Commission Implementing Regulation (EU) 2020/469 of 14 February 2020 amending Regulation (EU) No 923/2012, Regulation (EU) No 139/2014 and Regulation (EU) 2017/373 as regards requirements for air traffic management/ air navigation services, design of airspace structures and data quality, runway safety and repealing Regulation (EC) No 73/2010 (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2020/469

of 14 February 2020

amending Regulation (EU) No 923/2012, Regulation (EU) No 139/2014 and Regulation (EU) 2017/373 as regards requirements for air traffic management/air navigation services, design of airspace structures and data quality, runway safety and repealing Regulation (EC) No 73/2010

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91[(1)], and in particular points (c) and (g) of Article 36(1), points (a) and (f) of Article 43(1) and Article 44(1) thereof,

Whereas:

(1) Commission Regulation (EU) No 923/2012[(2)] lays down the common rules of the air and operational provisions regarding services and procedures in air navigation applicable to general air traffic (the so called 'rules of the air').

(2) Commission Regulation (EU) No 139/2014[(3)] lays down requirements and administrative procedures related to aerodromes, including their management, operation, certification and oversight.

(3) Commission Regulation (EU) 2017/373[(4)] lays down common requirements for providers of air traffic management/air navigation services ('ATM/ANS') and other air traffic management network functions ('ATM network functions') for general air traffic and their oversight.

(4) In order to ensure a high level of civil aviation safety in the Union, flight crews should be required to report to the air traffic service units, when the runway braking action they encounter is not as good as reported to them. Those reporting obligations should be set out in Implementing Regulation (EU) No 923/2012.

(5) On 31 March 2016 the International Civil Aviation Organisation ('the ICAO') adopted Amendment 77-A to Annex 3 to the Convention on International Civil Aviation, signed on 7 December 1944 in Chicago (the 'Chicago Convention') aiming at improving the provision of information on hazardous meteorological conditions, enhancing situational awareness and contributing to a more efficient routing, including circumvention of hazardous meteorological conditions. That amendment is applicable in ICAO Contracting States as of 10 November 2016 and it should be reflected in Regulation (EU) 2017/373, in particular in the provisions on meteorological services (Annex V – Part-MET).

(6) Regulation (EU) 2017/373 should reflect the state of the art in aviation safety, as well as best practices and scientific and technical progress in aeronautical information services ('AIS'). Therefore, amendments to Regulation (EU) 2017/373 should be based on the applicable ICAO Standards and recommended practices ('SARPs'), in particular on the Sixteenth Edition of Annex 15 'Aeronautical Information Services' to the Chicago Convention, while drawing on the experience of the Union in AIS provision and ensuring proportionality according to the size, type and complexity of the AIS provider ('AISP').

(7) On 31 March 2016 ICAO adopted also Amendment 77-B to Annex 3 to the Chicago Convention which aims at reducing runway excursion incidents and accidents. That Amendment 77-B to Annex 3 will be applicable in the ICAO Contracting States as of 5 November 2020. That amendment should also be reflected in Regulation (EU) 2017/373, in particular in the requirements laid down in Annex V as regards the provision of meteorological services and in Annex VI as regards the provision of aeronautical information services.

(8) Pilots should be informed through notices to airmen when a runway is temporarily unavailable due to marking works. In order to increase runway safety, pilots intending to operate on a specially prepared winter runway or on a slippery wet runway should be appropriately informed. The dissemination of friction measurements to pilots should not be allowed because friction measurements are not correlated with aeroplane performance.

(9) Common technical rules for the design of airspace structures as well as common requirements for service providers of flight procedure design ('FPD') should be established in Regulation (EU) 2017/373 to ensure that the airspace structures and flight procedures are properly designed, surveyed and validated before they can be deployed and used by aircraft.

(10) Flight procedures and any changes thereto can affect the safety of flight operations at the aerodrome. Consequently, a clear link between the existing Regulation (EU) No 139/2014 and Regulation (EU) 2017/373 should be introduced.

(11) With the adoption of the Seventh Edition of Annex 10 to the Chicago Convention on 'Aeronautical Telecommunications' (Volume II) published in July 2016, the Fifteenth Edition of Annex 11 to the Chicago Convention on 'Air Traffic Services' and the Sixteenth Edition of Doc 4444 'Procedures for Air Navigation Services – Air Traffic

Management (PANS ATM)', the ICAO adopted new ICAO SARPs on aviation safety in the provision of air traffic services ('ATS').

(12) For those reasons, and in order to ensure the uniform implementation and compliance with the essential requirements set out in point 2.3 of Annex VIII to Regulation (EU) 2018/1139, Regulation (EU) 2017/373 should be amended accordingly.

(13) Regulation (EU) No 923/2012 and Regulation (EU) 2017/373 should also include detailed provisions with regard to the availability and the conditions for the use of the Very-high frequency (VHF) emergency channel.

(14) Additionally, taking into account the impact of ATM/ANS on pilot actions and aerodrome operations, those new measures should also be reflected in the relevant provisions of Regulation (EU) No 923/2012.

(15) Those new measures include also detailed provisions on the quality of aeronautical data and aeronautical information and therefore Regulation (EU) No 73/2010[(5)] should be repealed.

(16) The industry and the competent authorities of the Member States should be given sufficient time to adapt to the measures introduced by this Regulation.

(17) The measures provided for in this Regulation are based on Opinion, 02/2018, Opinion 03/2018 and Opinion 03/2019 of the European Union Aviation Safety Agency in accordance with point (b) and (c) of Article 75(2) and Article 76(1) of Regulation (EU) 2018/1139.

(18) The measures provided for in this Regulation are in accordance with the opinion of the committee established by Article 127 of Regulation (EU) 2018/1139.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 923/2012 is amended as follows:

(1) Article 2 is amended as follows:

(a) point (57) is replaced by the following:

(57) ''controlled aerodrome'' means an aerodrome at which air traffic control service is provided to aerodrome traffic;

(b) the following points (144) and (145) are added:

(144) ''critical area'' means an area of defined dimensions extending around the ground equipment of a precision instrument approach within which the presence of vehicles or aircraft will cause unacceptable disturbance of the guidance signals;

(145) 'sensitive area' means an area extending beyond the critical area where the parking or movement, or both, of aircraft or vehicles will affect the guidance signal to the extent that it may be rendered as an unacceptable disturbance to aircraft using the signal.;

(2) the following Article 4a is inserted:

Article 4a

Very-high frequency (VHF) emergency frequency

1 Without prejudice to paragraph 2, Member States shall ensure that the VHF emergency frequency (121.500 MHz) is only used for emergency purposes specified in point SERA.14095(d) of the Annex.

2 Member States may exceptionally allow the use of the VHF emergency frequency referred to in paragraph 1 for other purposes than those specified in point SERA.14095(d) of the Annex, if those are limited to what is necessary to achieve their aim and in order to reduce the impact upon aircraft in distress or emergency and on the operations of air traffic services units.;

(3) the Annex is amended in accordance with Annex I to this Regulation.

Article 2

Annex III to Regulation (EU) No 139/2014 is amended in accordance with Annex II to this Regulation.

Article 3

Implementing Regulation (EU) 2017/373 is amended as follows:

(1) Article 1 is replaced by the following:

Article 1

Subject matter

This Regulation lays down common requirements for:

(a) the provision of air traffic management and air navigation services (‘ATM/ANS’) for general air traffic, in particular for the legal or natural persons providing those services and functions;

(b) the competent authorities and the qualified entities acting on their behalf, which perform certification, oversight and enforcement tasks in respect of the services referred to in point (a);

(c) the rules and procedures for the design of airspace structures.;

(2) Article 2 is amended as follows:

(a) point (2) is replaced by the following:

(2) ‘‘ATM/ANS provider’’ means any legal or natural person providing any of the ATM/ANS as defined in Article 3(5) of Regulation (EU) 2018/1139, either individually or bundled, for general air traffic;;

(b) New points (6), (7) and (8) are added:

(6) ‘‘design of airspace structures’’ means a process that ensures that airspace structures are properly designed, surveyed and validated before they are deployed and used by aircraft

(7) ‘airborne collision avoidance system (ACAS)’ means an aircraft system based on secondary surveillance radar (SSR) transponder signals which operates independently of ground-based equipment to provide advice to the pilot on potential conflicting aircraft that are equipped with SSR transponders’;

(8) ‘entity originating aeronautical data and aeronautical information’ – means any public or private entity responsible for origination of aeronautical data and aeronautical information used as a source for aeronautical information products and services. These entities do not include ATM/ANS providers referred to in point (2) of Article 2 of this Regulation and aerodromes defined in point (1)(e) of Article 2 of Regulation (EU) 2018/1139.;

(3) Article 3 is amended as follows:

(a) the heading is replaced by the following:

Provision of ATM/ANS and design of airspace structures;

(b) paragraph 1 is replaced by the following:

1. Member States shall ensure that the appropriate ATM/ANS are provided and airspace structures are designed in accordance with this Regulation in a manner that facilitates general air traffic, while taking into account safety considerations, traffic requirements and environmental impact.;

(c) the following paragraphs 5, 6, 7, 8 and 9 are added:

5. Member States shall ensure that:

a entities originating aeronautical data or aeronautical information meet the requirements laid down in:

(i) point ATM/ANS.OR.A.085 of Annex III, except those in points (c), (d), (f)(1) and (i) thereof;

(ii) point ATM/ANS.OR.A.090 of Annex III;

b aeronautical data and aeronautical information are originated, processed and transmitted by adequately trained, competent and authorised personnel.

When aeronautical data or aeronautical information is intended to be used for the purpose of IFR or special VFR flights, the requirements referred to in letters (a) and (b) of the first subparagraph shall apply to all entities originating such data and information.

6 Where it is determined that air traffic services are to be provided in particular portions of the airspace or at particular aerodromes, Member States shall ensure that those portions of the airspace or those aerodromes are specified in relation to the air traffic services that are to be provided.