Commission Regulation (EU) No 1254/2009 of 18 December 2009 setting criteria to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures (Text with EEA relevance)

COMMISSION REGULATION (EU) No 1254/2009

of 18 December 2009

setting criteria to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on European Union and 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(4) thereof,

Whereas:

(1) The criteria should be set to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures that provide an adequate level of protection on the basis of a (local) risk assessment. Such alternative measures should be justified by reasons relating to the size of the aircraft, or by reasons relating to the nature, scale or frequency of operations or of other relevant activities. Therefore, the criteria to be set should be also justified by these reasons.

(2) In accordance with Article 24 of Regulation (EC) No 300/2008, the Annex to the said Regulation shall apply as from the date to be specified in the implementing rules, but not later than 24 months after the entry into force of Regulation (EC) No 300/2008. Therefore, the application of the criteria adopted pursuant to Article 4(4) of Regulation (EC) No 300/2008 should be deferred until the adoption of implementing rules pursuant to Article 4(3), but not later than 29 April 2010.

(3) 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

[[F1]Member States may derogate from the common basic standards referred to in Article 4(1) of Regulation (EC) No 300/2008 and adopt alternative security measures that provide an adequate level of protection on the basis of a risk assessment approved by the appropriate authority at airports or demarcated areas of airports where traffic is limited to one or more of the following categories:**]**

Changes to legislation: *Commission Regulation (EU) No 1254/2009 is up to date with all changes known to be in force on or before 19 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*

1. aircraft with a maximum take-off weight of less than 15 000 kilograms;
2. helicopters;
3. **[**F1state, military and law enforcement flights;**]**
4. fire suppression flights;
5. flights for medical services, emergency or rescue services;
6. research and development flights;
7. flights for aerial work;
8. humanitarian aid flights;
9. flights operated by air carriers, aircraft manufacturers or maintenance companies, transporting neither passengers and baggage, nor cargo and mail;
10. **[**F1flights with aircraft with a maximum take-off weight of less than 45 500 kilograms, owned by a company for the carriage of own staff and non-fare-paying passengers and goods as an aid to the conduct of company business;
11. flights with aircraft with a maximum take-off weight of less than 45 500 kilograms, chartered or leased in its entirety by a company from an aircraft operator with which it has a written agreement for the carriage of own staff and non-fare-paying passengers and goods as an aid to the conduct of company business;
12. flights with aircraft with a maximum take-off weight of less than 45 500 kilograms, for the carriage of the owner of the aircraft and of non-fare-paying passengers and goods.**]**

[F2For flights covered under points 10, 11 and 12, but with a maximum take-off weight of 45 500 kilograms or more, the appropriate authority may in exceptional cases, and based on a risk assessment for each individual case, derogate from the weight limitation laid down in these categories. Member States receiving such flights with 45 500 kilograms or more may require prior notification, which may include a copy of the risk assessment carried out, or their prior approval. The requirement for prior notification or approval shall be submitted in writing to all other Member States.**]**

Textual Amendments

F1 Substituted by Commission Regulation (EU) 2016/2096 of 30 November 2016 amending Regulation (EU) No 1254/2009 as regards certain criteria to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures (Text with EEA relevance).

F2 Inserted by Commission Regulation (EU) 2016/2096 of 30 November 2016 amending Regulation (EU) No 1254/2009 as regards certain criteria to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures (Text with EEA relevance).

Article 2

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.