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II

(Non-legislative acts)

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2021/31

of 13 January 2021

on laying down rules for the application of Regulation (EU) 2018/1862 of the European Parliament and of the Council as regards the minimum data quality standards and technical specifications for entering photographs, DNA profiles and dactyloscopic data in the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters and repealing Commission Implementing Decision (EU) 2016/1345

(notified under document C(2020) 9228)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU⁽¹⁾, and in particular Article 42(5) thereof,

Whereas:

- (1) The Schengen Information System ("SIS") in the field of police cooperation and judicial cooperation in criminal matters contains alerts on persons and objects sought by national competent authorities for the purposes of ensuring a high level of security within the area of freedom, security and justice.
- (2) Pursuant to Article 20(3) of Regulation (EU) 2018/1862, the categories of data that may be entered in an alert on a person in SIS include photographs, facial images, DNA profiles and dactyloscopic data (the latter including fingerprints as well as palm prints). Pursuant to Article 22(1) of Regulation (EU) 2018/1862, such data should be entered into SIS, if available.
- (3) Article 42(1) and (3) of Regulation (EU) 2018/1862 stipulates that photographs, facial images, DNA profiles and dactyloscopic data entered in an alert in SIS are subject to a quality check in order to ascertain that they meet minimum data quality standards and technical specifications.
- (4) It is necessary to lay down implementing measures specifying the minimum data quality standards and technical specifications for entering and storing such data in SIS.
- (5) Pursuant to Article 43(3) of Regulation (EU) 2018/1862, searching dactyloscopic data stored in SIS with complete or incomplete sets of fingerprints or palm prints found at a serious crime or terrorism scene is to be permitted if it can be established to a high degree of probability that they belong to the perpetrator of a serious crime or an act of terrorism, and provided that a search is carried out simultaneously in the Member States relevant national fingerprint databases. In addition, pursuant to Article 40 of Regulation (EU) 2018/1862, Member States may enter

⁽¹⁾ OJ L 312, 7.12.2018, p. 56.

alerts on unknown wanted persons into SIS that contain only dactyloscopic data discovered at a serious crime or terrorism scene. Particular attention should be given to the establishment of quality standards applicable to the transmission of such dactyloscopic data to SIS.

- (6) The specifications should only set the level of quality required for entering and storing photographs in SIS to be used to confirm the identity of a person in accordance with Article 43(1) of that Regulation. The level of quality required for entering and storing photographs and facial images in SIS to be used to identify a person pursuant to Article 43(4) should be laid down at a later stage, when the conditions laid down in that Article have been fulfilled. eu-LISA should, in consultation with the SIS II Advisory Group, develop and document the technical details of the standards and specifications laid down in this Decision, in the SIS Interface Control Document and Detailed Technical Specifications. Member States, the European Union Agency for Law Enforcement Cooperation ('Europol'), the European Union Agency for Criminal Justice Cooperation ('Eurojust') and the European Border and Coast Guard Agency should develop their systems in compliance with the specifications set out in these documents.
- (7) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark did not take part in the adoption of Regulation (EU) 2018/1862 and is not bound by it or subject to its application. However, given that Regulation (EU) 2018/1862 builds upon the Schengen *acquis*, Denmark, in accordance with Article 4 of that Protocol, notified on 26 April 2019 its decision to implement Regulation (EU) 2018/1862 in its national law. Denmark is therefore bound under international law to implement this Decision.
- (8) Ireland is taking part in this Decision, in accordance with Article 5(1) of Protocol No 19 on the Schengen *acquis* integrated into the framework of the European Union, annexed to the TEU and to the TFEU, and Article 6(2) of Council Decision 2002/192/EC ⁽²⁾.
- (9) As regards Iceland and Norway, this Decision constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis* ⁽³⁾, which fall within the area referred to in Article 1, point (G) of Council Decision 1999/437/EC ⁽⁴⁾.
- (10) As regards Switzerland, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ⁽⁵⁾, which fall within the area referred to in Article 1, point (G), of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/149/JHA ⁽⁶⁾.
- (11) As regards Liechtenstein, this Decision constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the

⁽²⁾ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

⁽³⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁴⁾ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

⁽⁵⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁶⁾ Council Decision 2008/149/JHA of 28 January 2008 on the conclusion on behalf of the European Union of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 50).

European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* ⁽⁷⁾, which fall within the area referred to in Article 1, point (G), of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/349/EU ⁽⁸⁾.

- (12) As regards Bulgaria and Romania, this Decision constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within the meaning of Article 4(2) of the 2005 Act of Accession and should be read in conjunction with Council Decisions 2010/365/EU ⁽⁹⁾ and (EU) 2018/934 ⁽¹⁰⁾.
- (13) As regards Croatia, this Decision constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within the meaning of Article 4(2) of the 2011 Act of Accession and should be read in conjunction with Council Decision (EU) 2017/733 ⁽¹¹⁾.
- (14) Concerning Cyprus, this Decision constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within the meaning of Article 3(2) of the 2003 Act of Accession.
- (15) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽¹²⁾ and delivered an opinion on 26 August 2020.
- (16) The measures provided for in this Decision are in accordance with the opinion of the SIS-SIRENE Police Committee,

HAS ADOPTED THIS DECISION:

Article 1

The entry and storage of photographs, DNA profiles and dactyloscopic data in SIS as referred to in Article 42 of Regulation (EU) 2018/1862, shall comply with minimum data quality standards and technical specifications set out in the Annex to this Decision.

Article 2

Commission Implementing Decision (EU) 2016/1345 ⁽¹³⁾ is hereby repealed.

⁽⁷⁾ OJ L 160, 18.6.2011, p. 21.

⁽⁸⁾ Council Decision 2011/349/EU of 7 March 2011 on the conclusion on behalf of the European Union of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating in particular to judicial cooperation in criminal matters and police cooperation (OJ L 160, 18.6.2011, p. 1).

⁽⁹⁾ Council Decision 2010/365/EU of 29 June 2010 on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Bulgaria and Romania (OJ L 166, 1.7.2010, p. 17).

⁽¹⁰⁾ Council Decision (EU) 2018/934 of 25 June 2018 on the putting into effect of the remaining provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Bulgaria and Romania (OJ L 165, 2.7.2018, p. 37).

⁽¹¹⁾ Council Decision (EU) 2017/733 of 25 April 2017 on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Croatia (OJ L 108, 26.4.2017, p. 31).

⁽¹²⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

⁽¹³⁾ Commission Implementing Decision (EU) 2016/1345 of 4 August 2016 on minimum data quality standards for fingerprint records within the second generation Schengen Information System (SIS II) (OJ L 213, 6.8.2016, p. 15).

Article 3

This Decision is addressed to the Member States, the European Union Agency for Law Enforcement Cooperation, the European Union Agency for Criminal Justice Cooperation and the European Border and Coast Guard Agency.

Done at Brussels, 13 January 2021.

For the Commission
Ylva JOHANSSON
Member of the Commission

ANNEX

Minimum data quality standards and technical specifications for the use of photographs, DNA profiles and dactyloscopic data in SIS.**1. Dactyloscopic data****1.1. Categories of dactyloscopic data used in SIS**

The following categories of dactyloscopic data may be used in SIS:

- (a) flat fingerprints, including flat thumb slaps and flat four-finger slaps;
- (b) rolled fingerprints;
- (c) palm prints;
- (d) fingermark: complete or incomplete set of fingerprints of unknown origin discovered at the scenes of terrorist offences or other serious crimes under investigation;
- (e) palmmark: complete or incomplete set of palm prints of unknown origin discovered at the scenes of terrorist offences or other serious crimes under investigation.

1.2. Permitted dactyloscopic data formats

Member States may transmit to Central SIS:

- (a) data captured using live-scan devices at the national level that are capable of capturing and segmenting up to ten individual fingerprints; rolled, flat or both;
- (b) 'inked' fingerprints and palm prints; rolled, flat or both, which are digitally scanned at the relevant quality and resolution.

The Automated Fingerprint Identification System of Central SIS (CS-SIS AFIS), as defined in Article 43(2) of Regulation (EU) 2018/1862, must be compatible and interoperable with the dactyloscopic data formats mentioned under points (a) and (b).

1.3. Minimum data quality standards and technical specifications**1.3.1. File and compression format ('dactyloscopic container')**

The input format for the transmission of dactyloscopic data ('dactyloscopic container') to SIS must be compliant with the SIS NIST standard based on the ANSI/NIST ⁽¹⁾ binary format.

A 'SIS NIST checker' will be established at the level of the technical support function of Central SIS (CS-SIS) to check compliance of the transmitted dactyloscopic container with the defined SIS NIST standard.

Dactyloscopic containers that do not comply with the defined SIS NIST standard will be rejected by CS-SIS AFIS and will not be stored in Central SIS. If a non-compliant file is rejected by CS-SIS AFIS, CS-SIS will send an error message to the Member State that has transmitted the data.

1.3.2. Image format and Resolution

Fingerprint and palm print images referred to in points (a), (b) and (c) of Section 1.1, must be of a nominal resolution of either 1 000 ppi or of 500 ppi with 256 grey levels in order to be processed by CS-SIS. 500 ppi images must be entered using the WSQ format while 1 000 ppi images must be in JPEG2000 (JP2) format.

Fingermark and palmmark images referred to in points (d) and (e) of Section 1.1, must be of a resolution of 500 or 1 000 ppi in order to be processed by CS-SIS. 500 ppi images must be entered using the WSQ format while 1 000 ppi images must be in JPEG2000 (JP2) format. Lossless JPEG compression must be used for both resolutions images.

⁽¹⁾ American National Standard for Information Systems / National Institute of Standards and Technology.

1.3.3. *Quality thresholds for the storage and use of fingerprints and palm prints images in CS-SIS AFIS*

Dactyloscopic images must comply with the quality thresholds laid down in the SIS Interface Control Document and Detailed Technical Specifications in order to be stored and used in CS-SIS AFIS.

Member States are recommended to check the compliance with the quality thresholds of the dactyloscopic images before transmitting them to CS-SIS.

Compliant dactyloscopic containers that contain dactyloscopic images on fingerprints or palm prints below the quality thresholds will not be stored in CS-SIS AFIS and will not be used for biometric searches. Dactyloscopic containers that contain dactyloscopic images rejected by CS-SIS AFIS may only be used to confirm the identity of a person in accordance with Article 43(1) of Regulation (EU) 2018/1862. CS-SIS will send an error message to the Member State that has transmitted the data wherever a file has been rejected by CS-SIS AFIS due to the low quality of the images.

1.3.4. *Quality thresholds for the storage and use of fingermark and palmmark images in CS-SIS AFIS*

Dactyloscopic images of a fingermark and palmmark must comply with the quality thresholds laid down in the SIS Interface Control Document and Technical Specifications, in order to be accepted in CS-SIS AFIS.

Compliant dactyloscopic containers that contain dactyloscopic images of a fingermark or palmmark below the quality threshold will not be stored in CS-SIS AFIS. CS-SIS will send an error message to the Member State that has transmitted the data when a file has been rejected by CS-SIS AFIS due to the low quality of the images.

1.4. **Biometric searches**

CS-SIS AFIS will provide a biometric search functionality for all types of dactyloscopic images satisfying the quality requirements established under points 1.3.3 and 1.3.4.

The performance requirements and biometric accuracy for the different categories of biometric searches in CS-SIS AFIS are laid down in the SIS Interface Control Document and Detailed Technical Specifications.

2. **Photographs**

A minimum resolution of 480 × 600 pixels with 24 bits of colour depth must be used when entering photographs in SIS.

3. **DNA profiles**

The file type used to describe the DNA profile must follow the Extensible Markup Language (XML). The structure of the file must follow the Combined DNA Index System (CODIS) ^(?) standard to describe the DNA profile to be stored in SIS.

(?) <https://www.fbi.gov/services/laboratory/biometric-analysis/codis>

COMMISSION IMPLEMENTING DECISION (EU) 2021/32**of 13 January 2021****concerning the extension of the action taken by the Environment Agency of Luxembourg permitting the making available on the market and use of the biocidal product BIOBOR JF in accordance with Article 55(1) of Regulation (EU) No 528/2012 of the European Parliament and of the Council***(notified under document C(2021) 13)***(Only the French text is authentic)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ¹, and in particular the third subparagraph of Article 55(1) thereof,

Whereas:

- (1) On 4 May 2020 the Environment Agency of Luxembourg (the 'competent authority') adopted a decision (subsequently amended on 19 June 2020 and 7 October 2020) in accordance with the first subparagraph of Article 55(1) of Regulation (EU) No 528/2012 to permit until 31 October 2020 the making available and use by professional users of the biocidal product BIOBOR JF for the antimicrobial treatment of fuel tanks and fuel systems of parked aircraft ('the action'). The competent authority informed the Commission and the competent authorities of the other Member States about the action and the justification for it, in accordance with the second subparagraph of Article 55(1) of that Regulation.
- (2) According to the information provided by the competent authority, the action was necessary in order to protect public health. Microbiological contamination of aircraft fuel tanks and fuel systems can lead to malfunctions of the aircraft engine and endanger its airworthiness, thus endangering the safety of passengers and crew. The COVID-19 pandemic and the ensuing flight restrictions led to numerous aircraft being temporarily parked. The immobility of aircraft is an aggravating factor of microbiological contamination.
- (3) BIOBOR JF contains 2,2'-(1-methyltrimethylenedioxy)bis-(4-methyl-1,3,2-dioxaborinane) (CAS number 2665-13-6) and 2,2'-oxybis (4,4,6-trimethyl-1,3,2-dioxaborinane) (CAS number 14697-50-8), active substances for use in biocidal products of product-type 6 as preservatives for products during storage as defined in Annex V to Regulation (EU) No 528/2012. As those active substances are not included in the work programme laid down in Annex II to Commission Delegated Regulation (EU) No 1062/2014 ² for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012, they have to be assessed and approved before biocidal products containing them can be authorised at national or Union level.
- (4) On 16 October 2020, the Commission received a reasoned request from the competent authority to extend the action in accordance with the third subparagraph of Article 55(1) of Regulation (EU) No 528/2012. The reasoned request was made on the basis of concerns that air transport safety might continue to be endangered by microbiological contamination of aircraft fuel tanks and fuel systems and the argument that BIOBOR JF is essential in order to control such microbiological contamination.

¹ OJ L 167, 27.6.2012, p. 1.² Commission Delegated Regulation (EU) No 1062/2014 of 4 August 2014 on the work programme for the systematic examination of all existing active substances contained in biocidal products referred to in Regulation (EU) No 528/2012 of the European Parliament and of the Council (OJ L 294, 10.10.2014, p. 1).

- (5) According to the information provided by the competent authority, the only alternative biocidal product recommended by aircraft and engine manufacturers for the treatment of microbiological contamination was withdrawn from the market in March 2020 on account of severe engine behaviour anomalies noticed after the treatment with that product.
- (6) As indicated by the competent authority, the mechanical treatment of microbiological contamination of aircraft fuel tanks and fuel systems entails setting up of regular draining operations and microbiological testing of drainage samples, requiring additional staff and the establishment of complex procedures for sampling and laboratory testing of samples, which do not appear to be suitable for the Luxembourgish airline fleet. Moreover, the manual cleaning of contaminated tanks – needed if contamination is detected – would expose workers to toxic gases and should be avoided.
- (7) According to the information provided by the competent authority, the manufacturer of BIOBOR JF has taken steps towards the regular authorisation of the product and an application for approval of the active substances it contains is expected to be submitted early 2021. The approval of the active substances and subsequent authorisation of the biocidal product would represent a permanent solution for the future, but a significant amount of time will be needed for the completion of those procedures.
- (8) As the lack of control of microbiological contamination of aircraft fuel tanks and fuels systems might endanger the air transport safety and that danger cannot be adequately contained by using another biocidal product or by other means, it is appropriate to allow the competent authority to extend the action for a period not exceeding 550 days starting from the day following the expiry of the initial period of 180 days permitted in the decision of the competent authority of 4 May 2020 as amended on 7 October 2020.
- (9) Considering that the action has lapsed since 1 November 2020, this Decision should have retroactive effect.
- (10) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS DECISION:

Article 1

The Environment Agency of Luxembourg may extend until 5 May 2022 the action to permit the making available on the market and use by professional users of the biocidal product BIOBOR JF for the antimicrobial treatment of fuel tanks and fuel systems of parked aircraft.

Article 2

This Decision is addressed to the Environment Agency of Luxembourg.

It shall apply from 1 November 2020.

Done at Brussels, 13 January 2021.

For the Commission
Stella KYRIAKIDES
Member of the Commission

COMMISSION IMPLEMENTING DECISION (EU) 2021/33**of 14 January 2021****as regards the authorisation for Spain not to take into account certain categories of transactions for the calculation of the VAT own resources base in respect of supply of services by authors until the end of 2024***(notified under document C(2021) 80)***(only the Spanish text is authentic)**

THE EUROPEAN COMMISSION,

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

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax ⁽¹⁾, and in particular the first indent of Article 6(3) thereof,

After consulting the Advisory Committee on Own Resources,

Whereas:

- (1) Under Article 376 of Council Directive 2006/112/EC ⁽²⁾, Spain may continue to exempt the supply of services performed by authors listed in point (2) of Part B of Annex X to that Directive, in accordance with the conditions applying in that Member State on 1 January 1993. In accordance with Article 2(2) of Regulation (EEC, Euratom) No 1553/89, those transactions are to be taken into account for the determination of the value added tax (VAT) own resources base.
- (2) By Commission Implementing Decision (EU, Euratom) 2015/2189 ⁽³⁾ Spain was authorised not to take into account supply of services by authors as referred to in point (2) of part B of Annex X to Directive 2006/112/EC for the purpose of calculating the VAT own resources base from 1 January 2015 to 31 December 2019.
- (3) In its letter of 19 February 2019, Spain requested an authorisation from the Commission to continue not to take into account certain categories of transactions for the calculation of the VAT own resources base. In particular, Spain is unable to make the precise calculation of the VAT own resources base for transactions referred to in point (2) of Part B of Annex X to Directive 2006/112/EC in respect of supply of services by authors. Such calculation is likely to involve an unjustified administrative burden in relation to the effect of those transactions on Spain's total VAT own resources base. Spain should therefore be authorised not to take into account the supply of services by authors for the calculation of the VAT resources base.
- (4) For reasons of transparency and legal certainty, it is appropriate to limit the applicability of the authorisation in time,

HAS ADOPTED THIS DECISION:

Article 1

For the purpose of calculating the VAT own resources base from 1 January 2020 to 31 December 2024, Spain is authorised not to take into account supply of services by authors as referred to in point (2) of part B of Annex X to Directive 2006/112/EC.

⁽¹⁾ OJ L 155, 7.6.1989, p. 9.⁽²⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).⁽³⁾ Commission Implementing Decision (EU, Euratom) 2015/2189 of 25 November 2015 authorising Spain not to take into account certain categories of transactions for the calculation of the VAT own resources base (OJ L 312, 27.11.2015, p. 23).

Article 2

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 14 January 2021.

For the Commission
Johannes HAHN
Member of the Commission

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

DECISION No 2/2020 OF THE JOINT EUROPEAN UNION/SWITZERLAND AIR TRANSPORT COMMITTEE SET UP UNDER THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE SWISS CONFEDERATION ON AIR TRANSPORT

of 3 December 2020

replacing the Annex to the Agreement between the European Community and the Swiss
Confederation on Air Transport [2021/34]

THE EUROPEAN UNION/SWITZERLAND AIR TRANSPORT COMMITTEE,

Having regard to the Agreement between the European Community and the Swiss Confederation on Air Transport, hereinafter referred to as 'the Agreement', and in particular Article 23(4) thereof,

HAS DECIDED AS FOLLOWS:

Article 1

The Annex to this Decision replaces the Annex to the Agreement, as from 1 February 2021.

Article 2

1. Amendments to any act referred to in the Annex to the Agreement, adopted by the European Union in view of the COVID-19 pandemic after the adoption of this Decision and limited to amending the entry into force or date of application of the act or its complete or partial application, or limited to its complete or partial abrogation, shall be communicated to the Swiss Confederation in accordance with Article 23(3) of the Agreement and shall be considered included in the Annex to the Agreement as of their publication in the *Official Journal of the European Union* without the need for a further decision of the Joint Committee revising the Annex. Information containing a complete reference to the relevant amendments, following their adoption, together with a reference to the present decision, shall be published in the *Official Journal of the European Union* and in the Official Compendium of Swiss Federal Law. The amendments shall become applicable in Switzerland as of their date of application in the European Union.

2. Paragraph 1 shall apply to acts adopted until 31 December 2021.

Done at Bern and Brussels, 3 December 2020.

For the Joint Committee

The Head of the European Union Delegation
Filip CORNELIS

The Head of the Swiss Delegation
Christian HEGNER

ANNEX

ANNEX

For the purposes of this Agreement:

- By virtue of the Treaty of Lisbon, entered into force on 1 December 2009, the European Union shall replace and succeed the European Community;
- Wherever acts specified in this Annex contain references to Member States of the European Community, as replaced by the European Union, or a requirement for a link with the latter, the references shall, for the purpose of the Agreement, be understood to apply equally to Switzerland or to the requirement of a link with Switzerland;
- The references to Council Regulations (EEC) No 2407/92 and (EEC) No 2408/92 made in the Articles 4, 15, 18, 27 and 35 of the Agreement, shall be understood as references to Regulation (EC) No 1008/2008 of the European Parliament and of the Council;
- Without prejudice to Article 15 of this Agreement, the term “Community air carrier” referred to in the following Community directives and regulations shall include an air carrier which is licensed and has its principal place of business and, if any, its registered office in Switzerland in accordance with the provisions of Regulation (EC) No 1008/2008. Any reference to Council Regulation (EEC) No 2407/92 shall be understood as reference to Regulation (EC) No 1008/2008;
- Any reference in the following texts to Articles 81 and 82 of the Treaty or to Articles 101 and 102 of the Treaty on the Functioning of the European Union shall be understood to mean Articles 8 and 9 of this Agreement.

1. Aviation liberalisation and other civil aviation rules

Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast), OJ L 293, 31.10.2008, p. 3, as amended by:

- Regulation (EU) 2018/1139, OJ L 212, 22.8.2018, p. 1,
- Regulation (EU) 2020/696, OJ L 165, 27.5.2020, p. 1.

Council Directive 2000/79/EC of 27 November 2000 concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA) (text with EEA relevance), OJ L 302, 1.12.2000, p. 57.

Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time, OJ L 299, 18.11.2003, p. 9.

Regulation (EC) No 437/2003 of the European Parliament and of the Council of 27 February 2003 on statistical returns in respect of the carriage of passengers, freight and mail by air, OJ L 66, 11.3.2003, p. 1.

Commission Regulation (EC) No 1358/2003 of 31 July 2003 implementing Regulation (EC) No 437/2003 of the European Parliament and of the Council on statistical returns in respect of the carriage of passengers, freight and mail by air and amending Annexes I and II thereto, OJ L 194, 1.8.2003, p. 9, as amended by:

- Commission Regulation (EC) No 158/2007, OJ L 49, 17.2.2007, p. 9.

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 OJ L 138, 30.4.2004, p. 1, as amended by:

- Commission Regulation (EU) No 285/2010, OJ L 87, 7.4.2010, p. 19,
- Commission Delegated Regulation (EU) 2020/1118, OJ L 243, 29.7.2020, p. 1.

Council Regulation (EEC) No 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports, OJ L 14, 22.1.1993, p. 1 (Articles 1-12), as amended by:

- Regulation (EC) No 793/2004, OJ L 138, 30.4.2004, p. 50,
- Regulation (EU) 2020/459, OJ L 99, 31.3.2020, p. 1.

Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges (Text with EEA relevance), OJ L 70, 14.3.2009, p. 11.

Council Directive 96/67/EC of 15 October 1996 on access to the groundhandling market at Community airports, OJ L 272, 25.10.1996, p. 36.

(Articles 1-9, 11-23, and 25).

Regulation (EC) No 80/2009 of the European Parliament and of the Council of 14 January 2009 on a Code of Conduct for computerised reservation systems and repealing Council Regulation (EEC) No 2299/89 (text with EEA relevance), OJ L 35, 4.2.2009, p. 47.

2. Competition rules

Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (Text with EEA relevance), OJ L 1, 4.1.2003, p. 1.

(Articles 1-13, 15-45)

(To the extent that this Regulation is relevant for the application of this agreement. The insertion of this Regulation does not affect the division of tasks according to this agreement.)

Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (Text with EEA relevance), OJ L 123, 27.4.2004, p. 18, as amended by:

— Commission Regulation (EC) No 1792/2006, OJ L 362, 20.12.2006, p. 1,

— Commission Regulation (EC) No 622/2008, OJ L 171, 1.7.2008, p. 3.

Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (text with EEA relevance), OJ L 24, 29.1.2004, p. 1.

(Article 1-18, 19(1)-(2), and 20-23)

With respect to Article 4(5) of the Merger Regulation the following shall apply between the European Community and Switzerland:

- (1) With regard to a concentration as defined in Article 3 of Regulation (EC) No 139/2004 which does not have a Community dimension within the meaning of Article 1 of that Regulation and which is capable of being reviewed under the national competition laws of at least three EC Member States and the Swiss Confederation, the persons or undertakings referred to in Article 4(2) of that Regulation may, before any notification to the competent authorities, inform the EC Commission by means of a reasoned submission that the concentration should be examined by the Commission.
- (2) The European Commission shall transmit all submissions pursuant to Article 4(5) of Regulation (EC) No 139/2004 and the previous paragraph to the Swiss Confederation without delay.
- (3) Where the Swiss Confederation has expressed its disagreement as regards the request to refer the case, the competent Swiss competition authority shall retain its competence, and the case shall not be referred from the Swiss Confederation pursuant to this paragraph.

With respect to time limits referred to in Articles 4(4) and (5), Articles 9(2) and (6), and Articles 22(2) of the Merger Regulation:

- (1) The European Commission shall transmit all the relevant documents pursuant to Articles 4(4) and (5), Articles 9(2) and (6) and Article 22(2) to the competent Swiss competition authority without delay.
- (2) The calculation of the time limits referred to in Articles 4(4) and (5), Articles 9(2) and (6), and Article 22(2) of Regulation (EC) No 139/2004 shall start, for the Swiss Confederation, upon receipt of the relevant documents by the competent Swiss competition authority.

Commission Regulation (EC) No 802/2004 of 21 April 2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (text with EEA relevance), OJ L 133, 30.4.2004, p. 1 (Articles 1-24), as amended by:

- Commission Regulation (EC) No 1792/2006, OJ L 362, 20.12.2006, p. 1,
- Commission Regulation (EC) No 1033/2008, OJ L 279, 22.10.2008, p. 3,
- Commission Implementing Regulation (EU) No 1269/2013, OJ L 336, 14.12.2013, p. 1.

Commission Directive 2006/111/EC of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings (Codified version) (text with EEA relevance), OJ L 318, 17.11.2006, p. 17.

Council Regulation (EC) No 487/2009 of 25 May 2009 on the application of Article 81(3) of the Treaty to certain categories of agreements and concerted practices in the air transport sector (codified version) (text with EEA relevance), OJ L 148, 11.6.2009, p. 1.

3. Aviation safety

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 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91, OJ L 212, 22.8.2018, p. 1.

The Agency shall enjoy also in Switzerland the powers granted to it under the provisions of the Regulation.

The Commission shall enjoy also in Switzerland the powers granted to it for decisions pursuant to Article 2(6),(7), Article 41(6), Article 62(5), Article 67(2),(3), Article 70(4), Article 71(2), Article 76(4), Article 84(1), Article 85(9), Article 104(3)(i), Article 105(1) and Article 106(1),(6).

Notwithstanding the horizontal adaptation provided for in the second indent of the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport, the references to the “Member States” made in the provisions of Regulation (EU) No 182/2011 mentioned in Article 127 of Regulation (EU) 2018/1139 shall not be understood to apply to Switzerland.

Nothing in this Regulation shall be construed so as to transfer to the EASA authority to act on behalf of Switzerland under international agreements for other purposes than to assist in the performance of its obligations pursuant to such agreements.

The text of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) Article 68 is amended as follows:

- (i) in paragraph 1(a), the words “or Switzerland” shall be inserted after the words “the Union”;
- (ii) the following paragraph is added:

“4. Whenever the Union negotiates with a third country in order to conclude an agreement providing that a Member State or the Agency may issue certificates on the basis of certificates issued by the aeronautical authorities of that third country, it shall endeavour to obtain for Switzerland an offer of a similar agreement with the third country in question. Switzerland shall, in turn, endeavour to conclude with third countries agreements corresponding to those of the Union”.

(b) In Article 95, the following paragraph shall be added:

“3. By way of derogation from Article 12(2)(a) of the Conditions of Employment of Other Servants of the European Union, Swiss nationals enjoying their full rights as citizens may be engaged under contract by the Executive Director of the Agency.”

(c) In Article 96, the following paragraph is added:

“Switzerland shall apply to the Agency the Protocol on the Privileges and Immunities of the European Union, which is set out as Annex A to the present Annex, in accordance with the Appendix to Annex A.”

(d) In Article 102, the following paragraph is added:

“5. Switzerland shall participate fully in the Management Board and shall within it have the same rights and obligations as European Union Member States, except for the right to vote”.

(e) In Article 120, the following paragraph shall be added:

“13. Switzerland shall participate in the financial contribution referred to in paragraph 1(b), according to the following formula:

$$S (0,2/100) + S [1 - (a + b) 0,2/100] c/C$$

where:

S = the part of the budget of the Agency not covered by the fees and charges mentioned in paragraph 1 (c) and (d)

a = the number of Associated States

b = the number of EU Member States

c = the contribution of Switzerland to the ICAO budget,

C = the total contribution of the EU Member States and of the Associated States to the ICAO budget.”

(f) In Article 122, the following paragraph is added:

“6. The provisions relating to financial control by the Union in Switzerland concerning the participants in the activities of the Agency are set out in Annex B to the present Annex.”

(g) Annex I to the Regulation shall be extended to include the following aircraft as products covered by Article 3(1)(a) of Commission Regulation (EU) No 748/2012 ⁽¹⁾:

A/c – [HB-JES] – type Gulfstream G-V

A/c – [HB-ZDF] – type MD900.

(h) In Article 132(1), the reference to Regulation (EU) 2016/679 shall be understood, regarding Switzerland, as a reference to relevant national legislation.

(i) Article 140(6) does not apply to Switzerland.

Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, OJ L 311, 25.11.2011, p. 1, as amended by:

- Commission Regulation (EU) No 290/2012, OJ L 100, 5.4.2012, p. 1,
- Commission Regulation (EU) No 70/2014, OJ L 23, 28.1.2014, p. 25,
- Commission Regulation (EU) No 245/2014, OJ L 74, 14.3.2014, p. 33,
- Commission Regulation (EU) 2015/445, OJ L 74, 18.3.2015, p. 1,
- Commission Regulation (EU) 2016/539, OJ L 91, 7.4.2016, p. 1,
- Commission Regulation (EU) 2018/1065, OJ L 192, 30.7.2018, p. 21,
- Commission Regulation (EU) 2018/1119, OJ L 204, 13.8.2018, p. 13,
- Commission Regulation (EU) 2018/1974, OJ L 326, 20.12.2018, p. 1,
- Commission Regulation (EU) 2019/27, OJ L 8, 10.1.2019, p. 1,
- Commission Implementing Regulation (EU) 2019/430, OJ L 75, 19.3.2019, p. 66,
- Commission Implementing Regulation (EU) 2019/1747, OJ L 268, 22.10.2019, p. 23,

⁽¹⁾ Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 224, 21.8.2012, p. 1).

— Commission Implementing Regulation (EU) 2020/359, OJ L 67, 5.3.2020, p. 82,

— Commission Delegated Regulation (EU) 2020/723, OJ L 170, 2.6.2020, p. 1.

Commission Delegated Regulation (EU) 2020/723 of 4 March 2020 laying down detailed rules with regard to the acceptance of third-country certification of pilots and amending Regulation (EU) No 1178/2011, OJ L 170, 2.6.2020, p. 1.

Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation, OJ L 373, 31.12.1991, p. 4 (Articles 1-3, 4(2), (5-11, and 13), as amended by:

— Regulation (EC) No 1899/2006, OJ L 377, 27.12.2006, p. 1,

— Regulation (EC) No 1900/2006, OJ L 377, 27.12.2006, p. 176,

— Commission Regulation (EC) No 8/2008, OJ L 10, 12.1.2008, p. 1,

— Commission Regulation (EC) No 859/2008, OJ L 254, 20.9.2008, p. 1.

In Accordance with Article 139 of Regulation (EU) 2018/1139, Regulation (EEC) No 3922/91 is repealed from the date of application of the detailed rules adopted pursuant to point (a) of Article 32(1) of Regulation (EU) 2018/1139 on flight and duty time limitations and rest requirements with regard to air taxi, emergency medical service and single pilot commercial air transport operations by aeroplanes.

Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC (text with EEA relevance), OJ L 295, 12.11.2010, p. 35, as amended by:

— Regulation (EU) No 376/2014, OJ L 122, 24.4.2014, p. 18,

— Regulation (EU) 2018/1139, OJ L 212, 22.8.2018, p. 1.

Commission Regulation (EC) No 104/2004 of 22 January 2004 laying down rules on the organisation and composition of the Board of Appeal of the European Aviation Safety Agency, OJ L 16, 23.1.2004, p. 20.

Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of directive 2004/36/EC (text with EEA relevance), OJ L 344, 27.12.2005, p. 15, as amended by:

— Regulation (EU) 2018/1139, OJ L 212, 22.8.2018, p. 1.

Commission Regulation (EC) No 473/2006 of 22 March 2006 laying down implementing rules for the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council (text with EEA relevance), OJ L 84, 23.3.2006, p. 8.

Commission Regulation (EC) No 474/2006 of 22 March 2006 establishing the Community list of air carriers which are subject to an operating ban within the Community referred to in Chapter II of Regulation (EC) No 2111/2005 of the European Parliament and of the Council, OJ L 84, 23.3.2006, p. 14, as last amended by:

— Commission Implementing Regulation (EU) 2020/736, OJ L 172, 3.6.2020, p. 7.

Commission Regulation (EU) No 1332/2011 of 16 December 2011 laying down common airspace usage requirements and operating procedures for airborne collision avoidance (text with EEA relevance), OJ L 336, 20.12.2011, p. 20, as amended by:

— Commission Regulation (EU) 2016/583, OJ L 101, 16.4.2016, p. 7.

Commission Implementing Regulation (EU) No 646/2012 of 16 July 2012 laying down detailed rules on fines and periodic penalty payments pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (text with EEA relevance), OJ L 187, 17.7.2012, p. 29.

Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations, OJ L 224, 21.8.2012, p. 1, as amended by:

- Commission Regulation (EU) No 7/2013, OJ L 4, 9.1.2013, p. 36,
- Commission Regulation (EU) No 69/2014, OJ L 23, 28.1.2014, p. 12,
- Commission Regulation (EU) 2015/1039, OJ L 167, 1.7.2015, p. 1,
- Commission Regulation (EU) 2016/5, OJ L 3, 6.1.2016, p. 3,
- Commission Delegated Regulation (EU) 2019/897, OJ L 144, 3.6.2019, p. 1,
- Commission Delegated Regulation (EU) 2020/570, OJ L 132, 27.4.2020, p. 1.

Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, OJ L 296, 25.10.2012, p. 1, as amended by:

- Commission Regulation (EU) No 800/2013, OJ L 227, 24.8.2013, p. 1,
- Commission Regulation (EU) No 71/2014, OJ L 23, 28.1.2014, p. 27,
- Commission Regulation (EU) No 83/2014, OJ L 28, 31.1.2014, p. 17,
- Commission Regulation (EU) No 379/2014, OJ L 123, 24.4.2014, p. 1,
- Commission Regulation (EU) 2015/140, OJ L 24, 30.1.2015, p. 5,
- Commission Regulation (EU) 2015/1329, OJ L 206, 1.8.2015, p. 21,
- Commission Regulation (EU) 2015/640, OJ L 106, 24.4.2015, p. 18,
- Commission Regulation (EU) 2015/2338, OJ L 330, 16.12.2015, p. 1,
- Commission Regulation (EU) 2016/1199, OJ L 198, 23.7.2016, p. 13,
- Commission Regulation (EU) 2017/363, OJ L 55, 2.3.2017, p. 1,
- Commission Regulation (EU) 2018/394, OJ L 71, 14.3.2018, p. 1,
- Commission Regulation (EU) 2018/1042, OJ L 188, 25.7.2018, p. 3 with the exception of the new Article 4.2 of Regulation (EU) No 965/2012, as provided for in Article 1(1) of Regulation (EU) 2018/1042, as amended by:
 - Commission Implementing Regulation (EU) 2020/745, OJ L 176, 5.6.2020, p. 11,
 - Commission Implementing Regulation (EU) 2018/1975, OJ L 326, 20.12.2018, p. 53,
 - Commission Implementing Regulation (EU) 2019/1387, OJ L 229, 5.9.2019, p. 1, as amended by:
 - Commission Implementing Regulation (EU) 2020/1176, OJ L 259, 10.8.2020, p. 10,
 - Commission Implementing Regulation (EU) 2019/1384, OJ L 228, 4.9.2019, p. 106.

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 (text with EEA relevance), OJ L 179, 29.6.2013, p. 46.

Commission Regulation (EU) No 139/2014 of 12 February 2014 laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (text with EEA relevance), OJ L 44, 14.2.2014, p. 1, as amended by:

- Commission Regulation (EU) 2017/161, OJ L 27, 1.2.2017, p. 99,
- Commission Regulation (EU) 2018/401, OJ L 72, 15.3.2018, p. 17,
- Commission Implementing Regulation (EU) 2020/469, OJ L 104, 3.4.2020, p. 1, as amended by:
 - Commission Implementing Regulation (EU) 2020/1177, OJ L 259, 10.8.2020, p. 12,
- Commission Delegated Regulation (EU) 2020/1234, OJ L 282, 31.8.2020, p. 1.

Commission Implementing Regulation (EU) 2019/2153 of 16 December 2019 on the fees and charges levied by the European Union Aviation Safety Agency, and repealing Regulation (EU) No 319/2014, OJ L 327, 17.12.2019, p. 36.

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 (text with EEA relevance), OJ L 122, 24.4.2014, p. 18, as amended by:

— Regulation (EU) 2018/1139, OJ L 212, 22.8.2018, p. 1.

Commission Regulation (EU) No 452/2014 of 29 April 2014 laying down technical requirements and administrative procedures related to air operations of third country operators pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (text with EEA relevance), OJ L 133, 6.5.2014, p. 12, as amended by:

— Commission Regulation (EU) 2016/1158, OJ L 192, 16.7.2016, p. 21.

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 (text with EEA relevance), OJ L 362, 17.12.2014, p. 1, as amended by:

— Commission Regulation (EU) 2015/1088, OJ L 176, 7.7.2015, p. 4,

— Commission Regulation (EU) 2015/1536, OJ L 241, 17.9.2015, p. 16,

— Commission Regulation (EU) 2017/334, OJ L 50, 28.2.2017, p. 13,

— Commission Regulation (EU) 2018/1142, OJ L 207, 16.8.2018, p. 2,

— Commission Implementing Regulation (EU) 2019/1383, OJ L 228, 4.9.2019, p. 1,

— Commission Implementing Regulation (EU) 2019/1384, OJ L 228, 4.9.2019, p. 106,

— Commission Implementing Regulation (EU) 2020/270, OJ L 56, 27.2.2020, p. 20,

— Commission Implementing Regulation (EU) 2020/1159, OJ L 257, 6.8.2020, p. 14.

Commission Regulation (EU) 2015/340 of 20 February 2015 laying down technical requirements and administrative procedures relating to air traffic controllers' licences and certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, amending Commission Implementing Regulation (EU) No 923/2012 and repealing Commission Regulation (EU) No 805/2011 (text with EEA relevance), OJ L 63, 6.3.2015, p. 1.

Commission Regulation (EU) 2015/640 of 23 April 2015 on additional airworthiness specifications for a given type of operations and amending Regulation (EU) No 965/2012, OJ L 106, 24.4.2015, p. 18, as amended by:

— Commission Implementing Regulation (EU) 2019/133, OJ L 25, 29.1.2019, p. 14,

— Commission Implementing Regulation (EU) 2020/1159, OJ L 257, 6.8.2020, p. 14.

Commission Implementing Regulation (EU) 2015/1018 of 29 June 2015 laying down a list classifying occurrences in civil aviation to be mandatorily reported according to Regulation (EU) No 376/2014 of the European Parliament and of the Council (text with EEA relevance), OJ L 163, 30.6.2015, p. 1.

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 (notified under document C(2016) 8645), OJ L 348, 21.12.2016, p. 72.

Commission Regulation (EU) 2018/395 of 13 March 2018 laying down detailed rules for the operation of balloons as well as for the flight crew licensing for balloons pursuant to Regulation (EU) 2018/1139 of the European Parliament and of the Council, OJ L 71, 14.3.2018, p. 10, as amended by:

— Commission Implementing Regulation (EU) 2020/357, OJ L 67, 5.3.2020, p. 34.

Commission Implementing Regulation (EU) 2018/1976 of 14 December 2018 laying down detailed rules for the operation of sailplanes as well as for the flight crew licensing for sailplanes pursuant to Regulation (EU) 2018/1139 of the European Parliament and of the Council, OJ L 326, 20.12.2018, p. 64, as amended by:

— Commission Implementing Regulation (EU) 2020/358, OJ L 67, 5.3.2020, p. 57.

Regulation (EU) 2019/494 of the European Parliament and of the Council of 25 March 2019 on certain aspects of aviation safety with regard to the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the Union (text with EEA relevance), OJ L 85 I, 27.3.2019, p. 11.

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), OJ L 177, 2.7.2019, p. 112.

4. Aviation Security

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 (text with EEA relevance), OJ L 97, 9.4.2008, p. 72.

Commission Regulation (EC) No 272/2009 of 2 April 2009 supplementing the common basic standards on civil aviation security laid down in the Annex to Regulation (EC) No 300/2008 of the European Parliament and of the Council, OJ L 91, 3.4.2009, p. 7, as amended by:

— Commission Regulation (EU) No 297/2010, OJ L 90, 10.4.2010, p. 1,

— Commission Regulation (EU) No 720/2011, OJ L 193, 23.7.2011, p. 19,

— Commission Regulation (EU) No 1141/2011, OJ L 293, 11.11.2011, p. 22,

— Commission Regulation (EU) No 245/2013, OJ L 77, 20.3.2013, p. 5.

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), OJ L 338, 19.12.2009, p. 17, as amended by:

— Commission Regulation (EU) 2016/2096, OJ L 326, 1.12.2016, p. 7.

Commission Regulation (EU) No 18/2010 of 8 January 2010 amending Regulation (EC) No 300/2008 of the European Parliament and of the Council as far as specifications for national quality control programmes in the field of civil aviation security are concerned, OJ L 7, 12.1.2010, p. 3.

Commission Regulation (EU) No 72/2010 of 26 January 2010 laying down procedures for conducting Commission inspections in the field of aviation security (text with EEA relevance), OJ L 23, 27.1.2010, p. 1, as amended by:

— Commission Implementing Regulation (EU) 2016/472, OJ L 85, 1.4.2016, p. 28.

Commission Implementing Regulation (EU) 2015/1998 of 5 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security (text with EEA relevance), OJ L 299, 14.11.2015, p. 1, as amended by:

— Commission Implementing Regulation (EU) 2015/2426, OJ L 334, 22.12.2015, p. 5,

— Commission Implementing Regulation (EU) 2017/815, OJ L 122, 13.5.2017, p. 1,

— Commission Implementing Regulation (EU) 2018/55, OJ L 10, 13.1.2018, p. 5,

— Commission Implementing Regulation (EU) 2019/103, OJ L 21, 24.1.2019, p. 13, as amended by:

— Commission Implementing Regulation (EU) 2020/910, OJ L 208, 1.7.2020, p. 43,

— Commission Implementing Regulation (EU) 2019/413, OJ L 73, 15.3.2019, p. 98,

- Commission Implementing Regulation (EU) 2019/1583, OJ L 246, 26.9.2019, p. 15, as amended by:
 - Commission Implementing Regulation (EU) 2020/910, OJ L 208, 1.7.2020, p. 43,
- Commission Implementing Regulation (EU) 2020/111, OJ L 21, 27.1.2020, p. 1,
- Commission Implementing Regulation (EU) 2020/910, OJ L 208, 1.7.2020, p. 43.

Commission Implementing Decision C(2015) 8005 of 16 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security containing information, as referred to in point (a) of Article 18 of Regulation (EC) No 300/2008 (not published in the OJ) as amended by:

- Commission Implementing Decision C(2017) 3030,
- Commission Implementing Decision C(2018) 4857,
- Commission Implementing Decision C(2019) 132, as amended by:
 - Commission Implementing Decision C(2020) 4241.

5. Air traffic management

Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the Single European Sky (the Framework Regulation) (text with EEA relevance), OJ L 96, 31.3.2004, p. 1, as amended by:

- Regulation (EC) No 1070/2009, OJ L 300, 14.11.2009, p. 34.

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 6, 8, 10, 11 and 12.

Article 10 shall be amended as follows:

In paragraph 2, the words “at Community level” should be replaced by words “at Community level, involving Switzerland”.

Notwithstanding the horizontal adjustment referred to in the second indent of the Annex to the Agreement between the European Community and the Swiss Confederation on Air Transport, the references to the “Member States” made in Article 5 of Regulation (EC) No 549/2004 or in the provisions of Decision 1999/468/EC mentioned in that provision shall not be understood to apply to Switzerland.

Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the Single European Sky (the Service Provision Regulation) (text with EEA relevance), OJ L 96, 31.3.2004, p. 10, as amended by:

- Regulation (EC) No 1070/2009, OJ L 300, 14.11.2009, p. 34.

The Commission shall enjoy towards Switzerland the powers granted to it pursuant to Articles 9a, 9b, 15, 15a, 16 and 17.

The provisions of the Regulation shall, for the purposes of this Agreement, be amended as follows:

(a) Article 3 shall be amended as follows:

In paragraph 2, the words “and Switzerland” shall be inserted after the words “the Community”.

(b) Article 7 is amended as follows:

In paragraph 1 and paragraph 6, the words “and Switzerland” shall be inserted after the words “the Community”.

(c) Article 8 is amended as follows:

In paragraph 1, the words “and Switzerland” shall be inserted after the words “the Community”.

(d) Article 10 is amended as follows:

In paragraph 1, the words “and Switzerland” shall be inserted after the words “the Community”.

(e) Article 16(3) is replaced by the following:

“3. The Commission shall address its decision to the Member States and inform the service provider thereof, in so far as it is legally concerned.”.

Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the Single European Sky (the Airspace Regulation) (text with EEA relevance), OJ L 96, 31.3.2004, p. 20, as amended by:

— Regulation (EC) No 1070/2009, OJ L 300, 14.11.2009, p. 34.

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 3a, 6 and 10.

Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the Interoperability Regulation) (text with EEA relevance), OJ L 96, 31.3.2004, p. 26, as amended by:

— Regulation (EC) No 1070/2009, OJ L 300, 14.11.2009, p. 34.

The Commission shall enjoy in Switzerland the powers granted to it pursuant to Articles 4, 7 and 10(3).

The provisions of the Regulation shall, for the purposes of this Agreement, be amended as follows:

(a) Article 5 is amended as follows:

In paragraph 2, the words “or Switzerland” shall be inserted after the words “the Community”.

(b) Article 7 is amended as follows:

In paragraph 4, the words “or Switzerland” shall be inserted after the words “the Community”.

(c) Annex III shall be amended as follows:

In Section 3, second and last indents, the words “or Switzerland” shall be inserted after the words “the Community”.

In accordance with Article 139 of Regulation (EU) 2018/1139, Regulation (EC) No 552/2004 is repealed with effect from 11 September 2018. However, Articles 4, 5, 6, 6a and 7 of that Regulation and Annexes III and IV thereto shall continue to apply until the date of application of the delegated acts referred to in Article 47 of Regulation (EU) 2018/1139 and insofar as those acts cover the subject matter of the relevant provisions of Regulation (EC) No 552/2004, and in any case not later than 12 September 2023.

Commission Regulation (EC) No 2150/2005 of 23 December 2005 laying down common rules for the flexible use of airspace (text with EEA relevance), OJ L 342, 24.12.2005, p. 20.

Commission Regulation (EC) No 1033/2006 of 4 July 2006 laying down the requirements on procedures for flight plans in the pre-flight phase for the Single European Sky (text with EEA relevance), OJ L 186, 7.7.2006, p. 46, as amended by:

— Commission Implementing Regulation (EU) No 923/2012, OJ L 281, 13.10.2012, p. 1, as amended by:

— Commission Implementing Regulation (EU) 2020/886, OJ L 205, 29.6.2020, p. 14,

— Commission Implementing Regulation (EU) 2020/469, OJ L 104, 3.4.2020, p. 1, as amended by:

— Commission Implementing Regulation (EU) 2020/1177, OJ L 259, 10.8.2020, p. 12,

— Commission Implementing Regulation (EU) No 428/2013, OJ L 127, 9.5.2013, p. 23,

— Commission Implementing Regulation (EU) 2016/2120, OJ L 329, 3.12.2016, p. 70,

— Commission Implementing Regulation (EU) 2018/139, OJ L 25, 30.1.2018, p. 4.

Commission Regulation (EC) No 1032/2006 of 6 July 2006 laying down requirements for automatic systems for the exchange of flight data for the purpose of notification, coordination and transfer of flights between air traffic control units (text with EEA relevance), OJ L 186, 7.7.2006, p. 27, as amended by:

— Commission Regulation (EC) No 30/2009, OJ L 13, 17.1.2009, p. 20.

Council Regulation (EC) No 219/2007 of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR), OJ L 64, 2.3.2007, p. 1, as amended by:

- Council Regulation (EC) No 1361/2008, OJ L 352, 31.12.2008, p. 12,
- Council Regulation (EU) No 721/2014, OJ L 192, 1.7.2014, p. 1.

Commission Regulation (EC) No 633/2007 of 7 June 2007 laying down requirements for the application of a flight message transfer protocol used for the purpose of notification, coordination and transfer of flights between air traffic control units (text with EEA relevance), OJ L 146, 8.6.2007, p. 7, as amended by:

- Commission Regulation (EU) No 283/2011, OJ L 77, 23.3.2011, p. 23.

Commission Implementing Regulation (EU) 2017/373 of 1 March 2017 laying down common requirements for providers of air traffic management/air navigation services and other air traffic management network functions and their oversight, repealing Regulation (EC) No 482/2008, Implementing Regulations (EU) No 1034/2011, (EU) No 1035/2011 and (EU) 2016/1377 and amending Regulation (EU) No 677/2011 (text with EEA relevance), OJ L 62, 8.3.2017, p. 1, as amended by:

- Commission Implementing Regulation (EU) 2020/469, OJ L 104, 3.4.2020, p. 1, as amended by:
 - Commission Implementing Regulation (EU) 2020/1177, OJ L 259, 10.8.2020, p. 12.

Commission Regulation (EC) No 29/2009 of 16 January 2009 laying down requirements on data link services for the Single European Sky (text with EEA relevance), OJ L 13, 17.1.2009, p. 3, as amended by:

- Commission Implementing Regulation (EU) 2015/310, OJ L 56, 27.2.2015, p. 30,
- Commission Implementing Regulation (EU) 2019/1170, OJ L 183, 9.7.2019, p. 6,
- Commission Implementing Regulation (EU) 2020/208, OJ L 43, 17.2.2020, p. 72.

The text of the Regulation shall, for the purposes of this Agreement, be read with the following adaptation:

“Switzerland UIR” is added in Annex I, part A.

Commission Regulation (EC) No 262/2009 of 30 March 2009 laying down requirements for the coordinated allocation and use of Mode S interrogator codes for the Single European Sky (text with EEA relevance), OJ L 84, 31.3.2009, p. 20, as amended by:

- Commission Implementing Regulation (EU) 2016/2345, OJ L 348, 21.12.2016, p. 11.

Commission Regulation (EU) No 73/2010 of 26 January 2010 laying down requirements on the quality of aeronautical data and aeronautical information for the Single European Sky (text with EEA relevance), OJ L 23, 27.1.2010, p. 6, as amended by:

- Commission Implementing Regulation (EU) No 1029/2014, OJ L 284, 30.9.2014, p. 9.

Regulation (EU) No 73/2010 is repealed with effect from 27 January 2022.

Commission Regulation (EU) No 255/2010 of 25 March 2010 laying down common rules on air traffic flow management (text with EEA relevance), OJ L 80, 26.3.2010, p. 10, as amended by:

- Commission Implementing Regulation (EU) No 923/2012, OJ L 281, 13.10.2012, p. 1, as amended by:
 - Commission Implementing Regulation (EU) 2020/886, OJ L 205, 29.6.2020, p. 14,
 - Commission Implementing Regulation (EU) 2020/469, OJ L 104, 3.4.2020, p. 1, as amended by:
 - Commission Implementing Regulation (EU) 2020/1177, OJ L 259, 10.8.2020, p. 12,
- Commission Implementing Regulation (EU) 2016/1006, OJ L 165, 23.6.2016, p. 8,
- Commission Implementing Regulation (EU) 2017/2159, OJ L 304, 21.11.2017, p. 45.

Commission Decision No C(2010) 5134 of 29 July 2010 on the designation of the Performance Review Body of the Single European Sky (not published in the OJ).

Commission Regulation (EU) No 176/2011 of 24 February 2011 on the information to be provided before the establishment and modification of a functional airspace block, OJ L 51, 25.2.2011, p. 2.

Commission Decision No C(2011) 4130 of 7 July 2011 on the nomination of the Network Manager for the air traffic management (ATM) network functions of the single European sky (text with EEA relevance) (not published in the OJ).

Commission Implementing Regulation (EU) No 1206/2011 of 22 November 2011 laying down requirements on aircraft identification for surveillance for the single European sky (text with EEA relevance), OJ L 305, 23.11.2011, p. 23, as amended by:

— Commission Implementing Regulation (EU) 2020/587, OJ L 138, 30.4.2020, p. 1.

The text of Implementing Regulation (EU) No 1206/2011 shall, for the purposes of this Agreement, be read with the following adaptation:

“Switzerland UIR” is added in Annex I.

Commission Implementing Regulation (EU) No 1207/2011 of 22 November 2011 laying down requirements for the performance and the interoperability of surveillance for the single European sky (text with EEA relevance), OJ L 305, 23.11.2011, p. 35, as amended by:

— Commission Implementing Regulation (EU) No 1028/2014, OJ L 284, 30.9.2014, p. 7,

— Commission Implementing Regulation (EU) 2017/386, OJ L 59, 7.3.2017, p. 34,

— Commission Implementing Regulation (EU) 2020/587, OJ L 138, 30.4.2020, p. 1.

Commission Implementing Regulation (EU) No 923/2012 of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010 (text with EEA relevance), OJ L 281, 13.10.2012, p. 1, as amended by:

— Commission Regulation (EU) 2015/340, OJ L 63, 6.3.2015, p. 1,

— Commission Implementing Regulation (EU) 2016/1185, OJ L 196, 21.7.2016, p. 3,

— Commission Implementing Regulation (EU) 2020/469, OJ L 104, 3.4.2020, p. 1, as amended by:

— Commission Implementing Regulation (EU) 2020/1177, OJ L 259, 10.8.2020, p. 12,

— Commission Implementing Regulation (EU) 2020/886, OJ L 205, 29.6.2020, p. 14.

Commission Implementing Regulation (EU) No 1079/2012 of 16 November 2012 laying down requirements for voice channels spacing for the single European sky (text with EEA relevance), OJ L 320, 17.11.2012, p. 14, as amended by:

— Commission Implementing Regulation (EU) No 657/2013, OJ L 190, 11.7.2013, p. 37,

— Commission Implementing Regulation (EU) 2016/2345, OJ L 348, 21.12.2016, p. 11,

— Commission Implementing Regulation (EU) 2017/2160, OJ L 304, 21.11.2017, p. 47.

Commission Implementing Regulation (EU) No 409/2013 of 3 May 2013 on the definition of common projects, the establishment of governance and the identification of incentives supporting the implementation of the European Air Traffic Management Master Plan (text with EEA relevance), OJ L 123, 4.5.2013, p. 1.

Commission Implementing Regulation (EU) No 716/2014 of 27 June 2014 on the establishment of the Pilot Common Project supporting the implementation of the European Air Traffic Management Master Plan (text with EEA relevance), OJ L 190, 28.6.2014, p. 19.

Commission Implementing Regulation (EU) 2018/1048 of 18 July 2018 laying down airspace usage requirements and operating procedures concerning performance-based navigation, OJ L 189, 26.7.2018, p. 3.

Commission Implementing Regulation (EU) 2019/123 of 24 January 2019 laying down detailed rules for the implementation of air traffic management (ATM) network functions and repealing Commission Regulation (EU) No 677/2011 (text with EEA relevance), OJ L 28, 31.1.2019, p. 1.

Commission Implementing Regulation (EU) 2019/317 of 11 February 2019 laying down a performance and charging scheme in the single European sky and repealing Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013 (text with EEA relevance), OJ L 56, 25.2.2019, p. 1.

Commission Implementing Decision (EU) 2019/709 of 6 May 2019 on the appointment of the network manager for air traffic management (ATM) network functions of the single European sky (notified under document C(2019) 3228), OJ L 120, 8.5.2019, p. 27.

Commission Implementing Decision (EU) 2019/903 of 29 May 2019 setting the Union-wide performance targets for the air traffic management network for the third reference period starting on 1 January 2020 and ending on 31 December 2024 (text with EEA relevance), OJ L 144, 3.6.2019, p. 49.

Commission Implementing Decision (EU) 2019/2167 of 17 December 2019 approving the Network Strategy Plan for the air traffic management network functions of the single European sky for the period 2020-2029, OJ L 328, 18.12.2019, p. 89.

Commission Implementing Decision (EU) 2019/2168 of 17 December 2019 on the appointment of the chairperson and the members and their alternates of the Network Management Board and of the members and their alternates of the European Aviation Crisis Coordination Cell for the air traffic management network functions for the third reference period 2020-2024, OJ L 328, 18.12.2019, p. 90.

Commission Implementing Decision (EU) 2019/2012 of 29 November 2019 on exemptions under Article 14 of Commission Regulation (EC) No 29/2009 laying down requirements on data link services for the single European sky (Text with EEA relevance), OJ L 312, 3.12.2019, p. 95.

6. Environment and noise

Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports (text with EEA relevance) (Articles 1-12, and 14-18), OJ L 85, 28.3.2002, p. 40.

(The amendments to Annex I, arising from Annex II, Chapter 8 (Transport policy), Section G (Air transport), point 2 of the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, shall apply).

Council Directive 89/629/EEC of 4 December 1989 on the limitation of noise emissions from civil subsonic jet aeroplanes, OJ L 363, 13.12.1989, p. 27.

(Articles 1-8).

Directive 2006/93/EC of the European Parliament and of the Council of 12 December 2006 on the regulation of the operation of aeroplanes covered by Part II, Chapter 3, Volume 1 of Annex 16 to the Convention on International Civil Aviation, second edition (1988) (codified version) (text with EEA relevance), OJ L 374, 27.12.2006, p. 1.

7. Consumer protection

Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours, OJ L 158, 23.6.1990, p. 59.

(Articles 1-10).

Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, OJ L 95, 21.4.1993, p. 29 (Articles 1-11), as amended by:

— Directive 2011/83/EU, OJ L 304, 22.11.2011, p. 64.

Council Regulation (EC) No 2027/97 of 9 October 1997 on air carrier liability in respect of the carriage of passengers and their baggage by air in the event of accidents, OJ L 285, 17.10.1997, p. 1 (Articles 1-8), as amended by:

— Regulation (EC) No 889/2002, OJ L 140, 30.5.2002, p. 2.

Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (text with EEA relevance), OJ L 46, 17.2.2004, p. 1.

(Articles 1-18).

Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the right of disabled persons and persons with reduced mobility when travelling by air (text with EEA relevance), OJ L 204, 26.7.2006, p. 1.

8. Miscellaneous

Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (text with EEA relevance), OJ L 283, 31.10.2003, p. 51.

(Article 14(1)(b), and Article 14(2)).

9. Annexes

A: Protocol on the Privileges and Immunities of the European Union

B: Provisions on financial control by the European Union as regards Swiss participants in activities of the EASA

ANNEX A

Protocol on the privileges and immunities of the European Union

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 343 of the Treaty on the Functioning of the European Union and Article 191 of the Treaty establishing the European Atomic Energy Community ('EAEC'), the European Union and the EAEC shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community:

CHAPTER I

PROPERTY, FUNDS, ASSETS AND OPERATIONS OF THE EUROPEAN UNION*Article 1*

The premises and buildings of the Union shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Union shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice.

Article 2

The archives of the Union shall be inviolable.

Article 3

The Union, its assets, revenues and other property shall be exempt from all direct taxes.

The governments of the Member States shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Union makes, for its official use, substantial purchases the price of which includes taxes of this kind. These provisions shall not be applied, however, so as to have the effect of distorting competition within the Union.

No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services.

Article 4

The Union shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for its official use: articles so imported shall not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the government of that country.

The Union shall also be exempt from any customs duties and any prohibitions and restrictions on import and exports in respect of its publications.

CHAPTER II

COMMUNICATIONS AND LAISSEZ-PASSER*Article 5*

For their official communications and the transmission of all their documents, the institutions of the Union shall enjoy in the territory of each Member State the treatment accorded by that State to diplomatic missions.

Official correspondence and other official communications of the institutions of the Union shall not be subject to censorship.

Article 6

Laissez-passer in a form to be prescribed by the Council, acting by a simple majority, which shall be recognised as valid travel documents by the authorities of the Member States, may be issued to members and servants of the institutions of the Union by the Presidents of these institutions. These *laissez-passer* shall be issued to officials and other servants under conditions laid down in the Staff Regulations of officials and the Conditions of Employment of other servants of the Union.

The Commission may conclude agreements for these *laissez-passer* to be recognised as valid travel documents within the territory of third countries.

CHAPTER III

MEMBERS OF THE EUROPEAN PARLIAMENT*Article 7*

No administrative or other restriction shall be imposed on the free movement of Members of the European Parliament travelling to or from the place of meeting of the European Parliament.

Members of the European Parliament shall, in respect of customs and exchange control, be accorded:

- (a) by their own government, the same facilities as those accorded to senior officials travelling abroad on temporary official missions;
- (b) by the government of other Member States, the same facilities as those accorded to representatives of foreign governments on temporary official missions.

Article 8

Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.

Article 9

During the sessions of the European Parliament, its Members shall enjoy:

- (a) in the territory of their own State, the immunities accorded to members of their parliament;
- (b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament.

Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.

CHAPTER IV

REPRESENTATIVES OF MEMBER STATES TAKING PART IN THE WORK OF THE INSTITUTIONS OF THE EUROPEAN UNION*Article 10*

Representatives of Member States taking part in the work of the institutions of the Union, their advisers and technical experts shall, in the performance of their duties and during their travel to and from the place of meeting, enjoy the customary privileges, immunities and facilities.

This Article shall also apply to members of the advisory bodies of the Union.

CHAPTER V

OFFICIALS AND OTHER SERVANTS OF THE EUROPEAN UNION

Article 11

In the territory of each Member State and whatever their nationality, officials and other servants of the Union shall:

- (a) subject to the provisions of the Treaties relating, on the one hand, to the rules on the liability of officials and other servants towards the Union and, on the other hand, to the jurisdiction of the Court of Justice of the European Union in disputes between the Union and its officials and other servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office;
- (b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens;
- (c) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations;
- (d) enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in the country concerned, and the right to re-export free of duty their furniture and effects, on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the government of the country in which this right is exercised;
- (e) have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the government of the country concerned.

Article 12

Officials and other servants of the Union shall be liable to a tax for the benefit of the Union on salaries, wages and emoluments paid to them by the Union, in accordance with the conditions and procedure laid down by the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned.

They shall be exempt from national taxes on salaries, wages and emoluments paid by the Union.

Article 13

In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Member States of the Union, officials and other servants of the Union who, solely by reason of the performance of their duties in the service of the Union, establish their residence in the territory of a Member State other than their country of domicile for tax purposes at the time of entering the service of the Union, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Union. This provision shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.

Movable property belonging to persons referred to in the preceding paragraph and situated in the territory of the country where they are staying shall be exempt from death duties in that country; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this Article.

Article 14

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned, shall lay down the scheme of social security benefits for officials and other servants of the Union.

Article 15

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, and after consulting the other institutions concerned, shall determine the categories of officials and other servants of the Union to whom the provisions of Article 11, the second paragraph of Article 12, and Article 13 shall apply, in whole or in part.

The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to the governments of the Member States.

CHAPTER VI

PRIVILEGES AND IMMUNITIES OF MISSIONS OF THIRD COUNTRIES ACCREDITED TO THE EUROPEAN UNION*Article 16*

The Member State in whose territory the Union has its seat shall accord the customary diplomatic immunities and privileges to missions of third countries accredited to the Union.

CHAPTER VII

GENERAL PROVISIONS*Article 17*

Privileges, immunities and facilities shall be accorded to officials and other servants of the Union solely in the interests of the Union.

Each institution of the Union shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Union.

Article 18

The institutions of the Union shall, for the purpose of applying this Protocol, cooperate with the responsible authorities of the Member States concerned.

Article 19

Articles 11 to 14 and Article 17 shall apply to Members of the Commission.

Article 20

Articles 11 to 14 and Article 17 shall apply to the Judges, the Advocates-General, the Registrars and the Assistant Rapporteurs of the Court of Justice of the European Union, without prejudice to the provisions of Article 3 of the Protocol on the Statute of the Court of Justice of the European Union relating to immunity from legal proceedings of Judges and Advocates-General.

Article 21

This Protocol shall also apply to the European Investment Bank, to the members of its organs, to its staff and to the representatives of the Member States taking part in its activities, without prejudice to the provisions of the Protocol on the Statute of the Bank.

The European Investment Bank shall in addition be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the Bank has its seat. Similarly, its dissolution or liquidation shall not give rise to any imposition. Finally, the activities of the Bank and of its organs carried on in accordance with its Statute shall not be subject to any turnover tax.

Article 22

This Protocol shall also apply to the European Central Bank, to the members of its organs and to its staff, without prejudice to the provisions of the Protocol on the Statute of the European System of Central Banks and the European Central Bank.

The European Central Bank shall, in addition, be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the bank has its seat. The activities of the Bank and of its organs carried on in accordance with the Statute of the European System of Central Banks and of the European Central Bank shall not be subject to any turnover tax.

*Appendix***Procedures for the application in Switzerland of the Protocol on privileges and immunities of the European Union**

1. Extension of application to Switzerland

Wherever the Protocol on the privileges and immunities of the European Union (hereinafter called "the Protocol") contains references to Member States, the references are to be understood to apply equally to Switzerland, unless the following provisions determine otherwise.

2. Exemption of the Agency from indirect taxation (including VAT)

Goods and services exported from Switzerland are not to be subject to Swiss value added tax (VAT). In the case of goods and services provided to the Agency in Switzerland for its official use, in accordance with the second paragraph of Article 3 of the Protocol, exemption from VAT is by way of refund. Exemption from VAT shall be granted if the actual purchase price of the goods and services mentioned in the invoice or equivalent document totals at least 100 Swiss francs (inclusive of tax).

The VAT refund is to be granted on presentation to the Federal Tax Administration's VAT Main Division of the Swiss forms provided for the purpose. As a rule, refund applications must be processed within the three months following the date on which they were lodged together with the necessary supporting documents.

3. Procedures for the application of the rules relating to the Agency's staff

As regards the second paragraph of Article 12 of the Protocol, Switzerland shall exempt, according to the principles of its national law, officials and other servants of the Agency within the meaning of Article 2 of Regulation (Euratom, ECSC, EEC) No 549/69 of the Council ⁽¹⁾ from federal, cantonal and communal taxes on salaries, wages and emoluments paid to them by the European Union and subject to an internal tax for its own benefit.

Switzerland shall not be considered as a Member State within the meaning of point 1 above for the application of Article 13 of the Protocol.

Officials and other servants of the Agency and members of their families who are members of the social insurance system applicable to officials and other servants of the European Union are not obliged to be members of the Swiss social security system.

The Court of Justice of the European Union shall have exclusive jurisdiction in any matters concerning relations between the Agency or the Commission and its staff with regard to the application of Regulation (EEC, Euratom, ECSC) No 259/68 of the Council ⁽²⁾ and the other provisions of the European Union law laying down working conditions.

⁽¹⁾ Regulation (Euratom, ECSC, EEC) No 549/69 of the Council of 25 March 1969 determining the categories of officials and other servants of the European Communities to whom the provisions of Article 12, the second paragraph of Article 13 and Article 14 of the Protocol on the Privileges and Immunities of the Communities apply (OJ L 74, 27.3.1969, p. 1).

⁽²⁾ Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (Conditions of Employment of Other Servants) (OJ L 56, 4.3.1968, p. 1).

ANNEX B

Financial control as regards Swiss participants in activities of the European Union Aviation Safety Agency*Article 1***Direct communication**

The Agency and the Commission shall communicate directly with all persons or entities established in Switzerland and participating in activities of the Agency, as contractors, participants in Agency programmes, recipients of payments from the Agency or the Community budget, or subcontractors. Such persons may send directly to the Commission and to the Agency all relevant information and documentation which they are required to submit on the basis of the instruments referred to in this Decision and of contracts or agreements concluded and any decisions taken pursuant to them.

*Article 2***Checks**

1. In accordance with Council Regulation (EC, Euratom) No 1605/2002 ⁽¹⁾ and the Financial Regulation adopted by the Management Board of the Agency on 26 March 2003, with Commission Regulation (EC, Euratom) No 2343/2002 ⁽²⁾ and with the other instruments referred to in this Decision, contracts or agreements concluded and decisions taken with beneficiaries established in Switzerland may provide for scientific, financial, technological or other audits to be conducted at any time on the premises of the beneficiaries and of their subcontractors by Agency and Commission officials or by other persons mandated by the Agency and the Commission.
2. Agency and Commission officials and other persons mandated by the Agency and the Commission shall have appropriate access to sites, works and documents and to all the information required in order to carry out such audits, including in electronic form. This right of access shall be stated explicitly in the contracts or agreements concluded to implement the instruments referred to in this Decision.
3. The European Court of Auditors is to have the same rights as the Commission.
4. The audits may take place until five years after the expiry of this Decision or under the terms of the contracts or agreements concluded and the decisions taken.
5. The Swiss Federal Audit Office is to be informed in advance of audits conducted on Swiss territory. This information will not be a legal condition for carrying out such audits.

*Article 3***On-the-spot checks**

1. Under this Agreement, the Commission (OLAF) is authorised to carry out on-the-spot checks and inspections on Swiss territory, under the terms and conditions set out in Council Regulation (Euratom, EC) No 2185/96 ⁽³⁾.
2. On-the-spot checks and inspections shall be prepared and conducted by the Commission in close cooperation with the Swiss Federal Audit Office or with other competent Swiss authorities appointed by the Swiss Federal Audit Office, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help. To that end, the officials of the competent Swiss authorities may participate in the on-the-spot checks and inspections.
3. If the Swiss competent authorities concerned so wish, the on-the-spot checks and inspections may be carried out jointly by the Commission and the Swiss competent authorities.

⁽¹⁾ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1).

⁽²⁾ Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 357, 31.12.2002, p. 72).

⁽³⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

4. Where the participants in the programme resist an on-the-spot check or inspection, the Swiss authorities, acting in accordance with national rules, shall give the Commission inspectors such assistance as they need to allow them to discharge their duty in carrying out an on-the-spot check or inspection.

5. The Commission shall report as soon as possible to the Swiss Federal Audit Office any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any event the Commission is required to inform the aforementioned authority of the result of such checks and inspections.

Article 4

Information and consultation

1. For the purposes of proper implementation of this Annex, the competent Swiss and Community authorities shall exchange information regularly and, at the request of one of the Parties, shall conduct consultations.

2. The competent Swiss authorities shall inform the Agency and the Commission without delay of any fact or suspicion which has come to their notice relating to an irregularity in connection with the conclusion and implementation of the contracts or agreements concluded in application of the instruments referred to in this Decision.

Article 5

Confidentiality

Information communicated or acquired in any form whatsoever pursuant to this Annex will be covered by professional confidentiality and protected in the same way as similar information is protected by the national legislation of Switzerland and by the corresponding provisions applicable to the Community institutions. Such information shall not be communicated to persons other than those within the Community institutions, in the Member States, or in Switzerland whose functions require them to know it, nor may it be used for purposes other than to ensure effective protection of the financial interests of the Contracting Parties.

Article 6

Administrative measures and penalties

Without prejudice to application of Swiss criminal law, administrative measures and penalties may be imposed by the Agency or the Commission in accordance with Regulation (EC, Euratom) No 1605/2002 and Commission Regulation (EC, Euratom) No 2342/2002 ⁽⁴⁾ and with Council Regulation (EC, Euratom) No 2988/95 ⁽⁵⁾.

Article 7

Recovery and enforcement

Decisions taken by the Agency or the Commission within the scope of this Decision which impose a pecuniary obligation on persons other than States shall be enforceable in Switzerland.

The enforcement order must be issued, without any further control than verification of the authenticity of the act, by the authority designated by the Swiss government, which must inform the Agency or the Commission thereof. Enforcement must take place in accordance with the Swiss rules of procedure. The legality of the enforcement decision is subject to control by the Court of Justice of the European Union.

Judgments given by the Court of Justice of the European Union pursuant to an arbitration clause are enforceable on the same terms.'

⁽⁴⁾ Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 357, 31.12.2002, p. 1).

⁽⁵⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests (OJ L 312, 23.12.1995, p. 1).

DECISION No 2/2020 OF THE COMMUNITY/SWITZERLAND INLAND TRANSPORT COMMITTEE
of 11 December 2020
amending Annex 1 to the Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road and Decision No 2/2019 of the Committee on transitory measures to maintain smooth rail traffic between Switzerland and the European Union [2021/35]

THE COMMUNITY/SWITZERLAND INLAND TRANSPORT COMMITTEE,

Having regard to the Agreement of 21 June 1999 between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road ⁽¹⁾ (hereinafter 'the Agreement'), and in particular Article 52(4) thereof,

Whereas:

- (1) Under Article 51(2) of the Agreement, the Community/Switzerland Inland Transport Committee ('the Joint Committee') is responsible for the monitoring and application of the provisions of the Agreement and implements the adaptation and revision clauses referred to in Articles 52 and 55 thereof.
- (2) Under Article 52(4) of the Agreement, the Joint Committee adopts, *inter alia*, decisions revising Annex 1 so as to incorporate therein, as and where necessary and on a basis of reciprocity, the amendments to the legislation concerned, or decides on any other measure aimed at safeguarding the proper functioning of the Agreement.
- (3) Switzerland plans to apply legal provisions equivalent to Directive (EU) 2016/797 of the European Parliament and of the Council ⁽²⁾ and Directive (EU) 2016/798 of the European Parliament and of the Council ⁽³⁾. By Decision No 2/2019 of the Community/Switzerland Inland Transport Committee ⁽⁴⁾, the Joint Committee, on the one hand, revised Annex 1 to the Agreement so as to incorporate the new substantive provisions of those Directives and, on the other, adopted transitory measures to maintain smooth rail traffic between Switzerland and the European Union pending amendment of the Agreement under the relevant procedures. These transitory provisions apply until 31 December 2020.
- (4) Pending the incorporation of the remaining substantive provisions, the transitory provisions set out in Articles 2, 3, 4 and 5 of Decision No 2/2019 should apply until 31 December 2021.
- (5) The date on which certain Swiss national rules listed in Annex 1 to the Agreement which might be incompatible with the technical specifications for interoperability should be reviewed to decide whether to remove, amend or keep them should be set as the date of the next Committee, and not later than 30 June 2021.
- (6) The specific cases referred to in Article 4(5) of Directive (EU) 2016/797 which may be provided for for each technical specification for interoperability in order to retain, in an appropriate manner, the compatibility of the existing rail system with regard to both network and vehicles should be listed in Annex 1 to the Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

Annex 1 to the Agreement is replaced by the text in the Annex to this Decision.

⁽¹⁾ OJ L 114, 30.4.2002, p. 91.

⁽²⁾ Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (OJ L 138, 26.5.2016, p. 44).

⁽³⁾ Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (OJ L 138, 26.5.2016, p. 102).

⁽⁴⁾ Decision No 2/2019 of the Community/Switzerland Inland Transport Committee of 13 December 2019 on transitory measures to maintain smooth rail traffic between Switzerland and the European Union (OJ L 13, 17.1.2020, p. 43).

Article 2

Article 6 of Decision No 2/2019 shall be amended as follows:

'Article 6

1. The Swiss national rules and specific cases may supplement or derogate from European Union requirements to the extent that these rules and specific cases relate to the technical parameters of subsystems, operational aspects or aspects relating to staff carrying out safety tasks as listed in Annex 1 to the Agreement.
2. Switzerland shall notify the Agency of the national rules referred to in paragraph 1 with a view to their being published using the IT system referred to in Article 27 of Regulation (EU) 2016/796.
3. Annex 1 identifies the applicable national rules and specific cases that are potentially incompatible with Union law. If compatibility with Union law has not been established by 30 June 2021, those national rules and specific cases may no longer be applied unless the Joint Committee decides otherwise.'

Article 3

The second paragraph of Article 8 of Decision No 2/2019 shall be amended as follows:

'Articles 2, 3, 4 and 5 shall apply until 31 December 2021.'

Article 4

This Decision shall enter into force on the date of its adoption.

Done at Bern, 11 December 2020.

For the Swiss Confederation
The President
Peter FÜGLISTALER

For the European Union
The Head of the European Union Delegation
Elisabeth WERNER

ANNEX

ANNEX 1

APPLICABLE PROVISIONS

In accordance with Article 52(6) of this Agreement, Switzerland shall apply legal provisions equivalent to the following:

Relevant provisions of Union law

SECTION 1 – ADMISSION TO THE OCCUPATION

- Directive 2006/1/EC of the European Parliament and of the Council of 18 January 2006 on the use of vehicles hired without drivers for the carriage of goods by road (codified version) (OJ L 33, 4.2.2006, p. 82).
- Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ L 300, 14.11.2009, p. 51), as last amended by Council Regulation (EU) No 517/2013 of 13 May 2013 (OJ L 158, 10.6.2013, p. 1).
- Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market (OJ L 300, 14.11.2009, p. 72), as last amended by Council Regulation (EU) No 517/2013 of 13 May 2013 (OJ L 158, 10.6.2013, p. 1).

For the purposes of this Agreement,

- (a) the European Union and the Swiss Confederation shall exempt from the obligation to hold a driver attestation all citizens of the Swiss Confederation, of an EU Member State and of a Member State of the European Economic Area;
 - (b) the Swiss Confederation may not exempt citizens of States other than those mentioned in point (a) from the obligation to hold a driver attestation without prior consultation with and approval by the European Union;
 - (c) the provisions of Chapter III of Regulation (EC) No 1072/2009 (on cabotage) shall not apply.
- Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 (OJ L 300, 14.11.2009, p. 88), as last amended by Council Regulation (EU) No 517/2013 of 13 May 2013 (OJ L 158, 10.6.2013, p. 1).

For the purposes of this Agreement, the provisions of Chapter V of Regulation (EC) No 1073/2009 (on cabotage) shall not apply.

- Commission Decision 2009/992/EU of 17 December 2009 on minimum requirements for the data to be entered in the national electronic register of road transport undertakings (OJ L 339, 22.12.2009, p. 36).
- Commission Regulation (EU) No 1213/2010 of 16 December 2010 establishing common rules concerning the interconnection of national electronic registers on road transport undertakings (OJ L 335, 18.12.2010, p. 21).
- Commission Regulation (EU) No 361/2014 of 9 April 2014 laying down detailed rules for the application of Regulation (EC) No 1073/2009 as regards documents for the international carriage of passengers by coach and bus and repealing Commission Regulation (EC) No 2121/98 (OJ L 107, 10.4.2014, p. 39).
- Commission Regulation (EU) 2016/403 of 18 March 2016 supplementing Regulation (EC) No 1071/2009 of the European Parliament and of the Council with regard to the classification of serious infringements of the Union rules, which may lead to the loss of good repute by the road transport operator, and amending Annex III to Directive 2006/22/EC of the European Parliament and of the Council (OJ L 74, 19.3.2016, p. 8).

SECTION 2 – SOCIAL STANDARDS

- Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (OJ L 80, 23.3.2002, p. 35).
- Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC (OJ L 226, 10.9.2003, p. 4).
- Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Regulation (EEC) No 3820/85 (OJ L 102, 11.4.2006, p. 1), as last amended by Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 (OJ L 60, 28.2.2014, p. 1).
- Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC (OJ L 102, 11.4.2006, p. 35), as last amended by Regulation (EU) 2016/403 of 18 March 2016 (OJ L 74, 19.3.2016, p. 8).
- Commission Regulation (EU) No 581/2010 of 1 July 2010 on the maximum periods for the downloading of relevant data from vehicle units and from driver cards (OJ L 168, 2.7.2010, p. 16).
- Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1).
- Commission Implementing Regulation (EU) 2016/68 of 21 January 2016 on common procedures and specifications necessary for the interconnection of electronic registers of driver cards (OJ L 15, 22.1.2016, p. 51), as amended by Commission Implementing Regulation (EU) 2017/1503 of 25 August 2017 (OJ L 221, 26.8.2017, p. 10).
- Commission Implementing Regulation (EU) 2016/799 of 18 March 2016 implementing Regulation (EU) No 165/2014 of the European Parliament and of the Council laying down the requirements for the construction, testing, installation, operation and repair of tachographs and their components (OJ L 139, 26.5.2016, p. 1), as amended by Commission Implementing Regulation (EU) 2018/502 of 28 February 2018 (OJ L 85, 28.3.2018, p. 1).
- Commission Implementing Regulation (EU) 2017/548 of 23 March 2017 laying down a standard form for the written statement on the removal or breakage of a tachograph seal (OJ L 79, 24.3.2017, p. 1).
- Commission Implementing Decision (EU) 2017/1013 of 30 March 2017 drawing up the standard reporting form referred to in Article 17 of Regulation (EC) No 561/2006 of the European Parliament and of the Council (OJ L 153, 16.6.2017, p. 28).

SECTION 3 – TECHNICAL STANDARDS

Motorised vehicles

- Council Directive 70/157/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the permissible sound level and the exhaust system of motor vehicles (OJ L 42, 23.2.1970, p. 16), as last amended by Commission Directive 2007/34/EC of 14 June 2007 (OJ L 155, 15.6.2007, p. 49).
- Council Directive 88/77/EEC of 3 December 1987 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive-ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles (OJ L 36, 9.2.1988, p. 33), as last amended by Commission Directive 2001/27/EC of 10 April 2001 (OJ L 107, 18.4.2001, p. 10).

- Council Directive 91/671/EEC of 16 December 1991 on the approximation of the laws of the Member States relating to compulsory use of safety belts in vehicles of less than 3,5 tonnes (OJ L 373, 31.12.1991, p. 26), as last amended by Commission Implementing Directive 2014/37/EU of 27 February 2014 (OJ L 59, 28.2.2014, p. 32).
- Council Directive 92/6/EEC of 10 February 1992 on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community (OJ L 57, 2.3.1992, p. 27), as amended by Directive 2002/85/EC of the European Parliament and of the Council of 5 November 2002 (OJ L 327, 4.12.2002, p. 8).
- Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (OJ L 235, 17.9.1996, p. 59), as amended by Directive 2002/7/EC of the European Parliament and of the Council of 18 February 2002 (OJ L 67, 9.3.2002, p. 47).
- Council Regulation (EC) No 2411/98 of 3 November 1998 on the recognition in intra-Community traffic of the distinguishing sign of the Member State in which motor vehicles and their trailers are registered (OJ L 299, 10.11.1998, p. 1).
- Directive 2000/30/EC of the European Parliament and of the Council of 6 June 2000 on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Community (OJ L 203, 10.8.2000, p. 1), as last amended by Commission Directive 2010/47/EU of 5 July 2010 (OJ L 173, 8.7.2010, p. 33).
- Directive 2005/55/EC of the European Parliament and of the Council of 28 September 2005 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive-ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles (OJ L 275, 20.10.2005, p. 1), as last amended by Commission Directive 2008/74/EC of 18 July 2008 (OJ L 192, 19.7.2008, p. 51).
- Regulation (EC) No 595/2009 of the European Parliament and of the Council of 18 June 2009 on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) and on access to vehicle repair and maintenance information and amending Regulation (EC) No 715/2007 and Directive 2007/46/EC and repealing Directives 80/1269/EEC, 2005/55/EC and 2005/78/EC (OJ L 188, 18.7.2009, p. 1), as last amended by Commission Regulation (EU) No 133/2014 of 31 January 2014 (OJ L 47, 18.2.2014, p. 1).
- Regulation (EC) No 661/2009 of the European Parliament and of the Council of 13 July 2009 concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor (OJ L 200, 31.7.2009, p. 1), as last amended by Commission Regulation (EU) 2016/1004 of 22 June 2016 (OJ L 165, 23.6.2016, p. 1).
- Commission Regulation (EU) No 582/2011 of 25 May 2011 implementing and amending Regulation (EC) No 595/2009 of the European Parliament and of the Council with respect to emissions from heavy duty vehicles (Euro VI) and amending Annexes I and III to Directive 2007/46/EC of the European Parliament and of the Council (OJ L 167, 25.6.2011, p. 1), as last amended by Commission Regulation (EU) No 627/2014 of 12 June 2014 (OJ L 174, 13.6.2014, p. 28).
- Directive 2014/45/EU of the European Parliament and of the Council of 3 April 2014 on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC (OJ L 127, 29.4.2014, p. 51).
- Regulation (EU) No 540/2014 of the European Parliament and of the Council of 16 April 2014 on the sound level of motor vehicles and of replacement silencing systems, and amending Directive 2007/46/EC and repealing Directive 70/157/EEC (OJ L 158, 27.5.2014, p. 131), as amended by Commission Delegated Regulation (EU) 2017/1576 of 26 June 2017 (OJ L 239, 19.9.2017, p. 3).

Transportation of dangerous goods

- Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road (OJ L 249, 17.10.1995, p. 35), as last amended by Directive 2008/54/EC of the European Parliament and of the Council of 17 June 2008 (OJ L 162, 21.6.2008, p. 11).

- Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (OJ L 260, 30.9.2008, p. 13), as last amended by Commission Directive (EU) 2018/1846 of 23 November 2018 (OJ L 299, 26.11.2018, p. 58).

For the purposes of this Agreement the following derogations to Directive 2008/68/EC shall apply in Switzerland:

1. Road transport

Derogations for Switzerland under Article 6(2)(a) of Directive 2008/68/EC of 24 September 2008 on the inland transport of dangerous goods

RO - a - CH - 1

Subject: Transport of diesel fuel and heating oil with UN number 1202 in tank containers.

Reference to Annex I, Section I.1, to that Directive: points 1.1.3.6 and 6.8.

Content of the Annex to the Directive: Exemptions related to the quantities transported per transport unit; regulations concerning the construction of tanks.

Content of the national legislation: Tank containers which are not constructed according to point 6.8 but according to national legislation, which have a capacity of less than or equal to 1 210 l and which are used to transport heating oil or diesel fuel with UN number 1202 may benefit from the exemptions in point 1.1.3.6 ADR.

Initial reference to the national legislation: Appendix 1, points 1.1.3.6.3(b) and 6.14, of the Ordinance on the carriage of dangerous goods by road (SDR; RS 741.621).

Date of expiration: 1 January 2023.

RO - a - CH - 2

Subject: Exemption from the requirement to carry a transport document for certain quantities of dangerous goods as defined in point 1.1.3.6.

Reference to Annex I, Section I.1, to that Directive: points 1.1.3.6 and 5.4.1.

Content of the Annex to the Directive: Requirement to have a transport document.

Content of the national legislation: The transport of uncleaned empty containers belonging to Transport Category 4 and filled or empty gas cylinders for breathing apparatuses for use by emergency services or as diving equipment, in quantities not exceeding the limits set in point 1.1.3.6, is not subject to the obligation to carry the transport document provided for in point 5.4.1.

Initial reference to the national legislation: Appendix 1, point 1.1.3.6.3(c), of the Ordinance of 29 November 2002 on the carriage of dangerous goods by road (SDR; RS 741.621).

Date of expiration: 1 January 2023.

RO - a - CH - 3

Subject: Transport of uncleaned empty tanks by companies servicing storage facilities for liquids hazardous to water.

Reference to Annex I, Section I.1, to that Directive: points 6.5, 6.8, 8.2 and 9.

Content of the Annex to the Directive: Construction, equipping and inspection of tanks and vehicles; driver training.

Content of the national legislation: Vehicles and uncleaned empty tanks/containers used by companies servicing storage facilities for liquids hazardous to water to contain liquids while stationary tanks are being serviced are not subject to the construction, equipping and inspection regulations or to the labelling and orange-plate identification regulations stipulated by the ADR. They are subject to particular labelling and identification regulations, and the driver of the vehicle is not obliged to have undertaken the training described in point 8.2.

Initial reference to the national legislation: Appendix 1, point 1.1.3.6.3.10, of the Ordinance of 29 November 2002 on the carriage of dangerous goods by road (SDR; RS 741.621).

Date of expiration: 1 January 2023.

Derogations for Switzerland under Article 6(2)(b)(i) of Directive 2008/68/EC of 24 September 2008 on the inland transport of dangerous goods

RO - bi - CH - 1

Subject: Transport of domestic waste containing dangerous goods to waste disposal installations.

Reference to Annex I, Section I.1, to that Directive: points 2, 4.1.10, 5.2 and 5.4.

Content of the Annex to the Directive: Classification, combined packaging, marking and labelling, documentation.

Content of the national legislation: The rules include provisions relating to the simplified classification of domestic waste containing (domestic) dangerous goods by an expert recognised by the competent authority, to the use of appropriate receptacles and to driver training. Domestic waste which cannot be classified by the expert may be transported to a treatment centre in small quantities identified by package and by transport unit.

Initial reference to the national legislation: Appendix 1, point 1.1.3.7, of the Ordinance of 29 November 2002 on the carriage of dangerous goods by road (SDR; RS 741.621).

Comments: These rules may only be applied to the transport of domestic waste containing dangerous goods between public treatment sites and waste disposal installations.

Date of expiration: 1 January 2023.

RO - bi - CH - 2

Subject: Return transport of fireworks.

Reference to Annex I, Section I.1, to that Directive: points 2.1.2 and 5.4.

Content of the Annex to the Directive: Classification and documentation.

Content of the national legislation: With the aim of facilitating the return transport of fireworks with UN numbers 0335, 0336 and 0337 from retailers to suppliers, exemptions regarding the indication of the net mass and product classification in the transport document are provided for.

Initial reference to the national legislation: Appendix 1, point 1.1.3.8 of the Ordinance of 29 November 2002 on the carriage of dangerous goods by road (SDR; RS 741.621).

Comments: Detailed checking of the exact contents of each item of unsold product in each package is impossible in practice for products intended for retail trade.

Date of expiration: 1 January 2023.

RO - bi - CH - 3

Subject: ADR training certificate for journeys undertaken with the purpose of transporting vehicles which have broken down, journeys related to repairs, journeys made for the examination of tank vehicles/tanks, and journeys with tank vehicles made by experts responsible for the examination of the vehicle in question.

Reference to Annex I, Section I.1, to that Directive: point 8.2.1.

Content of the Annex to the Directive: Drivers of vehicles must attend training courses.

Content of the national legislation: ADR training and certificates are not required for journeys undertaken with the purpose of transporting vehicles that have broken down or test drives related to repairs, journeys with tank vehicles made for the examination of the tank vehicle or its tank, and journeys made by experts responsible for the examination of tank vehicles.

Initial reference to the national legislation: Instructions of 30 September 2008 of the Federal Department of Environment, Transport, Energy and Communication (DETEC) on the carriage of dangerous goods by road.

Comments: In some cases, vehicles which have broken down or are undergoing repairs and tank vehicles being prepared for technical inspection or being checked at the time of the inspection still contain dangerous goods.

The requirements in 1.3 and 8.2.3 are still applicable.

Date of expiration: 1 January 2023.

2. Railway transport

Derogations for Switzerland under Article 6(2)(a) of Directive 2008/68/EC of 24 September 2008 on the inland transport of dangerous goods

RA - a - CH - 1

Subject: Transport of diesel fuel and heating oil with UN number 1202 in tank containers.

Reference to Annex II, Section II.1, to that Directive: point 6.8.

Content of the Annex to the Directive: Regulations concerning the construction of tanks.

Content of the national legislation: Tank containers which are not constructed according to point 6.8 but according to national legislation, which have a capacity of less than or equal to 1 210 l and which are used to transport heating oil or diesel fuel with UN number 1202 are authorised.

Initial reference to the national legislation: Annex to the DETEC Ordinance of 3 December 1996 relating to the transport of dangerous goods by rail and cableway installation (RSD; RS 742.401.6) and Appendix 1, Chapter 6.14, of the Ordinance of 29 November 2002 relating to the carriage of dangerous goods by road (SDR; RS 741.621)

Date of expiration: 1 January 2023.

RA - a - CH - 2

Subject: Transport document.

Reference to Annex II, Section II.1, to that Directive: point 5.4.1.1.1.

Content of the Annex to the Directive: General information required in the transport document.

Content of the national legislation: A collective term may be used in the transport document if a list containing the information prescribed as stipulated above accompanies that document.

Initial reference to the national legislation: Annex to the DETEC Ordinance of 3 December 1996 relating to the transport of dangerous goods by rail and cableway installation (RSD; RS 742.401.6).

Date of expiration: 1 January 2023.

- Directive 2010/35/EU of the European Parliament and of the Council of 16 June 2010 on transportable pressure equipment and repealing Council Directives 76/767/EEC, 84/525/EEC, 84/526/EEC, 84/527/EEC and 1999/36/EC (OJ L 165, 30.6.2010, p. 1).

SECTION 4 – ACCESS AND TRANSIT RIGHTS WITH REGARD TO RAILWAYS

- Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways (OJ L 237, 24.8.1991, p. 25).
- Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings (OJ L 143, 27.6.1995, p. 70).
- Council Directive 95/19/EC of 19 June 1995 on the allocation of railway infrastructure capacity and the charging of infrastructure fees (OJ L 143, 27.6.1995, p. 75).
- Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive) (OJ L 164, 30.4.2004, p. 44), as last amended by Commission Directive 2014/88/EU of 9 July 2014 (OJ L 201, 10.7.2014, p. 9).
- Directive 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers operating locomotives and trains on the railway system in the Community (OJ L 315, 3.12.2007, p. 51), as last amended by Commission Directive (EU) 2016/882 of 1 June 2016 (OJ L 146, 3.6.2016, p. 22).

- Commission Regulation (EC) No 653/2007 of 13 June 2007 on the use of a common European format for safety certificates and application documents in accordance with Article 10 of Directive 2004/49/EC of the European Parliament and of the Council and on the validity of safety certificates delivered under Directive 2001/14/EC (OJ L 153, 14.6.2007, p. 9), as amended by Commission Regulation (EU) No 445/2011 of 10 May 2011 (OJ L 122, 11.5.2011, p. 22).
- Commission Decision 2007/756/EC of 9 November 2007 adopting a common specification of the national vehicle register provided for under Articles 14(4) and (5) of Directives 96/48/EC and 2001/16/EC (OJ L 305, 23.11.2007, p. 30), as amended by Commission Decision 2011/107/EU of 10 February 2011 (OJ L 43, 17.2.2011, p. 33).
- Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (Recast) (OJ L 191, 18.7.2008, p. 1), as last amended by Commission Directive 2014/38/EU of 10 March 2014 (OJ L 70, 11.3.2014, p. 20).
- Commission Decision 2009/965/EC of 30 November 2009 on the reference document referred to in Article 27(4) of Directive 2008/57/EC of the European Parliament and of the Council on the interoperability of the rail system within the Community (OJ L 341, 22.12.2009, p. 1), as amended by Commission Implementing Decision (EU) 2015/2299 of 17 November 2015 (OJ L 324, 10.12.2015, p. 15).
- Commission Regulation (EU) No 36/2010 of 3 December 2009 on Community models for train driving licences, complementary certificates, certified copies of complementary certificates and application forms for train driving licences, under Directive 2007/59/EC of the European Parliament and the Council (OJ L 13, 19.1.2010, p. 1).
- Commission Decision 2010/713/EU of 9 November 2010 on modules for the procedures for assessment of conformity, suitability for use and EC verification to be used in the technical specifications for interoperability adopted under Directive 2008/57/EC of the European Parliament and of the Council (OJ L 319, 4.12.2010, p. 1).
- Commission Regulation (EU) No 1158/2010 of 9 December 2010 on a common safety method for assessing conformity with the requirements for obtaining railway safety certificates (OJ L 326, 10.12.2010, p. 11).
- Commission Regulation (EU) No 1169/2010 of 10 December 2010 on a common safety method for assessing conformity with the requirements for obtaining a railway safety authorisation (OJ L 327, 11.12.2010, p. 13).
- Commission Regulation (EU) No 201/2011 of 1 March 2011 on the model of declaration of conformity to an authorised type of railway vehicle (OJ L 57, 2.3.2011, p. 8).
- Commission Regulation (EU) No 445/2011 of 10 May 2011 on a system of certification of entities in charge of maintenance for freight wagons and amending Regulation (EC) No 653/2007 (OJ L 122, 11.5.2011, p. 22).
- Commission Regulation (EU) No 454/2011 of 5 May 2011 on the technical specification for interoperability relating to the subsystem 'telematics applications for passenger services' of the trans-European rail system (OJ L 123, 12.5.2011, p. 11), as last amended by Commission Implementing Regulation (EU) 2019/775 of 16 May 2019 (OJ L 139 I, 27.5.2019, p. 103).
- Commission Implementing Decision of 4 October 2011 on the European register of authorised types of railway vehicles (2011/665/EU) (OJ L 264, 8.10.2011, p. 32), as amended by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 (OJ L 139 I, 27.5.2019, p. 108).
- Commission Decision 2011/765/EU of 22 November 2011 on criteria for the recognition of training centres involved in the training of train drivers, on criteria for the recognition of examiners of train drivers and on criteria for the organisation of examinations in accordance with Directive 2007/59/EC of the European Parliament and of the Council (OJ L 314, 29.11.2011, p. 36).
- Commission Regulation (EU) No 1078/2012 of 16 November 2012 on a common safety method for monitoring to be applied by railway undertakings, infrastructure managers after receiving a safety certificate or safety authorisation and by entities in charge of maintenance (OJ L 320, 17.11.2012, p. 8).

- Commission Regulation (EU) No 321/2013 of 13 March 2013 concerning the technical specification for interoperability relating to the subsystem 'rolling stock – freight wagons' of the rail system in the European Union and repealing Decision 2006/861/EC (OJ L 104, 12.4.2013, p. 1), as last amended by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 (OJ L 139 I, 27.5.2019, p. 108).
- Commission Implementing Regulation (EU) No 402/2013 of 30 April 2013 on the common safety method for risk evaluation and assessment and repealing Regulation (EC) No 352/2009 (OJ L 121, 3.5.2013, p. 8), as amended by Commission Implementing Regulation (EU) 2015/1136 of 13 July 2015 (OJ L 185, 14.7.2015, p. 6).
- Commission Regulation (EU) No 1299/2014 of 18 November 2014 on the technical specifications for interoperability relating to the 'infrastructure' subsystem of the rail system in the European Union (OJ L 356, 12.12.2014, p. 1), as amended by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 (OJ L 139 I, 27.5.2019, p. 108).
- Commission Regulation (EU) No 1300/2014 of 18 November 2014 on the technical specifications for interoperability relating to accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility (OJ L 356, 12.12.2014, p. 1), as amended by Commission Implementing Regulation (EU) 2019/772 of 16 May 2019 (OJ L 139 I, 27.5.2019, p. 1).

The national rule referred to in Article 6 of Decision No 2/2019 of the Joint Committee shall apply in Switzerland:

- CH-TSI PRM-001 (version 2.0 of November 2020): Autonomous access to trains (*the rule may be incompatible with Regulation (EU) No 1300/2014 and must be reviewed before 30 June 2021*).
- Commission Regulation (EU) No 1301/2014 of 18 November 2014 on the technical specifications for interoperability relating to the 'energy' subsystem of the rail system in the Union (OJ L 356, 12.12.2014, p. 179), as last amended by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 (OJ L 139 I, 27.5.2019, p. 108).
- Commission Regulation (EU) No 1302/2014 of 18 November 2014 concerning a technical specification for interoperability relating to the 'rolling stock — locomotives and passenger rolling stock' subsystem of the rail system in the European Union (OJ L 356, 12.12.2014, p. 228), as last amended by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 (OJ L 139 I, 27.5.2019, p. 108).

The following national rules referred to in Article 6 of Decision No 2/2019 of the Joint Committee shall apply in Switzerland:

- CH-TSI LOC&PAS-001 (version 1.0 of June 2015): Pantograph head width;
- CH-TSI LOC&PAS-002 (version 1.0 of July 2016): Narrow switches / test of passage through switches (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-003 (version 1.0 of July 2016): Tight curves $r < 250$ m (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-004 (version 1.0 of July 2016): Track displacement force (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-005 (version 1.0 of July 2016): Cant deficiency (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-006 (version 1.0 of July 2016): Authorisation of rolling stock with category N tilting system (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-007 (version 1.0 of June 2015): Flange lubrication (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-009 (version 1.0 of June 2015): Exhaust emissions from thermal vehicles (*the rule may be incompatible with Regulation (EU) 2016/1628 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-011 (version 1.0 of July 2016): Traction limitation (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-012 (version 1.0 of July 2016): Admittance;

- CH-TSI LOC&PAS 013 (version 1.0 of July 2016): Pantograph / contact line interaction;
- CH-TSI LOC&PAS-014 (version 1.0 of July 2016): Compatibility with track-free announcing devices (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-017 (version 1.0 of July 2016): Infrastructure gauge: general (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-019 (version 2.0 of June 2019): Non-leading input signal (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-020 (version 2.0 of June 2019): Sleeping input signal with multiple-unit control (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-022 (version 2.1 of November 2020): Resetting the emergency brake (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-025 (version 2.0 of June 2019): Inhibited operability to disconnect ETCS on-board unit (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-026 (version 2.0 of June 2019): SIGNUM/ZUB not permitted on vehicles with ERTMS/ETCS Baseline 3;
- CH-TSI LOC&PAS-027 (version 2.0 of June 2019): Manual radio remote control in ‘Shunting’ mode (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-028 (version 1.0 of July 2016): Gauging, door area (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-030 (version 1.0 of July 2016): Use of braking systems without static friction (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-031 (version 2.1 of November 2020): Safe traction cut-off (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-035 (version 2.1 of November 2020): Sufficient braking performance during emergency braking (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-036 (version 2.0 of June 2019): Vehicles with a control panel for both directions of travel (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*);
- CH-TSI LOC&PAS-037: (version 1.0 of June 2019): ETCS service brake (*the rule may be incompatible with Regulation (EU) No 1302/2014 and must be reviewed before 30 June 2021*).
- Commission Regulation (EU) No 1303/2014 of 18 November 2014 concerning the technical specification for interoperability relating to ‘safety in railway tunnels’ of the rail system of the European Union (OJ L 356, 12.12.2014, p. 394), as last amended by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 (OJ L 139 I, 27.5.2019, p. 108).
- Commission Regulation (EU) No 1304/2014 of 26 November 2014 on the technical specification for interoperability relating to the subsystem ‘rolling stock — noise’ amending Decision 2008/232/EC and repealing Decision 2011/229/EU (OJ L 356, 12.12.2014, p. 421).
- Commission Regulation (EU) No 1305/2014 of 11 December 2014 on the technical specification for interoperability relating to the telematics applications for freight subsystem of the rail system in the European Union and repealing the Regulation (EC) No 62/2006 (OJ L 356, 12.12.2014, p. 438), as last amended by Commission Implementing Regulation (EU) 2019/778 of 16 May 2019 (OJ L 139 I, 27.5.2019, p. 356).
- Commission Implementing Regulation (EU) 2015/171 of 4 February 2015 on certain aspects of the procedure of licensing railway undertakings (OJ L 29, 5.2.2015, p. 3).

- Commission Implementing Regulation (EU) 2015/909 of 12 June 2015 on the modalities for the calculation of the cost that is directly incurred as a result of operating the train service (OJ L 148, 13.6.2015, p. 17).
- Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (OJ L 138, 26.5.2016, p. 44); Only the following provisions shall apply in Switzerland: Articles 7 (paragraphs 1 to 3), 8 to 10, 12, 15, 17, 21 (excluding paragraph 7), 22 to 25, 27 to 42, 44, 45 and 49 as well as Annexes II, III and IV.
- Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (OJ L 138, 26.5.2016, p. 102); Only the following provisions shall apply in Switzerland: Articles 9, 10 (excluding paragraph 7), 13, 14 and 17 as well as Annex III.
- Commission Regulation (EU) 2016/919 of 27 May 2016 on the technical specification for interoperability relating to the 'control-command and signalling' subsystems of the rail system in the European Union (OJ L 158, 15.6.2016, p. 1), as amended by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 (OJ L 139 I, 27.5.2019, p. 108).

The following national rules referred to in Article 6 of Decision No 2/2019 of the Joint Committee shall apply in Switzerland:

- CH-TSI CCS-003 (version 2.0 of June 2019): Activation / deactivation of transfer of Packet 44 to SIGNUM/ZUB;
- CH-TSI CCS-005 (version 2.0 of June 2019): Proof of Quality of Service for GSM-R radio transmission (*the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 30 June 2021*);
- CH-TSI CCS-006 (version 2.1 of November 2020) Loss of 'Non leading permitted' in 'Non leading' mode (*the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 30 June 2021*);
- CH-TSI CCS-007 (version 3.0 of November 2020) Braking curve requirement for ERTMS/ETCS Baseline 2;
- CH-TSI CCS-008 (version 3.0 of November 2020) : Minimally implemented change requests (*the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 30 June 2021*);
- CH-TSI CCS-011 (version 2.0 of June 2019): Euroloop functionality;
- CH-TSI CCS-015 (version 2.0 of June 2019): Simultaneous control of two GSM-R data channels;
- CH-TSI CCS-016 (version 3.0 of November 2020) Application of country-specific project planning and functions (*the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 30 June 2021*);
- CH-TSI CCS-018 (version 2.0 of June 2019): Level STM/NTC prohibited for SIGNUM/ZUB;
- CH-TSI CCS-019 (version 3.0 of November 2020) Acceptance and display of train data (*the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 30 June 2021*);
- CH-TSI CCS-022 (version 2.0 of June 2019): Reversing in 'Unfitted' mode;
- CH-TSI CCS-023 (version 2.0 of June 2019): Text message display;
- CH-TSI CCS-024 (version 2.0 of June 2019): Train data: NC_TRAIN, M_AXLELOAD, V_MAXTRAIN;
- CH-TSI CCS-026 (version 2.1 of November 2020) Online on-board monitoring of line equipment (*the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 30 June 2021*);
- CH-TSI CCS-032 (version 2.1 of November 2020) Unique number for ETCS on-board equipment and GSM-R cab radio (*the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 30 June 2021*);
- CH-TSI CCS-033 (version 1.1 of November 2020) GSM-R Voice Functionalities (*the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 30 June 2021*);
- CH-TSI CCS-034 (version 1.0 of June 2019): 'Non-leading' mode;

- CH-TSI CCS-035 (version 1.0 of June 2019): Text to be displayed at the DMI (*the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 30 June 2021*);
- CH-TSI CCS-036 (version 2.0 of November 2020): GSM-R interference resistance (*the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 30 June 2021*);
- CH-TSI CCS-037 (version 1.1 of November 2020): SIL2 DMI (*the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 30 June 2021*);
- CH-TSI CCS-038 (version 1.1 of November 2020) Disclosure of large odometry confidence interval (*the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 30 June 2021*);
- CH-CSM-RA-001 (version 1.0 of June 2019): Proof of safety concept for acquiring ETCS authorisation in Switzerland (*the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 30 June 2021*);
- CH-CSM-RA-002 (version 1.0 of June 2019): Requirements at speeds greater than 200 km/h (*the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 30 June 2021*);
- CH-CSM-RA-003 (version 1.0 of June 2019): Quality of train data (*the rule may be incompatible with Regulation (EU) 2016/919 and must be reviewed before 30 June 2021*).
- Commission Implementing Regulation (EU) 2018/545 of 4 April 2018 establishing practical arrangements for the railway vehicle authorisation and railway vehicle type authorisation process pursuant to Directive (EU) 2016/797 of the European Parliament and of the Council (OJ L 90, 6.4.2018, p. 66).
- Commission Delegated Regulation (EU) 2018/761 of 16 February 2018 establishing common safety methods for supervision by national safety authorities after the issue of a single safety certificate or a safety authorisation pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 1077/2012 (OJ L 129, 25.5.2018, p. 16).
- Commission Delegated Regulation (EU) 2018/762 of 8 March 2018 establishing common safety methods on safety management system requirements pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulations (EU) No 1158/2010 and (EU) No 1169/2010 (OJ L 129, 25.5.2018, p. 26).
- Commission Implementing Regulation (EU) 2018/763 of 9 April 2018 establishing practical arrangements for issuing single safety certificates to railway undertakings pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council, and repealing Commission Regulation (EC) No 653/2007 (OJ L 129, 25.5.2018, p. 49).
- Commission Implementing Regulation (EU) 2019/250 of 12 February 2019 on the templates for 'EC' declarations and certificates for railway interoperability constituents and subsystems, on the model of declaration of conformity to an authorised railway vehicle type and on the 'EC' verification procedures for subsystems in accordance with Directive (EU) 2016/797 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 201/2011 (OJ L 42, 13.2.2019, p. 9).
- Commission Implementing Regulation (EU) 2019/773 of 16 May 2019 on the technical specification for interoperability relating to the operation and traffic management subsystem of the rail system within the European Union and repealing Decision 2012/757/EU (OJ L 139 I, 27.5.2019, p. 5).

The following national rules referred to in Article 6 of Decision No 2/2019 of the Joint Committee shall apply in Switzerland:

- CH-TSI OPE-006 (version 1.0 of July 2020): Railway operating procedures: communication concepts;
- CH-TSI OPE-007 (version 1.0 of July 2020): Railway operating procedures, without a basis in the TSI OPE;
- CH-TSI OPE-008 (version 1.0 of July 2020): Regulations which relate exclusively to IMs or to the ETF.
- Commission Implementing Regulation (EU) 2019/777 of 16 May 2019 on the common specifications for the register of railway infrastructure and repealing Implementing Decision 2014/880/EU (OJ L 139 I, 27.5.2019, p. 312).

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- Commission Implementing Regulation (EU) 2019/780 of 16 May 2019 on practical arrangements for issuing safety authorisations to infrastructure managers (OJ L 139 I, 27.5.2019, p. 390).

SECTION 5 – OTHER FIELDS

- Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils (OJ L 316, 31.10.1992, p. 19).
 - Directive 2004/54/EC of the European Parliament and of the Council of 29 April 2004 on minimum safety requirements for tunnels in the Trans-European Road Network (OJ L 167, 30.4.2004, p. 39).
 - Directive 2008/96/EC of the European Parliament and of the Council of 19 November 2008 on road infrastructure safety management (OJ L 319, 29.11.2008, p. 59).'
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DECISION No 3/2020 OF THE COMMUNITY/SWITZERLAND INLAND TRANSPORT COMMITTEE
of 16 December 2020
concerning the vehicle charging system applicable in Switzerland as from 1 July 2021 [2021/36]

THE COMMUNITY/SWITZERLAND INLAND TRANSPORT COMMITTEE,

Having regard to the Agreement between the European Community and the Swiss Confederation on the carriage of goods and passengers by rail and road ⁽¹⁾ ('the Agreement'), and in particular Articles 40(6) and 52(4) thereof,

Whereas:

- (1) In accordance with Article 40 of the Agreement, Switzerland has since 1 January 2001 levied a non-discriminatory charge on vehicles for the costs to which they give rise ('performance-based charge on heavy goods vehicle traffic'). This charge is differentiated according to three categories of emission standards (EURO classes).
- (2) To this end, Article 40(2) and (4) of the Agreement lays down the weighted average of the charges, the maximum charge for the most polluting category of vehicles and the maximum difference in charge from one category to another.
- (3) Under Article 40(6) of the Agreement, the Community/Switzerland Inland Transport Committee determines the weighting on the basis of examinations carried out every 2 years to take account of trends in the structure of the vehicle fleet operating in Switzerland and changes in the EURO standards. In view of the modernisation of the vehicle fleet operating in Switzerland, as a result of which more and more vehicles comply with the most recent EURO standards, the distribution of the EURO standard categories should be adjusted such that the least polluting emission class, EURO VI, remains in the lowest-taxed category and emission classes EURO IV and V are placed in the highest-taxed category.
- (4) The rebate, provided for in Decision No 1/2011 of the Community/Switzerland Inland Transport Committee ⁽²⁾, of 10 % of the fee applying to their category for vehicles of emission classes EURO II and EURO III retrofitted with an approved particulate filter system should be abolished for the same reasons,

HAS DECIDED AS FOLLOWS:

Article 1

The performance-based charge on heavy goods vehicle traffic for vehicles with an actual total laden weight of not more than 40 tonnes and travelling a distance of 300 km shall be:

- CHF 372,00 for charge category 1,
- CHF 322,80 for charge category 2,
- CHF 273,60 for charge category 3.

Article 2

Charge category 1 shall apply to all vehicles put into circulation before the EURO VI standard entered into force.

Charge category 3 shall apply to vehicles of emission class EURO VI.

⁽¹⁾ OJ L 114, 30.4.2002, p. 91.

⁽²⁾ Decision No 1/2011 of the Community/Switzerland Inland Transport Committee of 10 June 2011 concerning the granting of a rebate on the performance-based fee on heavy goods vehicle traffic for vehicles of emission classes EURO II and III with an approved particulate reduction system (OJ L 193, 23.7.2011, p. 52).

Article 3

Decision No 1/2011 is hereby repealed.

Article 4

This Decision shall enter into force on 1 July 2021.

Done at Bern, 16 December 2020.

For the Swiss Confederation
The President
Peter FÜGLISTALER

For the European Union
The Head of the European Union Delegation
Elisabeth WERNER

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