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 (Text with EEA relevance)

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

(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[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) A high and uniform level of civil aviation safety should be ensured at all times by the adoption of common safety rules and by measures ensuring that any goods, persons and organisations involved in civil aviation activity in the Union comply with such rules.

(2) In addition, a high and uniform level of environmental protection should be ensured at all times by measures ensuring that any goods, persons and organisations involved in civil aviation activity in the Union comply with relevant Union law, and with international standards and recommended practices.

(3) In addition, third-country aircraft that are operated into, within or out of the territory where the relevant provisions of the Treaty on European Union ('TEU') and the Treaty

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on the Functioning of the European Union ('TFEU') (the 'Treaties') apply should be subject to appropriate oversight at Union level within the limits set by the Convention on International Civil Aviation, signed in Chicago on 7 December 1944 (the 'Chicago Convention'), to which all Member States are parties.

(4) It would not be appropriate to subject all aircraft to common rules. In particular, in light of their limited risk to civil aviation safety, aircraft that are of simple design or operate mainly on a local basis, and those which are home-built or particularly rare or only exist in a small number, should remain under the regulatory control of the Member States, without any obligation under this Regulation on other Member States to recognise such national arrangements. However, in order to facilitate the development of national rules for aircraft falling outside the scope of this Regulation, the European Union Aviation Safety Agency ('the Agency') can adopt guidance material for that purpose.

(5) However, provision should be made for the possibility to apply certain provisions under this Regulation to certain types of aircraft which are otherwise excluded from the scope of this Regulation, especially those which are produced in an industrial manner and which could benefit from free circulation within the Union. Therefore, organisations involved in the design of such aircraft should be allowed to apply for a type certificate to the Agency or, if applicable, to make a declaration to the Agency in respect of an aircraft type which is to be put on the market by such organisations.

(6) This Regulation should provide for a number of new tools that should support the implementation of simple and proportionate rules for sport and recreational aviation. The measures taken in accordance with this Regulation to regulate this segment of the aviation sector should be proportionate, cost-efficient, flexible and based on existing best practices in the Member States. Those measures should be developed in a timely manner, in close cooperation with the Member States and should avoid creating unnecessary administrative and financial burden for the manufacturers and operators.

(7) It would not be appropriate to subject all aerodromes to common rules. Aerodromes which are not open to public use or aerodromes which do not serve commercial air transport or aerodromes without paved instrument runways of more than 800 metres and which do not exclusively serve helicopters using instrument approach or departure procedures should remain under the regulatory control of the Member States, without any obligation under this Regulation on other Member States to recognise such national arrangements.

(8) Member States should be allowed to exempt from this Regulation aerodromes with low volumes of traffic, provided that the aerodromes concerned meet the minimum common safety objectives laid down in the relevant essential requirements set out in this Regulation. When a Member State grants such exemptions, those exemptions should also apply to the equipment used at the aerodrome concerned and to the providers of groundhandling services and apron management services ('AMS') operating at the exempted aerodromes. Exemptions granted by Member States to aerodromes before the entry into force of this Regulation should remain valid, and information about those exemptions should be made available to the public.

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(9) Aerodromes that are controlled and operated by the military, as well as air traffic management and air navigation services ('ATM/ANS') that are provided or made available by the military, should be excluded from the scope of this Regulation. However, Member States should ensure, in accordance with their national law, that such aerodromes, when opened to the public, and such ATM/ANS when serving air traffic to which Regulation (EC) No 549/2004 of the European Parliament and of the Council[(4)] applies, offer a level of safety and interoperability with civil systems that is as effective as that resulting from the application of the essential requirements for aerodromes and ATM/ANS set out in this Regulation.

(10) Where Member States consider it preferable, in particular with a view to achieving safety, interoperability or efficiency gains, to apply, instead of their national law, this Regulation to aircraft carrying out military, customs, police, search and rescue, firefighting, border control and coastguard or similar activities and services undertaken in the public interest, they should be allowed to do so. Member States making use of this possibility should cooperate with the Agency, in particular by providing all the information necessary for confirming that the aircraft and activities concerned comply with the relevant provisions of this Regulation.

(11) In order to take into account the interests and views of their aeronautical industry and aircraft operators, Member States should be allowed to exempt from this Regulation the design, production, maintenance and operation activities which are performed in respect of certain small aircraft, other than unmanned aircraft, unless, in respect of those aircraft, a certificate in accordance with this Regulation or with Regulation (EC) No 216/2008 of the European Parliament and of the Council[(5)] has been issued, or has been deemed to have been issued, or a declaration has been made in accordance with this Regulation. Such exemptions should not create any obligation under this Regulation for other Member States to recognise such national arrangements. However, such exemptions should not prevent an organisation with a principal place of business in the territory of the Member State which has granted that exemption from deciding to conduct its design and production activities in respect of aircraft covered by that decision in accordance with this Regulation and with the delegated and implementing acts adopted on the basis thereof.

(12) The measures taken in accordance with this Regulation to regulate civil aviation in the Union, and the delegated and implementing acts adopted on the basis thereof, should correspond and be proportionate to the nature and risks associated with the different types of aircraft, operations and activities they address. Such measures should also, in as far as possible, be formulated in a manner which focuses on objectives to be achieved, while allowing different means of achieving those objectives, and should also foster a systemic approach to civil aviation, taking into account interdependencies between safety and other technical domains of aviation regulation, including cyber security. This should contribute to a more cost-efficient achievement of required safety levels and to the stimulation of technical and operational innovation. Use should be made of recognised industry standards and practices, where it has been found that they ensure compliance with the essential requirements set out in this Regulation.

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(13) Application of sound safety management principles is essential for continuous improvement of civil aviation safety in the Union, anticipating emerging safety risks, and making best use of limited technical resources. It is therefore necessary to establish a common framework for planning and implementing safety improvement actions. To that end, a European Plan for Aviation Safety and a European Aviation Safety Programme should be drawn up at Union level. Each Member State should also draw up a State Safety Programme in accordance with the requirements contained in Annex 19 to the Chicago Convention. That Programme should be accompanied by a plan describing the actions to be taken by the Member State to mitigate the identified safety risks.

(14) In accordance with Annex 19 to the Chicago Convention, Member States are to establish an acceptable level of safety performance in relation to the aviation activities under their responsibility. In order to assist the Member States in meeting this requirement in a coordinated manner, the European Plan for Aviation Safety should lay down a level of safety performance for the Union in respect to the different categories of aviation activities. That level of safety performance should not have a binding character but should rather express the ambition of the Union and of the Member States with regard to civil aviation safety.

(15) The Chicago Convention provides for minimum standards to ensure the safety of civil aviation and environmental protection relating thereto. The Union's essential requirements and further rules for their implementation established in this Regulation should ensure that Member States fulfil, in a uniform manner, the obligations laid down in the Chicago Convention, including those vis-à-vis third countries. Where Union rules differ from the minimum standards established by the Chicago Convention, the obligations of Member States to notify the International Civil Aviation Organization accordingly are not affected.

(16) In line with the international standards and recommended practices set by the Chicago Convention, essential requirements applicable to aeronautical products, parts, non-installed equipment, aerodromes and the provision of ATM/ANS should be established. Furthermore, essential requirements applicable to persons and organisations involved in the operation of aircraft, the operation of aerodromes and in the provision of ATM/ANS, and essential requirements applicable to persons and products involved in the training and medical examination of aircrew and air traffic controllers should also be established.

(17) It is important that personnel used by ATM/ANS providers, such as Air Traffic Safety Electronics Personnel (‘ATSEP’) are appropriately qualified and trained to perform their duties. ATM/ANS providers should also implement training and checking programmes, taking into account the different types of safety-related tasks performed by their personnel. The implementing acts adopted under this Regulation and concerning responsibilities of ATM/ANS providers should lay down further detailed harmonised rules for such personnel, including ATSEP to ensure the necessary level of safety.

(18) The essential requirements concerning environmental compatibility of the design of aeronautical products should address, where necessary, both aircraft noise and

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emissions to protect the environment and human health from harmful effects of those products. They should correspond to the requirements which have been established in this regard at international level, as laid down in the Chicago Convention. In order to ensure full consistency, it is appropriate to refer in this Regulation to the relevant provisions of that Convention. However, products, parts and non-installed equipment should be made subject to the essential requirements for environmental compatibility laid down in Annex III to this Regulation to the extent that the provisions of the Chicago Convention do not contain environmental protection requirements. As regards those products, parts and non-installed equipment, provision should also be made for the possibility of laying down detailed environmental protection requirements.

(19) Essential requirements should also be laid down for the safe provision of groundhandling services and AMS.

(20) In view of the increasing reliance of civil aviation on modern information and communication technologies essential requirements should be laid down to ensure the security of information used by the civil aviation sector.

(21) The obligations of an aerodrome operator can be fulfilled directly by the aerodrome operator or, in some cases, by a third party. In such cases, the aerodrome operator should have arrangements in place with that third party to ensure compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof.

(22) Essential requirements should be laid down concerning reporting and analysis of safety occurrences. The detailed rules adopted in order to ensure uniform implementation of, and compliance with, those essential requirements should be consistent with Regulation (EU) No 376/2014 of the European Parliament and of the Council[(6)].

(23) Aeronautical products, parts and non-installed equipment, aerodromes and their safety-related equipment, operators of aircraft and aerodromes, ATM/ANS systems and ATM/ANS constituents and ATM/ANS providers, as well as pilots, air traffic controllers and persons, products and organisations involved in their training and medical examination, should be certified or licensed once they have been found to comply with relevant essential requirements or, where relevant, the other requirements established in, or pursuant to, this Regulation. In order to facilitate the process of certification, the necessary detailed rules for the issuance of those certificates and, where relevant, the declarations to be made to this effect, should be adopted, taking into account the objectives of this Regulation and the nature and risk of the particular activity concerned.

(24) Cabin crew involved in commercial air transport should be subject to certification and, as a result of that certification, should be issued with an attestation. In order to ensure uniform rules for the issuing of that attestation, implementing powers should be conferred on the Commission to establish detailed rules and procedures for the qualification of cabin crew members. It should also be possible for the Commission in those implementing acts, taking into account the nature and risk of the activity concerned, to require that cabin crew involved in other types of operations be subject to certification and hold an attestation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[(7)].