

III

(Other acts)

EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY DECISION

No 36/17/COL

of 10 February 2017

regarding the lack of effective compliance with the Act referred to at point 66n of Annex XIII to the Agreement on the European Economic Area (Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC, as amended) and its implementing rules in respect of certificates issued by the Hellenic Aviation Training Academy (HATA), and Part-66 licenses issued on the basis thereof [2017/457]

THE EFTA SURVEILLANCE AUTHORITY,

Having regard to the Act referred to at 66n of Annex XIII to the Agreement on the European Economic Area ('the EEA Agreement')

Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC ⁽¹⁾, as amended ('the Act'),

as adapted to the EEA Agreement by Protocol 1 thereto, and in particular to Article 11(2) of the Act,

Having regard to Article 5 of the Decision of the Standing Committee No 3/2012/SC of 26 October 2012 laying down procedures for committees assisting the EFTA Surveillance Authority in carrying out its functions under Article 3 of Protocol 1 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and of a Court of Justice,

After consulting the EFTA Transport Committee,

Whereas:

- (1) In February 2014, the European Aviation Safety Agency ('the Agency') carried out an Airworthiness Standardisation inspection (AIR.EL.02.2014) to the Hellenic Civil Aviation Authority (HCAA). During this inspection, a non-conformity was identified raising safety concerns if not timely corrected (class D-finding), in accordance with Commission Implementing Regulation (EU) No 628/2013 ⁽²⁾.
- (2) The non-conformity concerned alleged examination fraud at the Part-147 maintenance training organisation, Hellenic Aviation Training Academy (HATA), with approval number EL.147.0007. Safety concerns were raised due to the possibility that aircraft maintenance certifying staff have gained a Part-66 license based on Certificates

⁽¹⁾ OJ L 79, 19.3.2008, p. 1.

⁽²⁾ The act mentioned at point 66qa of Annex XIII to the EEA Agreement (Commission Implementing Regulation (EU) No 628/2013 of 28 June 2013 on working methods of the European Aviation Safety Agency for conducting standardisation inspections and for monitoring the application of the rules of Regulation (EC) No 216/2008 of the European Parliament and of the Council and repealing Commission Regulation (EC) No 736/2006 (OJ L 179, 29.6.2013, p. 46)).

of Recognition issued by HATA under Annex III (Part-66) to Commission Regulation (EU) No 1321/2014 ⁽¹⁾, on the basis of alleged fraudulent activities, and are exercising privileges and releasing aircraft following maintenance without having the necessary aircraft basic knowledge.

- (3) On 26 February 2014, the HCAA revoked the approval of HATA and informed all Member States' Competent Authorities of the possibility of fraudulent Certificates of Recognition issued by HATA.
- (4) On 3 July 2014, the Agency and HCAA agreed a corrective action plan, including amongst others, investigations into Certificates of Recognition that have been used to issue Part-66 licences by Member States' Competent Authorities and Certificates of Recognition that have not yet been used to gain Part-66 licenses.
- (5) On 9 December 2014, the Agency issued a Safety Information Bulletin (SIB No: 2014-32) informing about the potential safety concern associated with the alleged examination fraud at HATA and recommending concrete measures to the Member States' Competent Authorities in order to address this situation.
- (6) In April 2016, the Agency carried out another Standardisation inspection of the HCAA. During this inspection, the Agency reviewed the agreed corrective action plan and concluded that HCAA had not been able to adequately implement the agreed actions before the agreed due dates. Consequently, in May 2016, the Agency issued a Supplementary Report to the HCAA, in accordance with Article 22(3) of Implementing Regulation (EU) No 628/2013.
- (7) Since HCAA had not conducted sufficient investigations of HATA to detect the alleged fraud committed by this organisation and had not fully investigated Part-66 licences which have been issued on the basis of Certificates of Recognition issued by HATA, the potential safety concern remains. There are concerns with regard to the Certificates of Recognition issued by HATA for basic knowledge exams on the technical modules (modules 7, 11, 12, 13, 14, 15, 16, 17).
- (8) In light of all the above, the Agency recommended that Article 11(1) of Regulation (EC) No 216/2008 shall cease to apply to the Certificates of Recognition for basic knowledge examination on technical modules issued by HATA and to the Part-66 licences issued by the Member States' Competent Authorities on the basis of these Certificates of Recognition. In addition, those Competent Authorities shall be required to take appropriate corrective action and safeguard measures in order to address the safety risks.
- (9) On 19 December 2016, the European Commission decided that Certificates of Recognition for basic knowledge examination on technical modules issued by the Hellenic Aviation Training Academy (HATA) pursuant to 147.A.145(a)(4) and Appendix III to Annex IV (Part-147) to Regulation (EU) No 1321/2014, which are submitted by an applicant as supporting documentation for the issue of a Part 66 licence by the Competent Authorities pursuant to 66.B.100 of Annex III (Part-66) to this Regulation do not effectively comply with Regulation (EC) No 216/2008 ⁽²⁾.
- (10) As a consequence of this, the European Commission also decided that Part-66 aircraft maintenance licenses issued by the Competent Authorities of the EU Member States pursuant to Annex III (Part-66) to Regulation (EU) No 1321/2014 on the basis of Certificates of Recognition for basic knowledge examination on technical modules issued by HATA pursuant to 147.A.145(a)(4) and Appendix III to Annex IV (Part-147) to that Regulation do not effectively comply with Regulation (EC) No 216/2008.
- (11) It is therefore necessary that the EFTA Surveillance Authority adopts a corresponding decision as regards Part-66 aircraft maintenance licenses issued by the Competent Authorities of the EFTA States and that the EFTA States take corrective action ensuring the required level of safety under the circumstances.
- (12) In accordance with Article 11 of Regulation (EC) No 216/2008, a decision by the EFTA Surveillance Authority regarding the recognition of the concerned certificates and on the corrective action and safeguard measures to be taken by the Competent Authorities needs to be notified to all EFTA States,

⁽¹⁾ The act mentioned at point 66q of Annex XIII to the EEA Agreement (*Commission Regulation (EU) No 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks* (OJ L 362, 17.12.2014, p. 1)).

⁽²⁾ See, Commission Decision (EU) 2016/2357 of 19 December 2016 regarding the lack of effective compliance with Regulation (EC) No 216/2008 of the European Parliament and of the Council and its implementing rules in respect of certificates issued by the Hellenic Aviation Training Academy (HATA), and Part-66 licenses issued on the basis thereof (OJ L 348, 21.12.2016, p. 72).

HAS ADOPTED THIS DECISION:

Article 1

Scope

The following does not effectively comply with Regulation (EC) No 216/2008 and its implementing rules:

Part-66 aircraft maintenance licenses issued by the Competent Authorities pursuant to Annex III (Part-66) to Commission Regulation (EU) No 1321/2014 on the basis of Certificates of Recognition for basic knowledge examination on technical modules issued by the Hellenic Aviation Training Academy pursuant to 147.A.145(a)(4) and Appendix III to Annex IV (Part-147) to that Regulation.

Article 2

Corrective Actions

1. The Competent Authorities of the EFTA States that have issued Part-66 licenses on the basis of Certificates of Recognition for basic knowledge examination on technical modules issued by HATA shall carry out within 3 months from the date of notification of this decision a reassessment of each Part-66 license concerned, taking into account, without prejudice to the present Decision, the recommendations laid down in Safety Information Bulletin EASA SIB No: 2014-32 issued by the Agency on 9 December 2014, at its latest revision.
2. After the completion of this re-assessment, the Competent Authorities of the EFTA States shall:
 - (a) where justified in view of Article 1, limit, suspend or revoke the Part-66 licence in accordance with 66.B.500 of Annex III (Part-66), as appropriate; and
 - (b) in any event, provide the EFTA Surveillance Authority and the Agency with the results of the reassessment.

Article 3

Entry into force

This Decision is addressed to the EFTA States and shall enter into force on the day of its publication.

Done at Brussels, 10 February 2017.

For the EFTA Surveillance Authority

Helga JÓNSDÓTTIR
College Member

Carsten ZATSCHLER
Director
