO alarming functions, including statistics about alert messages for banned air carriers.

Union air carriers

(10) Following the Agency's analysis of information resulting from ramp inspections carried out on the aircraft of Union air carriers, as well as standardisation inspections carried out by the Agency, complemented also with information stemming from specific inspections and audits carried out by national aviation authorities, several Member States have taken certain enforcement measures and informed the Commission and the EU Air Safety Committee about those measures.

(11) Member States reiterated their readiness to act as necessary in the event that the relevant safety information indicates imminent safety risks as a consequence of a lack of compliance by Union air carriers with the relevant safety standards.

Air carriers from Belarus

(12) Air carriers from Belarus have never been included in Annex A or B to Regulation (EC) No 474/2006.

(13) The Commission continued monitoring the progress of the competent authority of Belarus, namely the Aviation Department of Belarus ('AD-BLR') in strengthening its capabilities to ensure that operations by air carriers certified in Belarus are conducted in accordance with international safety standards.

(14) On 8 October 2020, the Commission, the Agency and representatives of AD-BLR held a technical meeting to discuss the actions undertaken by AD-BLR, including those addressing the Agency's safety concerns identified during its technical assessments conducted for the initial evaluation and the continuous monitoring of TCO authorisations pursuant to Commission Regulation (EU) No 452/2014.

(15) During that meeting, AD-BLR provided information on its new organizational structure, including the recruitment and training of the staff, the functioning of its quality department, the status of the recertification of air carriers certified by AD-BLR and the temporary limitations it imposed to some air carriers, as well as the activities conducted as part of its surveillance program. AD-BLR also noted that the implementation of the corrective action plan developed in response to the deficiencies identified during the Union on-site assessment visit of March 2019 was completed.

(16) On 17 November 2020, the Commission informed the EU Air Safety Committee about explanations provided by AD-BLR. On this basis, even if there are some deficiencies with regard to certain air carriers certified by AD-BLR that need rectification, such as the failure to adapt the maintenance program to the type of operations of the aircraft, or deficiencies identified in the management of hard time and life time components, they do not warrant the inclusion of those air carriers in Annex A to Regulation (EC) No 474/2006.

(17) In accordance with the common criteria set out in the Annex to Regulation (EC) No 2111/2005, the Commission therefore considers that at this stage with respect to air carriers from Belarus there are no grounds for amending the list of air carriers, which are subject to an operating ban within the Union.

(18) Member States should continue verifying the effective compliance of air carriers certified in Belarus with the relevant international safety standards through prioritisation of ramp inspections of all those carriers, pursuant to Regulation (EU) No 965/2012.

(19) Where any relevant safety information reveals imminent safety risks as a consequence of a lack of compliance with international safety standards, further action by the Commission may become necessary, in accordance with Regulation (EC) No 2111/2005.

Air carriers from the Dominican Republic

(20) Air carriers from the Dominican Republic have never been included in Annex A or B to Regulation (EC) No 474/2006.

(21) A Union on-site assessment visit was conducted from 27 to 31 January 2020 by representatives of the Commission, the Agency and Member States in the

Dominican Republic at the offices of the Instituto Dominicano de Aviación Civil ('IDAC'). Whereas the results of that visit showed that IDAC had the capabilities to oversee the aviation activities in the Dominican Republic, a number of weaknesses in the safety oversight system were identified. Those weaknesses however do not raise immediate safety concerns. IDAC developed a corrective action plan to address the shortcomings identified and sent it to the Commission on 15 April 2020.

(22) On 4 November 2020, IDAC provided a progress report on the implementation of its corrective action plan. That progress report provided detailed information for each shortcoming identified, such as the root cause analysis, the corrective action being implemented and its progress, the different tasks of each action and their progress, as well as a detailed follow-up. IDAC estimates that the completion of its corrective action plan stands at 87,66 %.

(23) Based on this report, the Commission considers that at this stage IDAC has the necessary ability and willingness to address the safety deficiencies identified during the visit, and that it is effectively implementing its action plan. On those grounds, there was no need for a hearing of IDAC before the EU Air Safety Committee.

(24) In accordance with the common criteria set out in the Annex to Regulation (EC) No 2111/2005, the Commission therefore considers that at this stage with respect to air carriers from the Dominican Republic there are no grounds for amending the list of air carriers, which are subject to an operating ban within the Union.

(25) Member States should continue verifying the effective compliance of air carriers certified in the Dominican Republic with the relevant international safety standards through prioritisation of ramp inspections of all those carriers, pursuant to Regulation (EU) No 965/2012.

(26) Where any relevant safety information reveals imminent safety risks as a consequence of a lack of compliance with international safety standards, further action by the Commission may become necessary, in accordance with Regulation (EC) No 2111/2005.

Air carriers from Kazakhstan

(27) Air carriers from Kazakhstan were removed from Annex A to Regulation (EC) No 474/2006 in 2016[6].

(28) In February 2020, due to an apparent decline in the safety oversight by the competent authorities in Kazakhstan, the Commission opened consultations pursuant to Article 3(2) of Regulation (EC) No 473/2006. The EU Air Safety Committee was provided with an overview of the safety oversight situation in Kazakhstan at its meeting in May 2020.

(29) As a follow up to the EU Air Safety Committee's May 2020 meeting, the Commission and the Agency have maintained a continuous contact with the Civil Aviation Committee of Kazakhstan ('CAC KZ') and the Aviation Administration of Kazakhstan Joint Stock Company ('AAK') to gather further data and information. In

particular, the Commission has asked about the revocation by the AAK of the Air Operator Certificate ('AOC') of *Sigma Airlines* on safety grounds.

(30) On 16 October 2020 a meeting between the Commission, the Agency, Member States and representatives from the CAC KZ and from the AAK took place. AAK provided a comprehensive overview of its functions, of its conduct of safety oversight, including an update with respect to the list of AOC holders, registered aircraft, accidents, serious incidents and aviation occurrences and its enforcement measures. It also provided an overview of its surveillance activities, its plans as regards the recruitment and training of technical personnel, and its strategic approach to technical development within the context of aviation safety capacity building. Furthermore, the AAK informed about development of additional oversight procedures, enhanced implementation of the safety oversight programme and steps taken for the implementation of a quality management system.

(31) The AAK explained that, together with CAC KZ, it takes actions to improve safety oversight in Kazakhstan, including the necessary modification of the national legal framework, which should lead to a better functional separation between the two competent aviation authorities (AAK and CAC KZ).

(32) Based on the information currently available, including the Agency's TCO authorisation assessments and the information provided by the AAK, both prior to and during the meeting of 16 October 2020, it appears that significant efforts and consequential developments are being made to address the safety situation in Kazakhstan. The Commission, whilst acknowledging the action taken to date, will continue its monitoring and assessment of how the situation develops further. In this context, the Commission intends to carry out, with the assistance of the Agency and Member States, a Union on-site assessment visit to Kazakhstan.

(33) In view of the aforementioned evidence of the actions undertaken by the AAK and the CAC KZ, and in accordance with the common criteria set out in the Annex to Regulation (EC) No 2111/2005, the Commission therefore considers that at this stage with respect to air carriers from Kazakhstan, there are no grounds for amending the list of air carriers which are subject to an operating ban within the Union.

(34) Member States should continue verifying the effective compliance of air carriers certified in Kazakhstan with the relevant international safety standards through prioritisation of ramp inspections of all those carriers, pursuant to Regulation (EU) No 965/2012.

(35) Where any relevant safety information reveals imminent safety risks as a consequence of a lack of compliance with international safety standards, further action by the Commission may become necessary, in accordance with Regulation (EC) No 2111/2005.

Air carriers from Moldova