

COMMISSION IMPLEMENTING DECISION (EU) 2021/150**of 16 December 2020****on an exemption in favour of City of Derry Airport from the requirement to hold a certificate granted by Ireland on the basis of Article 41(6) of Regulation (EU) 2018/1139 of the European Parliament and of the Council***(notified under document C(2020) 8914)***(Only the English text is authentic)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2007 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 ⁽¹⁾, and in particular the third subparagraph of Article 41(6) thereof,

After consulting the Committee for the application of common safety rules in the field of civil aviation,

Whereas:

- (1) City of Derry Airport is located within the United Kingdom and is part of the UK Scottish Flight Information Region (FIR) close to the boundary of the Irish Shannon FIR. Instrument approaches to the airport require aircraft to enter the Shannon FIR before the final landing. For practical reasons, in order to facilitate the safe conduct of instrument approach procedures at the airport, the Irish Aviation Authorities delegated the Air Traffic Management/Air Navigation Services (ATM/ANS) for that approach to the ATM/ANS provider at City of Derry Airport. The certificates issued by the United Kingdom's Competent Authorities to the United Kingdom air navigation service providers under Regulation (EU) 2018/1139 will no longer be valid in the Union at the end of the transition period set in Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ⁽²⁾ ('the Withdrawal Agreement').
- (2) Following the end of the transition period, ATM/ANS providers of the United Kingdom will be able to provide services in the Union provided they hold a valid certificate issued by the European Union Aviation Safety Agency ('the Agency') under Article 80 of Regulation (EU) 2018/1139 as third country ATM/ANS providers.
- (3) On 21 August 2019, the Irish Aviation Authority, as the Irish Competent Authority and on behalf of Ireland, notified its intention to grant an exemption to City of Derry Airport from the requirement to hold an ATM/ANS service provider certificate issued by Ireland, pursuant to Article 41(6) of Regulation (EU) 2018/1139. That exemption is expected to become applicable on the day following that on which the transition period referred to in Article 126 of the Withdrawal Agreement ends.
- (4) The proposed exemption and the justification for it have been assessed by the Agency, which in its recommendation of 29 August 2019 concludes that all the conditions laid down in Article 41(6) of Regulation (EU) 2018/1139 have been met.
- (5) In particular, the provider's principal place of business is located outside the territory for which Ireland is responsible. Furthermore, the approaches at City of Derry Airport require aircraft to enter into a brief segment of the Shannon FIR and therefore it would be disproportionate to apply for certification of ATM/ANS provider for such a small volume of air traffic. City of Derry Airport ATM/ANS service provider is currently certified by the

⁽¹⁾ OJ L 212, 22.8.2018, p. 1.

⁽²⁾ OJ L 29, 31.1.2020, p. 7.

United Kingdom Civil Aviation Authority in accordance with Regulation (EU) 2018/1139 and formal arrangements have been put in place with the Irish Aviation Authority, as the Competent Authority for Ireland, with regard to oversight and enforcement in order to ensure compliance with the applicable rules, in particular the essential requirements referred to in Article 40 of Regulation (EU) 2018/1139. The scope of the exemption is clearly defined and remains limited to what is strictly needed, and where its duration exceeds five years, the exemption will be subject to regular review at suitable intervals, namely on an annual basis, by the Irish Aviation Authority, who will inform the Commission thereof. Finally, the exemption is applied in a non-discriminatory manner.

- (6) The exemption in favour of City of Derry Airport from the requirement to hold an ATM/ANS service provider certificate issued by Ireland meets the conditions set out in the first subparagraph of Article 41(6) of Regulation (EU) 2018/1139,

HAS ADOPTED THIS DECISION:

Article 1

The exemption in favour of City of Derry Airport from the requirement to hold a certificate for Air Traffic Management and Air Navigation Services (ATM/ANS) issued by Ireland meets the conditions set out in Article 41(6) of Regulation (EU) 2018/1139.

Article 2

This Decision shall apply from the date following that on which the Union law ceases to apply to the United Kingdom pursuant to Articles 126 and 127 of the Withdrawal Agreement.

This Decision is addressed to Ireland.

Done at Brussels, 16 December 2020.

For the Commission
Adina-Ioana VĂLEAN
Member of the Commission
