Commission Regulation (EU) No 285/2010 of 6 April 2010 amending Regulation (EC) No 785/2004 of the European Parliament and of the Council on insurance requirements for air carriers and aircraft operators

COMMISSION REGULATION (EU) No 285/2010

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amending Regulation (EC) No 785/2004 of the European Parliament and of the Council on insurance requirements for air carriers and aircraft operators

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators[(1)], and in particular Article 6(5) thereof,

Whereas:

(1) By Council Decision 2001/539/EC[(2)] the Community concluded the Convention for the Unification of Certain Rules for International Carriage by Air, agreed at Montreal on 28 May 1999 (Montreal Convention), which lays down rules on liability in respect of the international carriage by air of persons, baggage and cargo.

(2) Regulation (EC) No 785/2004 established minimum insurance requirements in respect of liability for passengers, baggage and cargo at a level to ensure that air carriers are adequately insured to cover their liability under the Montreal Convention.

(3) The limits of liability of air carriers under the Montreal Convention have recently been reviewed by the International Civil Aviation Organization (ICAO) by reference to an inflation factor which corresponds to the accumulated rate of inflation since the date of entry into force of the Montreal Convention.

(4) It has been determined by ICAO that the inflation factor since 4 November 2003, the date of entry into force of the Montreal Convention, has exceeded 10 per cent, the threshold for triggering an adjustment of the limits of liability. Therefore, the limits of liability have been revised accordingly.

(5) The minimum insurance requirements in respect of liability for passengers, baggage and cargo, established by Regulation (EC) No 785/2004, should be timely adjusted to the revised limits of liability under the Montreal Convention which have become effective on 30 December 2009.

(6) For liability in respect of passengers the minimum insurance requirements of Regulation (EC) No 785/2004 have been set at a level significantly exceeding the revised limits of liability under the Montreal Convention.

(7) In respect of liability for baggage and cargo the minimum insurance requirements of Regulation (EC) No 785/2004 should be increased to the level of the revised limits of liability under the Montreal Convention.

(8) Regulation (EC) No 785/2004 should therefore be amended accordingly.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 25 of Regulation (EC) No 1008/2008 of the European Parliament and the Council of 24 September 2008 on common rules for the operation of air services in the Community[(3)],

HAS ADOPTED THIS REGULATION:

Article 1

In Article 6 of Regulation (EC) No 785/2004, paragraphs (2) and (3) are replaced by the following:

2. For liability in respect of baggage, the minimum insurance cover shall be 1 131 SDRs per passenger in commercial operations.

3 For liability in respect of cargo, the minimum insurance cover shall be 19 SDRs per kilogram in commercial operations.

Article 2

This Regulation shall enter into force on the 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, 6 April 2010.

For the Commission

The President

José Manuel BARROSO