Commission Regulation (EU) No 1141/2011 of 10 November 2011 amending Regulation (EC) No 272/2009 supplementing the common basic standards on civil aviation security as regards the use of security scanners at EU airports (Text with EEA relevance)

COMMISSION REGULATION (EU) No 1141/2011

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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 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 and the Annex.

Whereas:

(1) In accordance with Article 4(2) of Regulation (EC) No 300/2008, the Commission is required to adopt general measures designed to amend non-essential elements of the common basic standards laid down in the Annex to that Regulation by supplementing them.

(2) Article 4(3) of Regulation (EC) No 300/2008 further provides that the Commission must adopt detailed measures for implementing the common basic standards on civil aviation security laid down in the Annex to that Regulation, as supplemented by the general measures adopted by the Commission on the basis of Article 4(2).

(3) In particular, Commission Regulation (EC) No 272/2009[(2)] supplementing the common basic standards on civil aviation security provides for general measures in respect of methods of screening allowed for passengers as laid down in Part A of its Annex.

(4) Security scanners are an effective method for passenger screening and should be authorised for use at EU airports by adding them to the list of allowed methods of screening.

(5) The Commission has requested its Scientific Committee on Emerging and Newly Identified Health Risks (SCENIHR) to assess the possible effects of security scanners which use ionising radiation to human health. Without prejudice to Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation[(3)] and of Directive 2006/95/EC of the European Parliament and of the Council of 12 December 2006 on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits[(4)], at this stage, to

safeguard citizens' health and safety, only security scanners which do not use ionising radiation are added to the list of allowed methods for passenger screening for aviation security purposes.

(6) The use of security scanners should be subject to specific implementing rules allowing the use of this method of screening, individually or in combination, as a primary or secondary means and under defined conditions set to ensure the protection of fundamental rights. These shall be adopted separately pursuant to Article 4(3) of Regulation (EC) No 300/2008.

(7) By laying down specific operational conditions on the use of security scanners and by providing passengers with the possibility to undergo alternative screening methods, this Regulation, together with the specific implementing rules adopted pursuant to Article 4(3) of Regulation (EC) No 300/2008, respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including respect for human dignity and for private and family life, the right to the protection of personal data, the rights of the child, the right to freedom of religion and the prohibition of discrimination. This Regulation must be applied according to these rights and principles.

(8) The Commission will work closely with the industry and Member States in order to make sure that as soon as possible only security scanners based on automated threat detection are deployed at EU airports, so that it is no longer necessary for any human reviewer to analyse images.

(9) 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 (EC) No 272/2009 is amended in accordance with the Annex to this Regulation.

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, 10 November 2011.

For the Commission

The President

José Manuel BARROSO

***Changes to legislation:** There are currently no known outstanding effects for the Commission Regulation (EU) No 1141/2011. (See end of Document for details)*