Commission Implementing Regulation (EU) 2020/736 of 2 June 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) 2020/736

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(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. On the grounds of the information provided, 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 Armenia, Congo (Brazzaville), Democratic Republic of Congo, the Dominican Republic, Equatorial Guinea, Kazakhstan, Kyrgyzstan, Libya, Nepal and

Sierra Leone. The Commission also informed the EU Air Safety Committee about the aviation safety situation in Angola, Belarus, Indonesia, Nigeria and Russia.

(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 carried out under the Safety Assessment of Foreign Aircraft programme ('SAFA'), in accordance with 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 alarming function status of the SAFA and TCO and with current statistics for 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 and from standardisation inspections carried out by the Agency, as well as 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. In this regard, Bulgaria informed the Commission and the EU Air Safety Committee about actions it had taken with regard to the air carriers certified in Bulgaria.

Air carriers from Armenia

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

(13) In October 2019, the Commission informed the Civil Aviation Committee of Armenia ('CAC') about certain safety concerns related to the air carriers certified by the CAC.

(14) Following the appearance of the CAC before the EU Air Safety Committee in November 2019, from 3 to 7 February 2020 experts from the Commission, the Agency and Member States (the 'assessment team') conducted a Union on-site assessment visit in Armenia at the offices of the CAC and at the offices of two air carriers certified in Armenia, namely *Aircompany Armenia* and *Armenia Airways*.

(15) It is clear from the assessment visit report that the CAC has a systemic weakness in terms of personnel management, as evidenced by a lack of procedures to determine manpower requirements, a lack of procedures and methodology for determining staff training requirements, as well as their effective implementation, and a lack of documented job descriptions for several of the CAC occupied and outsourced functions.

(16) With specific regard to staff training, the assessment visit report notes the seriousness of the identified deficiencies in terms of the CAC's effective capacity to properly conduct the certification process and oversight of the air carriers certified in Armenia.

(17) Furthermore, it is clear from the assessment visit report that the CAC lacks the quality management function needed to oversee the administration and transposition of legal, regulatory, and technical requirements into an effective organisational structure and business processes.

(18) With specific regard to the CAC Flight Operations Department, the assessment visit report notes the lack of a structured document management system whereby certification traceability can be assured, and as a consequence CAC was unable to provide requested evidence of activities performed as part of the initial Air Operator Certificate ('AOC') certification for its certified air carriers.

(19) With specific regard to the CAC Airworthiness Department, the assessment visit report notes the existence of an oversight plan to oversee the continuing airworthiness organisations of the air carriers and the approved maintenance organisations it certifies.

(20) The assessment visit report also notes evidence of ineffective oversight as the visit to the air carriers revealed several issues in the undertakings, which should have been detected by the CAC as part of its oversight obligations.

(21) On the basis of the outcome of the Union on-site assessment visit, the Commission invited CAC to a hearing before the EU Air Safety Committee on 12 May 2020. The air carriers *Aircompany Armenia*, *Atlantis Armenian Airlines*, *Atlantis European Airways*, *Armenia Airways*, *Armenian Helicopters*, and *Skyball* were also heard by the EU Air Safety Committee on that occasion.

(22) At the hearing, CAC informed the EU Air Safety Committee about the safety improvement measures enacted since appearing before the EU Air Safety Committee in November 2019, and emphasised its commitment to pursue these and additional efforts to further improve safety oversight in Armenia. Specific note was made of the support given by the Armenian Government to CAC in this regard. Furthermore, the extensive efforts made to enable technical assistance and cooperation with other States and international organisations were highlighted during the hearing.

(23) In relation to the assessment visit report observations, CAC provided details with respect to the measures taken following the Union on-site assessment visit regarding the CAC organisational structure. Specific mention was made to measures related to the improvement of the personnel management, improvements as regards the CAC Flight Operations Department and of its AOC certification process, as well as the training of the CAC inspectors. Furthermore, CAC provided details with respect to efforts being undertaken for the development of an Integrated Management Manual and an internal Electronic Document Management System.

(24) The EU Air Safety Committee's attention was specifically drawn to the efforts being undertaken to initiate, in cooperation with the Commission and EU Member States, a recertification of all the air carriers certified in Armenia, in combination with relevant on-the-job training support for its staff.

(25) In addition, CAC underlined the results of the efforts made to revoke AOCs from Armenian certified air carriers no longer deemed to be compliant with international aviation safety standards.

(26) The Commission and the EU Air Safety Committee acknowledge that the current situation is the result of a long period of inefficiency and neglect. Also, the Commission and the EU Air Safety Committee acknowledge the efforts made, and encourage CAC to pursue those efforts. They note the importance of the Armenian government's commitment in this regard, and equally conveyed commitment to support and cooperate with CAC with its efforts. The Commission and the EU Air Safety Committee positively note the personal capability and commitment of the Chair of CAC in pursuing these efforts.

(27) Nonetheless, on the basis of all available evidence, including notably from the Union on-site assessment visit, it has to be concluded that the CAC capabilities to oversee the aviation activities in Armenia are insufficient and not complying with the applicable minimum international safety standards. Significant further improvement of CAC capabilities will be necessary in order to address the current safety deficiencies. Currently, due to the significant deficiencies identified at the level of the personnel management, staff training, quality management function, combined with the inadequate certification activities and the ineffective oversight of air carriers, it is demonstrated that CAC does not have a sufficient ability to implement the relevant international safety standards, and its oversight capability cannot ensure that the operations of the air carriers that it has certified are continuously conducted in compliance with the relevant international safety standards.

(28) *Aircompany Armenia*, operates a fleet of two Boeing B737 aircraft. According to the company's statement, it is closely linked to *Georgian Airways*, an air carrier certified in Georgia with which *Aircompany Armenia* has established strong administrative and operational arrangements. In this respect, the Union on-site assessment visit found that *Aircompany Armenia* pilot training has been conducted in accordance with *Georgian Airways* procedures instead of its own procedures.

(29) The Union on-site assessment visit found that *Aircompany Armenia* has staff knowledgeable with systems and manuals in place to manage the various operations. Most of the issues or shortcomings identified during the visit are related to the clarity of procedures and control over the sub-contracted activities, which are mostly conducted by *Georgian Airways*.

(30) However, it is clear that *Aircompany Armenia*'s compliance monitoring system needs to be further developed, in order to ensure identification of non-compliance with national regulations and with the provisions of the approved operations manual, including in relation with the record keeping system.

(31) During the hearing before the EU Air Safety Committee*, Aircompany Armenia* provided details with respect to the measures taken to address the observations and recommendations of the Union on-site assessment visit, stating that six out of seven observations have been addressed. However, no evidence was provided to this effect.

(32) *Atlantis Armenian Airlines,* is an Armenian air carrier which operates one Let L-410 aircraft. During the hearing, the air carrier gave an overview of the company, including the available resources, the development plan of its fleet, its Safety Management System ('SMS'), and its Flight Data Monitoring Program.

(33) *Atlantis European Airways operates* a fleet of three Airbus A320 aircraft. During the hearing, the air carrier presented the company mission, the organisational structure, the training plan for its personnel and the SAFA results of the last year. In addition, information was provided about the air carrier's EASA TCO audit results.

(34) *Armenia Airways* is an Armenian certified air carrier with a fleet of one British Aerospace Bae-146-300 aircraft.

(35) During the Union on-site assessment visit, the assessment team identified several deficiencies that require immediate attention, namely as regards recording and tracking of audits and audit findings. The assessment team also found evidence of the Quality Management System's ineffectiveness, and considering the development plans of *Armenia Airways*, efforts should be made to establish a fully functional compliance monitoring system to identify any shortcomings which may affect the operations, and to ensure compliance with the approved operations manual. Special attention should be given to the training of pilots, to ensure competency of its crews.

(36) During the hearing, *Armenia Airways* gave an overview of the air carrier and presented the measures taken following the Union on-site assessment visit. According to the information delivered during the hearing, all the observations raised by the