Commission Implementing Decision (EU) 2019/1128 of 1 July 2019 on access rights to safety recommendations and responses stored in the European Central Repository and repealing Decision 2012/780/EU (Text with EEA relevance)

COMMISSION IMPLEMENTING DECISION (EU) 2019/1128

of 1 July 2019

on access rights to safety recommendations and responses stored in the European Central Repository and repealing Decision 2012/780/EU

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007[(1)], and in particular Article 8(4) thereof,

Whereas:

(1) In accordance with Article 18(5) of Regulation (EU) No 996/2010 of the European Parliament and of the Council[(2)] all safety recommendations and responses thereto have to be recorded in the central repository.

(2) The central repository referred to in recital 1 is established by Regulation (EU) No 376/2014 as the European Central Repository.

(3) In accordance with Article 10 of Regulation (EU) No 376/2014 the access to the occurrence reports stored in the European Central Repository is restricted due to their confidential nature. On the other hand, there is a legitimate interest in giving public access to all safety recommendations and their responses because of the overarching purpose of Regulation (EU) No 996/2010 and of Regulation (EU) No 376/2014 to reduce the number of accidents and to promote a dissemination of findings of safety related incidents. The existence of such legitimate interest is further confirmed by the fact that safety investigation reports, which often include safety recommendations, are to be made public in accordance with Regulation (EU) No 996/2010.

(4) Pursuant to Article 8(4) of Regulation (EU) No 376/2014 the Commission is to adopt arrangements for the management of the European Central Repository. Since for security reasons there should not be any direct access to the European Central Repository, all safety recommendations and their responses contained in the European Central Repository should be made available to the general public through a separate public website.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2019/1128. (See end of Document for details)*

(5) It should be ensured at all times and at all levels that, as regards data storage, process and exchange, the obligations on personal data protection laid down in Regulation (EU) 2016/679 of the European Parliament and of the Council[(3)] and Regulation (EU) 2018/1725 of the European Parliament and of the Council[(4)] are respected.

(6) Commission Decision 2012/780/EU[(5)] should be repealed and replaced by this Decision, which compared to Decision 2012/780/EU, should establish public access not only to safety recommendations but also to their responses.

(7) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 127 of Regulation (EU) 2018/1139 of the European Parliament and of the Council[(6)],

HAS ADOPTED THIS DECISION:

Article 1

Subject matter

This Decision lays down measures concerning the management of the European Central Repository set up in accordance with Article 8(1) of Regulation (EU) No 376/2014 as regards the access to safety recommendations within the meaning of Article 2(15) of Regulation (EU) No 996/2010 and to responses thereto recorded under Article 18(3) of that Regulation.

Article 2

Status of safety recommendations and their responses

All safety recommendations and their responses contained in the European Central Repository shall be made available to the general public through a public website which shall be established and managed by the Commission.

Article 3

Protection of personal data

The processing of personal data within the framework of this Decision shall be carried out in compliance with Regulations (EU) 2016/679 and (EU) 2018/1725.

Article 4

Confidentiality

Responses to safety recommendations published in accordance with this Decision shall not contain any information of a confidential nature. Member States shall establish appropriate procedures to that effect.