Commission Implementing Regulation (EU) No 104/2013 of 4 February 2013 amending Regulation (EU) No 185/2010 as regards the screening of passengers and persons other than passengers by Explosive Trace Detection (ETD) equipment in combination with Hand Held Metal Detection (HHMD) equipment (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) No 104/2013

of 4 February 2013

amending Regulation (EU) No 185/2010 as regards the screening of passengers and persons other than passengers by Explosive Trace Detection (ETD) equipment in combination with Hand Held Metal Detection (HHMD) equipment

(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 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002[(1)], and in particular Article 4(3) thereof,

Whereas:

(1) Commission Regulation (EC) No 272/2009 of 2 April 2009 supplementing the common basic standards on civil aviation security laid down in the Annex to Regulation (EC) No 300/2008 of the European Parliament and of the Council[(2)] provides that the implementing rules to be adopted pursuant to Article 4(3) of Regulation (EC) No 300/2008 may allow the use of explosive trace detection (ETD) equipment and hand held metal detection (HHMD) equipment for screening of persons (passengers and persons other than passengers).

(2) Experience has shown that hand searches of passengers and persons other than passengers are not always the most efficient means of screening certain parts of the person, in particular where those parts are not readily accessible such as certain headgear, plaster casts or prosthesis.

(3) Trials have demonstrated the effectiveness of the combined use of ETD and HHMD in such cases. Moreover, the use of ETD and HHMD may facilitate the screening process and be experienced to be a less intrusive means of screening than a hand search, thus constituting an improvement in the experience of persons screened.

(4) It is thus useful and justified to allow these methods for screening of those parts of the person where a hand search is considered inefficient and/or undesirable such as certain headgear, plaster casts or prosthesis.

(5) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, notably the human

Changes to legislation: Commission Implementing Regulation (EU) No 104/2013 is up to date with all changes known to be in force on or before 28 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

dignity, the freedom of religion, the non-discrimination, the rights of persons with disabilities, and the right to liberty and security. In so far as it limits those rights and principles, such limitation is made genuinely to meet objectives of general interest and the need to protect the rights and freedoms of others, respecting the conditions laid down in Article 52 of the Charter. This Regulation must be applied in accordance with those rights and principles.

(6) Commission Regulation (EU) No 185/2010[(3)] should therefore be amended accordingly.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Civil Aviation Security set up by Article 19(1) of Regulation (EC) No 300/2008,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EU) No 185/2010 is amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 4 February 2013.

For the Commission

The President

José Manuel BARROSO