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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Agreement between the European Union and the Government of the Republic of Kazakhstan on certain aspects of air services

AGREEMENT
BETWEEN THE EUROPEAN UNION
AND THE GOVERNMENT OF THE REPUBLIC OF KAZAHSTAN
ON CERTAIN ASPECTS OF AIR SERVICES

THE EUROPEAN UNION,

of the one part, and

THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN,

of the other part,

hereinafter referred to as "the Contracting Parties",

NOTING that under European Union law European Union air carriers established in a Member State of the European Union have the right to non-discriminatory access to air routes between the Member States of the European Union and third countries,

RECOGNISING that the European Union has requested that certain provisions of the bilateral air service agreements between the Government of the Republic of Kazakhstan and Member States of the European Union be brought into conformity with European Union law in order to establish a sound legal basis for air services between the Republic of Kazakhstan and the European Union and to preserve the continuity of such air services,

RECOGNISING that all matters relating to bilateral air service agreements between the Government of the Republic of Kazakhstan and Member States of the European Union must be in conformity with the applicable laws of the Contracting Parties,

NOTING that in this Agreement it is not an objective of the European Union to increase the total volume of air traffic between the Republic of Kazakhstan and the European Union, to affect the balance between air carriers of the Republic of Kazakhstan and European Union air carriers, or to negotiate amendments to the provisions of existing bilateral air service agreements concerning traffic rights,

NOTING that the bilateral air services agreements listed in Annex I are based on the general principle that the designated air carriers of the Contracting Parties shall have fair and equal opportunities in operating the agreed services on the specified routes, and that it is not a purpose of this Agreement to affect this principle,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

General provisions

1. For the purposes of this Agreement,

(1) "Member State" means a Member State of the European Union.

(2) "party" means a contracting party to the relevant bilateral agreement or other arrangement listed in Annex I;

(3) "air carrier" also means an airline.

2. References in each of the agreements and other arrangements listed in Annex I to nationals of the Member State that is a party to that agreement shall be understood as referring to nationals of the Member States.

3. References in each of the agreements and other arrangements listed in Annex I to air carriers or airlines of the Member State that is a party to that agreement shall be understood as referring to air carriers designated by that Member State.

4. This Agreement shall not create additional traffic rights beyond those laid down in the agreements listed in Annex I and shall not amend the number of air carriers that can be designated under bilateral arrangements. The granting of traffic rights will continue to be carried out through bilateral arrangements.

ARTICLE 2

Designation

1. The provisions in paragraphs 2, 3, 4 and 5 of this Article shall supersede the corresponding provisions listed in Annex II, points (a) and (b) in relation to the designation of an air carrier by the Member State concerned or by the Government of the Republic of Kazakhstan and its authorisations and permissions granted by the Government of the Republic of Kazakhstan or by the Member State concerned, and the refusal, revocation, suspension or limitation of the authorisations or permissions of the air carrier, respectively.
2. On receipt of a designation by a Member State, and of applications from the designated air carrier, in the form and manner prescribed, the Government of the Republic of Kazakhstan shall grant the appropriate authorisations and permissions with minimum procedural delay, provided that:
 - (i) the air carrier is established under the Treaty on the Functioning of the European Union in the territory of the designating Member State and has a valid operating licence in accordance with European Union law; and
 - (ii) effective regulatory control of the air carrier is exercised and maintained by the Member State responsible for issuing its Air Operator's Certificate and the relevant aeronautical authority is clearly identified in the designation; and
 - (iii) the air carrier is owned, directly or through majority ownership, and it is effectively controlled by Member States and/or nationals of Member States, and/or by other states listed in Annex III and/or nationals of such other states.

3. On receipt of a designation by the Government of the Republic of Kazakhstan, and of applications from the designated air carrier, in the form and manner prescribed, the Member State shall grant the appropriate authorisations and permissions with minimum procedural delay, provided that:

- (i) the air carrier is established in the territory of the Republic of Kazakhstan and has a valid operating licence issued by the Republic of Kazakhstan; and
- (ii) effective regulatory control of the air carrier is exercised and maintained by the Government of the Republic of Kazakhstan; and
- (iii) the air carrier is owned, directly or through majority ownership, and it is effectively controlled by the Republic of Kazakhstan and/or nationals of the Republic of Kazakhstan.

4. The Government of the Republic of Kazakhstan may refuse, revoke, suspend or limit the authorisations or permissions of an air carrier designated by a Member State where:

- (i) the air carrier is not established under the Treaty on the Functioning of the European Union in the territory of the designating Member State or does not have a valid operating licence in accordance with European Union law; or
- (ii) effective regulatory control of the air carrier is not exercised or not maintained by the Member State responsible for issuing its Air Operator's Certificate, or the relevant aeronautical authority is not clearly identified in the designation; or

- (iii) the air carrier is not owned, directly or through majority ownership, or it is not effectively controlled by Member States and/or nationals of Member States, and/or by other states listed in Annex III and/or nationals of such other states; or
- (iv) the air carrier is already authorised to operate under a bilateral agreement between the Government of the Republic of Kazakhstan and another Member State, and it can be demonstrated that, by exercising traffic rights on a route that includes a point in that other Member State, including the operation of services which are marketed as, or otherwise constitute through services, the air carrier would be circumventing restrictions on the traffic rights imposed by the bilateral agreement between the Government of the Republic of Kazakhstan and that other Member State; or
- (v) the air carrier holds an Air Operator's Certificate issued by a Member State and there is no bilateral air services agreement or other arrangement between the Government of the Republic of Kazakhstan and that Member State, and that Member State has denied traffic rights to the air carriers designated by the Government of the Republic of Kazakhstan.

In exercising its right under this paragraph, the Government of the Republic of Kazakhstan shall not discriminate between European Union air carriers on the grounds of nationality.

5. The Member State may refuse, revoke, suspend or limit the authorisations or permissions of an air carrier designated by the Government of the Republic of Kazakhstan where:

- (i) the air carrier is not established in the territory of the Republic of Kazakhstan or does not have a valid operating licence issued by the Republic of Kazakhstan; or

- (ii) effective regulatory control of the air carrier is not exercised or not maintained by the Government of the Republic of Kazakhstan; or
- (iii) the air carrier is not owned, directly or through majority ownership, or it is not effectively controlled by the Republic of Kazakhstan and/or nationals of the Republic of Kazakhstan.

ARTICLE 3

Safety

1. The provisions in paragraph 2 of this Article shall complement the corresponding provisions listed in Annex II, point (c).
2. Where a Member State has designated an air carrier whose regulatory control is exercised and maintained by another Member State, the rights of the Government of the Republic of Kazakhstan under the safety provisions of the agreement between the Member State that has designated the air carrier and the Government of the Republic of Kazakhstan shall apply equally in respect of the adoption, exercise or maintenance of safety standards by that other Member State and in respect of the operating authorisation of that air carrier.

ARTICLE 4

Annexes to the Agreement

The Annexes to this Agreement shall form an integral part thereof.

ARTICLE 5

Consultations, revision or amendment

1. The Contracting Parties may, at any time, revise or amend this Agreement by mutual consent.
2. The Contracting Parties shall monitor and regularly review the implementation of this Agreement. Such reviews shall in particular assess any unforeseen negative effects of the Agreement, as perceived by either Contracting Party.
3. If requested by either Contracting Party, the Contracting Parties shall hold consultations in order to discuss appropriate responses to such unforeseen negative effects following which the Agreement may be revised or amended. Such consultations shall take place within 60 days of the request of either Contracting Party.

ARTICLE 6

Entry into force

1. Each Contracting Party shall send through diplomatic channels to the other Contracting Party the notification confirming that its internal procedures necessary for the entry into force of this Agreement have been completed.
2. This Agreement shall enter into force on the first day of the second month following the month during which the last notification provided for in paragraph 1 has been received.
3. Notifications provided for in paragraph 1 shall be sent to the General Secretariat of the Council of the European Union and to the Ministry of Transport of the Republic of Kazakhstan or their respective successors.
4. Agreements and other arrangements between Member States and the Republic of Kazakhstan which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally are listed in Annex I, point (b). This Agreement shall apply to all such agreements and arrangements upon their entry into force or provisional application.

ARTICLE 7

Termination

1. Each Contracting Party may at any time give notice in writing through diplomatic channels of its decision to terminate this Agreement. In such case the Agreement shall terminate six months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn before the expiry of this period.
2. In the event that an agreement listed in Annex I is terminated, the provisions of this Agreement cease to apply to that agreement as from the date of such termination. References in this Agreement to the terminated agreement shall be deemed null and void as from that date.
3. In the event that all agreements listed in Annex I are terminated, this Agreement shall terminate on the date of the termination of the last such agreement.

Done in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish, Swedish, Kazakh and Russian languages, all texts being equally authentic.

IN WITNESS WHEREOF, the undersigned, being duly authorised, have signed this Agreement.

Done at [...], on this [...] day of [..., ...].

For the European Union

For the Government of the Republic of Kazakhstan

List of agreements and other arrangements
referred to in Article 1 of this Agreement

- (a) Agreements and other arrangements between the Government of the Republic of Kazakhstan and Member States which, at the date of signature of this Agreement, have entered into force or are being applied provisionally, as amended
- Air Transport Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Austria signed at Almaty on 26 April 1993, referred to as "Kazakhstan – Austria Agreement" in Annex II;
 - Memorandum of Understanding on air services between aeronautical authorities of the Republic of Cyprus and the aeronautical authorities of the Republic of Kazakhstan signed at Astana on 25 March 2024, referred to as "Kazakhstan – Cyprus Memorandum of Understanding" in Annex II;
 - Memorandum of Understanding between delegations representing the aeronautical authorities of the Republic of Kazakhstan and the Czech Republic, signed at Nassau, in the Bahamas, on 6 December 2016, referred to as "Kazakhstan – Czech Republic Memorandum of Understanding" in Annex II;
 - Air Transport Agreement between the Government of the Republic of Kazakhstan and the Government of the Federal Republic of Germany signed at Bonn on 15 March 1996, referred to as "Kazakhstan – Germany Agreement" in Annex II;

- Air Transport Agreement between the Government of the Republic of Hungary and the Government of the Republic of Kazakhstan signed at Almaty on 9 March 1995, referred to as "Kazakhstan – Hungary Agreement" in Annex II;
- Air Services Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Lithuania signed at Vilnius on 21 July 1993, referred to as "Kazakhstan – Lithuania Agreement" in Annex II;
- Air Services Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Poland signed at Warsaw on 27 November 1997, referred to as "Kazakhstan – Poland Agreement" in Annex II;
- Air Services Agreement between the Government of the Republic of Kazakhstan and the Government of the Kingdom of Denmark initialled at Almaty on 26 April 1996, referred to "Kazakhstan – Denmark Agreement" in Annex II;
- Air Services Agreement between the Government of the Republic of Kazakhstan and the Government of the Kingdom of Sweden initialled at Almaty on 26 April 1996, referred to as "Kazakhstan – Sweden Agreement" in Annex II;
- Air Services Agreement between the Government of the Republic of Finland and the Government of the Republic of Kazakhstan signed at Almaty on 7 February 1996, referred to as "Kazakhstan – Finland Agreement (1996)" in Annex II.

- (b) Air services agreements between the Government of the Republic of Kazakhstan and Member States which, at the date of signature of this Agreement, have not yet entered into force and are not being applied provisionally, as amended
- Agreement between the Government of the Republic of Kazakhstan and the Government of the Kingdom of Belgium relating to Air Services signed at Brussels on 27 June 2000, referred to as "Kazakhstan – Belgium Agreement" in Annex II;
 - Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Bulgaria relating to Air Services signed at Sofia on 15 September 1999, referred to as "Kazakhstan – Bulgaria Agreement" in Annex II;
 - Air Services Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Finland signed at Astana on 16 May 2018, referred to as "Kazakhstan – Finland Agreement (2018)" in Annex II;
 - Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Estonia relating to Air Services initialled at Astana on 26 April 2001, referred to as "Kazakhstan – Estonia Agreement" in Annex II;
 - Air Services Agreement between the Government of the Republic of Kazakhstan and the Government of the French Republic signed at Astana on 21 June 2016, referred to as "Kazakhstan – France Agreement" in Annex II;

- Air Services Agreement between the Government of the Republic of Kazakhstan and the Government of the Kingdom of the Netherlands signed at The Hague on 27 November 2002, referred to as "Kazakhstan – Netherlands Agreement" in Annex II;
 - Air Services Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Latvia signed at Almaty on 19. May 1998, referred to as "Kazakhstan – Latvia Agreement" in Annex II;
 - Air Services Agreement between the Government of the Republic of Kazakhstan and the Government of the Grand Duchy of Luxembourg signed at Astana on 21 May 2015, referred to as "Kazakhstan – Luxembourg Agreement" in Annex II.
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List of provisions in the agreements and other arrangements listed in Annex I
and referred to in Articles 2 and 3 of this Agreement

(a) Designation, authorisations and permissions:

- Article 3 of the Kazakhstan – Austria Agreement;
- Article 3 of the Kazakhstan – Belgium Agreement;
- Article 4 of the Kazakhstan – Bulgaria Agreement;
- Point 1 of the Kazakhstan – Cyprus Memorandum of Understanding;
- Point 2 of the Kazakhstan – Czech Republic Memorandum of Understanding;
- Article 3 of the Kazakhstan – Denmark Agreement;
- Article 3 of the Kazakhstan – Estonia Agreement;
- Article 4 of the Kazakhstan – France Agreement;
- Article 3 of the Kazakhstan – Finland Agreement (1996);
- Article 3 of the Kazakhstan – Finland Agreement (2018);
- Article 3(2) of the Kazakhstan – Germany Agreement, notwithstanding the reference to the provisions of Article 3(3);
- Article 3 of the Kazakhstan – Hungary Agreement;
- Article 3 of the Kazakhstan – Netherlands Agreement;
- Article 3 of the Kazakhstan – Latvia Agreement;
- Article 4(1) and (2) of the Kazakhstan – Lithuania Agreement;
- Article 3 of the Kazakhstan – Luxembourg Agreement;
- Article 3 of the Kazakhstan – Poland Agreement;
- Article 3 of the Kazakhstan – Sweden Agreement.

(b) Refusal, revocation, suspension or limitation of authorisations or permissions:

- Article 3(3) and (5) and Article 4(1) of the Kazakhstan – Austria Agreement;
- Article 5(1) of the Kazakhstan – Belgium Agreement;
- Point 1 of the Kazakhstan – Cyprus Memorandum of Understanding;
- Point 2 of the Kazakhstan – Czech Republic Memorandum of Understanding;
- Article 5(1) of the Kazakhstan – Bulgaria Agreement;
- Article 4 of the Kazakhstan – Denmark Agreement;
- Article 3(1) of the Kazakhstan – Estonia Agreement;
- Article 5(1) of the Kazakhstan – France Agreement;
- Article 4(1) of the Kazakhstan – Finland Agreement (1996);
- Article 4(1) of the Kazakhstan – Finland Agreement (2018);
- First sentence of Article 4 of the Kazakhstan – Germany Agreement - only to the extent of the conditions for refusal, revocation, suspension or limitations of authorisations or permissions covered by Article 2(4) and 2(5) of this Agreement;
- Article 4(1) of the Kazakhstan – Hungary Agreement;
- Article 4(1) of the Kazakhstan – Netherlands Agreement;
- Article 3(4) and Article 4(1) of the Kazakhstan – Latvia Agreement;
- Article 4(3) and (5) and Article 5(1) of the Kazakhstan – Lithuania Agreement;
- Article 4(1) of the Kazakhstan – Luxembourg Agreement;
- Article 4(1) of the Kazakhstan – Poland Agreement;
- Article 4 of the Kazakhstan – Sweden Agreement.

(c) Safety:

- Article 7 of the Kazakhstan – Belgium Agreement;
 - Article 12 of the Kazakhstan – Estonia Agreement;
 - Article 6 of the Kazakhstan – Finland Agreement (2018);
 - Article 9 of the Kazakhstan – France Agreement;
 - Article 7 of the Kazakhstan – Hungary Agreement;
 - Article 11 of the Kazakhstan – Netherlands Agreement;
 - Article 8 of the Kazakhstan – Latvia Agreement;
 - Article 8 of the Kazakhstan – Lithuania Agreement;
 - Article 6 of the Kazakhstan – Luxembourg Agreement.
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List of other states referred to in Article 2 of this Agreement

- (a) The Republic of Iceland (under the Agreement on the European Economic Area);
 - (b) The Principality of Liechtenstein (under the Agreement on the European Economic Area);
 - (c) The Kingdom of Norway (under the Agreement on the European Economic Area);
 - (d) The Swiss Confederation (under the Agreement between the European Community and the Swiss Confederation on Air Transport).
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