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**COVER NOTE**

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	6 October 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2020) 6763 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 6.10.2020 supplementing Regulation (EU) No 376/2014 of the European Parliament and of the Council as regards the common European risk classification scheme

Delegations will find attached document C(2020) 6763 final.

Encl.: C(2020) 6763 final



Brussels, 6.10.2020  
C(2020) 6763 final

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 6.10.2020**

**supplementing Regulation (EU) No 376/2014 of the European Parliament and of the  
Council as regards the common European risk classification scheme**

(Text with EEA relevance)

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

Regulation (EU) No 376/2014 sets the framework for the reporting, analysis and follow-up of occurrences in civil aviation.

Article 7(6) of this Regulation requires the European Commission to define a common European risk classification scheme.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

The Commission consulted experts designated by each Member State in accordance with principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. The draft of the Delegated Regulation was presented at the meetings of the Commission Expert Group on Aviation Safety, composed by the representatives from the Member States, in February and June 2020.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

In accordance with Regulation (EU) No 376/2014, the European risk classification scheme should allow for the identification of high-risk individual safety occurrences to enable rapid action to be taken where needed. It should also enable key risk areas and safety issues to be identified from aggregated information. The scheme should aim to help the relevant entities in their assessment of occurrences and in determining where best to focus their efforts.

The common European risk classification scheme should therefore be defined as a methodology to categorise the overall safety risk of an occurrence according to the worst likely accident outcome of the occurrence and to the likelihood of this potential outcome to occur.

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 6.10.2020**

**supplementing Regulation (EU) No 376/2014 of the European Parliament and of the Council as regards the common European risk classification scheme**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007<sup>1</sup>, and in particular Article 7(6) thereof,

Whereas:

- (1) The Commission, in close cooperation with the Member States and the European Union Aviation Safety Agency ('Agency') through the network of aviation safety analysts, developed a methodology for the classification of occurrences in terms of safety risk, by taking into account the need for compatibility with existing risk classification schemes. The common European risk classification scheme ('ERCS') was developed by 15 May 2017 in accordance with the target date set out in Article 7(5) of Regulation (EU) No 376/2014. The ERCS should be now set out in this Regulation.
- (2) It should support the competent authorities of the Member States and the Agency in their assessment of occurrences, its key purpose should be the identification and classification in a harmonised manner of the level of risk posed by each occurrence to aviation safety. Its purpose should not be the identification of the outcome of the occurrence.
- (3) The ERCS should also allow for the identification of rapid actions needed in reply to high-risk safety occurrences. It should also enable the identification of key risk areas from aggregated information and the identification and comparison of their risk levels.
- (4) The ERCS should facilitate an integrated and harmonised approach to risk management across the European aviation system and therefore enable the competent authorities of Member States and the Agency to focus on safety improvement efforts in a harmonised manner as part of the European Plan for Aviation Safety referred to in Article 6 of Regulation (EU) 2018/1139 of the European Parliament and of the Council<sup>2</sup>.

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<sup>1</sup> OJ L 122, 24.4.2014, p. 18.

<sup>2</sup> 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

- (5) Commission Regulation (EU) No 2019/317<sup>3</sup> laying down a performance and charging scheme in the single European sky establishes the rate of runway incursions and separation minima infringement at Union level with a safety impact as the indicators to be monitored on an annual basis during the third reference period (RP3) that covers the calendar years 2020 to 2024 inclusive. This Regulation should be applied as of 1 January 2021 to align the use of the ERCS with the start of the RP3 second annual monitoring period and ensure the harmonised assessment of occurrences,

HAS ADOPTED THIS REGULATION:

*Article 1*  
*Subject matter*

This Regulation sets out the common European risk classification scheme (ERCS) for the determination of the safety risk of an occurrence.

*Article 2*  
*Definitions*

For the purposes of this Regulation, the following definitions shall apply:

- (1) ‘European risk classification scheme’ or ‘ERCS’ means the methodology applied for the assessment of the risk posed by an occurrence to civil aviation in the form of a safety risk score;
- (2) ‘ERCS matrix’ means a grid made up of the variables described in Article 3(3) which serves for the illustrative representation of the safety risk score;
- (3) ‘safety risk score’ means the result of the risk classification of an occurrence by combining the values of the variables described in Article 3(3);
- (4) ‘high-risk area’ means an area where an aircraft impact would cause numerous injuries, result in a high number of fatalities, or both because of the nature of the activities in that area, such as nuclear or chemical plants;
- (5) ‘populated area’ means an area with clustered or scattered buildings and a permanent human population, such as city, settlement, town, or village;
- (6) ‘life changing injury’ means an injury reducing the person’s quality of life in regard to reduced mobility or reduced cognitive or physical ability in daily life.

*Article 3*  
*Common European risk classification scheme*

1. The ERCS is set out in the Annex.
2. The ERCS shall address the safety risk of an occurrence and not its actual outcome. The assessment of each occurrence shall determine the worst likely accident outcome that the occurrence might have led to, and how close to that accident outcome the occurrence was.

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<sup>3</sup> 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).  
OJ L 56, 25.2.2019, p. 1–67.

3. The ERCS shall be based on the ERCS matrix composed of the following two variables:
- (a) severity: identification of the worst likely accident outcome that would have resulted if the occurrence under assessment had escalated into an accident;
  - (b) probability: identification of the likelihood of the occurrence under assessment to escalate into the worst likely accident outcome referred to in point (a).

*Article 4*  
*Entry into force*

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

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6.10.2020

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*