Commission Implementing Regulation (EU) No 173/2012 of 29 February 2012 amending Regulation (EU) No 185/2010 as regards clarification and simplification of certain specific aviation security measures (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) No 173/2012

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amending Regulation (EU) No 185/2010 as regards clarification and simplification of certain specific aviation security measures

(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) Experience with the implementation of Commission Regulation (EU) No 185/2010 of 4 March 2010 laying down detailed measures for the implementation of the common basic standards on aviation security[(2)] has shown the need for small amendments to the implementing modalities of certain common basic standards.

(2) This concerns the clarification or simplification of certain specific aviation security measures in order to improve legal clarity, standardise the common interpretation of the legislation and further ensure the best implementation of the common basic standards on aviation security.

(3) The amendments concern the implementation of a limited number of measures in relation to access control, surveillance and patrols, screening of passengers and hold baggage, security controls for cargo, mail, in-flight and airport supplies, training of persons and security equipment.

(4) Regulation (EU) No 185/2010 should therefore be amended accordingly.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Civil Aviation Security,

HAS ADOPTED THIS REGULATION:

Article 1

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

Changes to legislation: Commission Implementing Regulation (EU) No 173/2012 is up to date with all changes known to be in force on or before 15 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

Article 2

This Regulation shall enter into force on the 20th day following 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, 29 February 2012.

For the Commission

The President

José Manuel BARROSO

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ANNEX

Annex to Regulation (EU) No 185/2010 is amended as follows:

(1) point 1.1.3.4 is replaced by the following:

1.1.3.4 Whenever unscreened persons or passengers and crew members arriving from third countries other than those listed in Attachment 4-B may have had access to critical parts, a security search of those parts that could have been contaminated shall be carried out as soon as possible in order to reasonably ensure that it does not contain prohibited articles.

Paragraph 1 shall be considered to be met for aircraft that are subject to an aircraft security search.

Paragraph 1 shall not apply when persons covered by point 1.3.2 and point 4.1.1.7 have had access to critical parts.

As far as passengers and crew members arriving from third countries other than those listed in Attachment 4-B are concerned, paragraph 1 shall only apply to those critical parts that are used by screened hold baggage and/or screened departing passengers not departing on the same aircraft as these passengers and crew members.;

(2) the following paragraph is added to point 1.2.2.2:

Alternatively, access may also be granted after positive identification via biometric data verification.;

(3) the following paragraph is added to point 1.2.2.4:

Where biometric identification is used, the verification shall ensure that the person seeking access to security restricted areas holds one of the authorisations listed under point 1.2.2.2 and that this authorisation is valid and was not disabled.;

(4) the following point 1.2.6.9 is inserted:

1.2.6.9 Vehicles that are only used airside and have no permission to drive on public roads may be exempted from application of points 1.2.6.2 to 1.2.6.8 provided that they are clearly marked externally as operational vehicles in use at that airport.;

(5) the following is added at the end of Point 1.2.7.1(c):

; and

(d) distances between the terminal or access point and the aircraft on which crew members have arrived or will depart.;

(6) point 1.5.2 is replaced by the following:

1.5.2 The frequency and means of undertaking surveillance and patrols shall be based on a risk assessment and shall be approved by the appropriate authority. They shall take into account:

(a) the size of the airport, including the number and nature of the operations; and

(b) the layout of the airport, in particular the interrelationship between the areas established at the airport; and

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(c) the possibilities and limitations of means of undertaking surveillance, and patrols.

The parts of the risk assessment relating to the frequency and means of undertaking surveillance and patrols shall, upon request, be made available in writing for compliance monitoring purposes.;

(7) point 4.1.3.4 is amended as follows:

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

(c) obtained airside beyond the point where boarding passes are controlled from outlets that are subject to approved security procedures as part of the airport security programme, on condition that the LAG is packed in a STEB inside which satisfactory proof of purchase at airside at that airport within the preceding 24 hours is displayed; or;

(b) points (e) and (f) are replaced by the following:

(e) obtained at another Union airport, on condition that the LAG is packed in a STEB inside which satisfactory proof of purchase at airside at that airport within the preceding 24 hours is displayed; or

(f) obtained on board an aircraft of an EU air carrier, on condition that the LAG is packed in a STEB inside which satisfactory proof of purchase on board that aircraft within the preceding 24 hours is displayed; or;

(8) point 5.3.3.2 is replaced by the following:

5.3.3.2 Hold baggage that becomes unaccompanied baggage due to factors other than those mentioned in point 5.3.2 shall be removed from the aircraft and rescreened before loading it again.;

(9) point 6.0.2 is replaced by the following:

6.0.2 The following shall be considered as prohibited articles in consignments of cargo and mail:

— assembled explosive and incendiary devices that are not carried in accordance with the applicable safety rules;

(10) point 6.0.3 is deleted;

(11) point 6.3.2.6 is replaced by the following:

6.3.2.6 The documentation shall be available for inspection by the appropriate authority at any point before the consignment is loaded on to an aircraft and afterwards for the duration of the flight or for 24 hours, whichever is the longer and shall provide the following information:

(a) the unique alphanumeric identifier of the regulated agent as received from the appropriate authority;

(b) a unique identifier of the consignment, such as the number of the (house or master) air waybill;

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(c) the content of the consignment, except for consignments listed in points 6.2.3(d) and (e) of Commission Decision C(2010) 774 final of 13 April 2010[3];

(d) the security status of the consignment, stating:
- "SPX", meaning secure for passenger, all-cargo and all-mail aircraft, or
- "SCO", meaning secure for all-cargo and all-mail aircraft only, or
- "SHR", meaning secure for passenger, all-cargo and all-mail aircraft in accordance with high risk requirements;

(e) the reason that the security status was issued, stating:
- "KC", meaning received from known consignor, or
- "AC", meaning received from account consignor, or
- the means or method of screening used, or
- the grounds for exempting the consignment from screening;

(f) the name of the person who issued the security status, or an equivalent identification, and the date and time of issue;

(g) the unique identifier received from the appropriate authority, of any regulated agent who has accepted the security status given to a consignment by another regulated agent.;

(12) point 6.3.2.7 shall be replaced by the following:

6.3.2.7 In the case of consolidations, the requirements of points 6.3.2.5 and 6.3.2.6 will be considered as met if:

(a) the regulated agent performing the consolidation retains the information required under points 6.3.2.6(a) to (g) for each individual consignment for the duration of the flight(s) or for 24 hours, whichever is the longer; and

(b) the documentation accompanying the consolidation includes the alphanumeric identifier of the regulated agent who performed the consolidation, a unique identifier of the consolidation and its security status.

Point (a) shall not be required for consolidations that are always subject to screening or exempted from screening in line with points 6.2.3(d) and (e) of Decision C(2010) 774 if the regulated agent gives the consolidation a unique identifier and indicates the security status and a single reason why this security status was issued.;

(13) point 6.6.1.1(a) is replaced by the following:

(a) the consignments shall be packed or sealed by the regulated agent, known consignor or account consignor so as to ensure that any tampering would be evident; where this is not possible alternative protection measures that ensure the integrity of the consignment shall be taken; and;

(14) the following is added at the end of point 6.8.2.3:

Until July 2014, security status declarations in accordance with point 6.3.2.6(d) for EU-bound cargo or mail may be issued by the ACC3 or an air carrier arriving from a third country listed in Attachment 6Fii; from July 2014 regulated agents referred to under point 6.8.3 may also provide security status declarations in this respect.;