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Delegations will find attached document D034386/03.

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Brussels, **XXX**  
[...] (2014) **XXX** draft

**COMMISSION REGULATION (EU) No .../..**

**of XXX**

**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)

# COMMISSION REGULATION (EU) No .../..

of XXX

**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)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC <sup>(1)</sup>, and in particular Articles 8c(10) and 10 (5) thereof,

Whereas:

- (1) Air traffic controllers and persons and organisations involved in their training, testing, checking and medical examination and assessment must comply with the relevant essential requirements set out in Annex Vb to Regulation (EC) No 216/2008. In particular, they are to be certified or licensed once they have demonstrated compliance with the essential requirements.
- (2) The European licence has proved to be an effective way of recognising and certifying the competence of air traffic controllers, who as a profession play a unique role in the operation of safe air traffic control. The Union-wide competence standard has reduced fragmentation in this field and thus contributed to more efficient organisation of work in the current context of increased regional collaboration between air navigation service providers. Maintaining and improving the common licensing scheme for air traffic controllers working in the Union is an important part of the European air traffic control system. To this aim, technical requirements and administrative procedures related to air traffic controllers' licences and certificates, reflecting the state of the art in this domain, should now be laid down.
- (3) The provision of air navigation services requires highly skilled personnel and in particular air traffic controllers, whose competence is demonstrated by a licence, issued on the basis of the detailed requirements set out in this Regulation. The rating on a licence should indicate the type of air traffic service an air traffic controller is

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<sup>1</sup> OJ L 79, 19.3.2008, p. 1.

competent to provide. The endorsements on the licence should reflect both the specific skills of the controller and the authorisation given by the competent authorities to provide services for a particular sector, group of sectors and/or working positions.

- (4) The authorities performing supervision and verification of compliance under this Regulation should be sufficiently independent from air traffic controllers when issuing licences or extending the validity of the endorsements, when suspending or revoking licences, ratings, endorsements or certificates in cases where the conditions for their issue are no longer met. Those authorities should also be sufficiently independent from air navigation service providers and training organisations. They should remain capable of performing their tasks effectively. The competent authority or authorities charged with the responsibility set out in this Regulation may be the body or bodies designated or established in accordance with Article 4 of Regulation (EC) No 549/2004 of the European Parliament and of the Council<sup>2</sup>. The European Aviation Safety Agency (hereinafter the 'Agency') should act as the competent authority for issuing and renewing certificates held by air traffic controller training organisations located outside the territory of the Member States and, where relevant, their personnel. As such, it should meet the same requirements.
- (5) In light of the particular characteristics of air traffic in the Union, common competence standards for air traffic controllers employed by air navigation service providers should be introduced and effectively applied, ensuring air traffic management and air navigation services (ATM/ANS) to the public.
- (6) Member States should have the possibility to apply this Regulation to their military personnel providing services to the public, as referred to in Article 1(2)(c) of Regulation (EC) No 216/2008.
- (7) Poor communication is often a significant contributing factor in incidents and accidents. Therefore, detailed language proficiency requirements for air traffic controllers should be laid down. Those requirements are based on the requirements adopted by the International Civil Aviation Organization (ICAO) and provide a means of enforcing these internationally accepted standards. The principles of non-discrimination, transparency and proportionality are upheld with regard to language proficiency requirements in order to encourage free movement of workers, while ensuring safety. The validity of language proficiency endorsement should be proportionate to the proficiency level as determined in this Regulation.
- (8) Common rules for issuing and maintaining licences for air traffic controllers are essential to increase Member States' confidence in each other's systems. To ensure the highest level of safety, uniform requirements for the training, qualifications and competence of air traffic controllers should therefore be introduced. This also serves to ensure the provision of safe, high-quality air traffic control services and it contributes to the recognition of licences throughout the Union, thereby increasing freedom of movement and improving the availability of air traffic controllers.
- (9) The European Organisation for the Safety of Air Navigation (Eurocontrol) has set appropriate standards for initial training, set out in the Specification for the ATCO Common Core Content Initial Training. In order to reflect the scientific and technical

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<sup>2</sup> 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 (OJ L 96, 31.3.2004, p. 10).

progress and to facilitate a uniform approach to initial training, which is the key element for ensuring mobility among air traffic controllers, these standards should now be set out in Union law. Requirements should also be established for unit and continuation training, taking into account the applicable essential requirements as specified in Article 8c of Regulation (EC) No 216/2008. In the absence of European training requirements, Member States may continue to rely on training standards developed by ICAO.

- (10) In consultation with a group of experts, Eurocontrol has developed requirements for medical assessment of air traffic controllers, which have already been used by Member States together with ICAO Annex 1. Those requirements should now be transposed into Union law in order to ensure their uniform application in all Member States.
- (11) In order to ensure that Member States fulfil their safety responsibilities and obligations in a correct and structured manner by means of an administration and management system operated by competent authorities and organisations acting on their behalf, in line with ICAO State Safety Programme, this Regulation should stipulate the requirement to be applied by the competent authorities.
- (12) The certification of training organisations is one of the essential factors contributing to the quality of air traffic controller training and thus to the safe provision of air traffic control. The requirements for training organisations should therefore be strengthened. It should be possible to certify training according to the type of training, as a package of training services or as a package of training and air navigation services, without losing sight of the particular characteristics of the training offered by each organisation.
- (13) The general conditions for obtaining a licence, insofar as they relate to age and medical requirements, should not affect the holders of existing licences. In order to preserve existing licence privileges and provide smooth transition for all licence holders and for the competent authorities, licences and medical certificates issued by Member States in accordance with Directive 2006/23/EC<sup>3</sup> and with Commission Regulation (EU) No 805/2011<sup>4</sup> should be considered as having been issued in accordance with this Regulation.
- (14) For the sake of consistency, the definition of psychoactive substance in Commission Implementing Regulation (EU) No 923/2012<sup>5</sup> should be amended.
- (15) While this Regulation builds on previous achievements and EU regulatory requirements, for the sake of clarity, Commission Regulation (EU) No 805/2011 should be repealed.

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<sup>3</sup> Directive 2006/23/EC of the European Parliament and of the Council of 5 April 2006 on a Community air traffic controller licence (OJ L 114, 27.4.2006, p. 22).

<sup>4</sup> Commission Regulation (EU) No 805/2011 of 10 August 2011 laying down detailed rules for air traffic controllers' licences and certain certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 206, 11.8.2011, p. 21).

<sup>5</sup> 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 (OJ L 281, 13.10.2012, p. 1).

- (16) In accordance with Articles 17(2)(b) and 19(1) of Regulation (EC) No 216/2008, the Commission has been assisted by the Agency when preparing the measures provided for in this Regulation.
- (17) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 65 of Regulation (EC) No 216/2008.

HAS ADOPTED THIS REGULATION:

#### *Article 1*

#### **Subject matter and scope**

1. This Regulation lays down detailed rules for:
  - (a) the conditions for issuing, suspending and revoking air traffic controllers and student air traffic controllers' licences, associated ratings and endorsements, and the privileges and responsibilities of those holding them;
  - (b) the conditions for issuing, limiting, suspending and revoking air traffic controllers and student air traffic controllers' medical certificates, and the privileges and responsibilities of those holding them;
  - (c) the certification of aero-medical examiners and aero-medical centres for air traffic controllers and student air traffic controllers;
  - (d) the certification of air traffic controller training organisations;
  - (e) the conditions for validating revalidating, renewing and using such licences, ratings, endorsements and certificates.
2. This Regulation shall apply to:
  - (a) student air traffic controllers and air traffic controllers exercising their functions within the scope of Regulation (EC) No 216/2008;
  - (b) persons and organisations involved in the licensing, training, testing, checking and medical examination and assessment of applicants in accordance with this Regulation.

#### *Article 2*

#### **Compliance with requirements and procedures**

1. The student air traffic controllers, the air traffic controllers and the persons involved in the licensing, training, testing, checking and medical examination and assessment of applicants referred to in Article 1(2)(a) and (b) shall be qualified and licensed in accordance with the provisions of Annexes I, III and IV by the competent authority referred to in Article 6.
2. The organisations referred to in Article 1(2)(b) shall be qualified in accordance with the technical requirements and administrative procedures laid down in Annexes I, III and IV and shall be certified by the competent authority referred to in Article 6.

3. The medical certification of the persons referred to in Article 1(2)(a) and (b) shall be compliant with the technical requirements and administrative procedures laid down in Annexes III and IV.
4. Air traffic controllers employed by air navigation service providers providing air traffic services in the airspace of the territory to which the Treaty applies and having their principal place of operations and their registered office, if any, located outside the territory subject to the provisions of the Treaty, shall be deemed to have been licenced in accordance with paragraph 1, where they meet both of the following conditions:
  - (a) they hold an air traffic controller licence issued by a third country in accordance with Annex 1 to the Chicago Convention;
  - (b) they have demonstrated to the competent authority referred to in Article 6 that they have received training and successfully passed examinations and assessments equivalent to those required by Part ATCO, Subpart D, Sections 1-4, set out in Annex I.

The tasks and functions assigned to the air traffic controllers referred to in the first subparagraph shall not exceed the privileges of the licence issued by the third country.

5. Practical instructors and assessors employed by a training organisation located outside the territory of the Member States shall be deemed to have been qualified in accordance with paragraph 1, where they meet both of the following conditions:
  - (a) they hold an air traffic controller licence issued by a third country in accordance with Annex I of the Chicago Convention with a rating and, if applicable, rating endorsement corresponding to the one for which they are authorised to instruct or assess;
  - (b) they have demonstrated to the competent authority referred to in Article 6 that they have received training and successfully passed examinations and assessments equivalent to those required by Part ATCO, Subpart D, Section 5, set out in Annex I.

The privileges referred to in the first subparagraph shall be specified in a certificate issued by a third country and shall be limited to provide instruction and assessment for training organisations located outside the territory of the Member States.

### *Article 3*

#### **Provision of air traffic control services**

1. Air traffic control services shall only be provided by air traffic controllers qualified and licensed in accordance with this Regulation.
2. Subject to Article 1(3) of Regulation (EC) No 216/2008, Member States shall, as far as practicable, ensure that services provided or made available by military personnel to the public referred to in Article 1(2)(c) of that Regulation offer a level of safety

that is at least equivalent to the level required by the essential requirements as defined in Annex Vb to that Regulation.

3. Member States may apply this Regulation to their military personnel providing services to the public.

#### *Article 4* **Definitions**

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

- (1) ‘abnormal situation’ means circumstances, including degraded situations, which are neither routinely nor commonly experienced and for which an air traffic controller has not developed automatic skills;
- (2) ‘acceptable means of compliance (AMC)’ means non-binding standards adopted by the Agency to illustrate means by which to establish compliance with Regulation (EC) No 216/2008 and its implementing rules;
- (3) ‘air traffic control (ATC) service’ means a service provided for the purpose of:
  - (a) preventing collisions:
    - between aircraft, and
    - in the manoeuvring area between aircraft and obstructions; and
  - (b) expediting and maintaining an orderly flow of air traffic;
- (4) ‘air traffic control (ATC) unit’ means a generic term meaning variously, area control centre, approach control unit or aerodrome control tower;
- (5) ‘alternative means of compliance’ means an alternative to an existing AMC or a new means to establish compliance with Regulation (EC) No 216/2008 and its implementing rules for which no associated AMC have been adopted by the Agency;
- (6) ‘assessment’ means an evaluation of the practical skills leading to the issue of the licence, rating and/or endorsement(s) and their revalidation and/or renewal, including behaviour and the practical application of knowledge and understanding being demonstrated by the person being assessed;
- (7) ‘assessor endorsement’ means the authorisation entered on and forming part of the licence, indicating the competence of the holder to assess the practical skills of student air traffic controller and air traffic controller;
- (8) ‘critical incident stress’ means the manifestation of unusual and/or extreme emotional, physical and/or behavioural reactions in an individual following an unexpected event, an accident, an incident or serious incident;
- (9) ‘emergency situation’ means a serious and dangerous situation requiring immediate actions;



- (10) 'examination' means a formalised test evaluating the person's knowledge and understanding;
- (11) 'guidance material (GM)' means non-binding material developed by the Agency that helps to illustrate the meaning of a requirement or specification and is used to support the interpretation of Regulation (EC) No 216/2008, its implementing rules and AMC;
- (12) 'ICAO location indicator' means the four-letter code group formulated in accordance with the rules prescribed by ICAO in its manual "DOC 7910" in its latest updated version and assigned to the location of an aeronautical fixed station;
- (13) 'language proficiency endorsement' means the statement entered on and forming part of a licence, indicating the language proficiency of the holder;
- (14) 'licence' means a document issued and endorsed in accordance with this Regulation and entitling its lawful holder to exercise the privileges of the ratings and endorsements contained therein;
- (15) 'on-the-job training instruction' means the phase of unit training during which previously acquired job-related routines and skills are integrated in practice under the supervision of a qualified on-the-job training instructor in a live traffic situation;
- (16) 'on-the-job training instructor (OJTI) endorsement' means the authorisation entered on and forming part of a licence, indicating the competence of the holder to give on-the-job training instruction and instruction on synthetic training devices;
- (17) 'part-task trainer (PTT)' means a synthetic training device to provide training for specific and selected operational tasks without requiring the learner to practise all of the tasks which are normally associated with a fully operational environment;
- (18) 'performance objective' means a clear and unambiguous statement of the performance expected of the person undertaking the training, the conditions under which the performance takes place and the standards that the person undertaking training should meet;
- (19) 'provisional inability' means a temporary state in which the licence holder is prevented from exercising the privileges of the licence when ratings, endorsements and his/her medical certificate are valid;
- (20) 'psychoactive substance' means alcohol, opioids, cannabinoids, sedatives and hypnotics, cocaine, other psychostimulants, hallucinogens, and volatile solvents, whereas caffeine and tobacco are excluded;
- (21) 'rating endorsement' means the authorisation entered on and forming part of a licence, indicating the specific conditions, privileges or limitations pertaining to the relevant rating;
- (22) 'renewal' means the administrative act taken after a rating, endorsement or certificate has expired that renew the privileges of the rating, endorsement or certificate for a further specified period subject to the fulfilment of specified requirements;

- (23) ‘revalidation’ means the administrative act taken within the period of validity of a rating, endorsement or certificate that allows the holder to continue to exercise the privileges of a rating, endorsement or certificate for a further specified period subject to the fulfilment of specified requirements;
- (24) ‘sector’ means a part of a control area and/or part of a flight information region or upper region;
- (25) ‘simulator’ means a synthetic training device that presents the important features of the real operational environment and reproduces the operational conditions under which the person undertaking training can practice real-time tasks directly;
- (26) ‘synthetic training device’ means any type of device by which operational conditions are simulated, including simulators and part-task trainers;
- (27) ‘synthetic training device instructor (STDI) endorsement’ means the authorisation entered on and forming part of a licence, indicating the competence of the holder to give instruction on synthetic training devices;
- (28) ‘training course’ means theoretical and/or practical instruction developed within a structured framework and delivered within a defined duration;
- (29) ‘training organisation’ means an organisation which has been certified by the competent authority to provide one or more types of training;
- (30) ‘unit endorsement’ means the authorisation entered on and forming part of a licence, indicating the ICAO location indicator and the sector, group of sectors or working positions where the licence holder is competent to work;
- (31) ‘validation’ means a process by which, through the successful completion of a unit endorsement course associated to a rating or a rating endorsement, the holder may start exercising the privileges of that rating or rating endorsement.

#### *Article 5*

### **Competent authority**

1. Member States shall nominate or establish one or more competent authority(ies) with allocated responsibilities for the certification and oversight of persons and organisations subject to this Regulation.
2. Within a functional airspace block or in the case of cross-border service provision the competent authorities shall be designated by agreement of the Member States concerned.
3. If a Member State nominates or establishes more than one competent authority, the areas of competence of each competent authority shall be clearly defined in terms of responsibilities and geographical area, where appropriate. Coordination shall be established between those authorities to ensure effective oversight of all persons and organisations subject to this Regulation within their respective remits.

4. The competent authority(ies) shall be independent from air navigation service providers and training organisations. This independence shall be achieved through adequate separation, at least at functional level, of the competent authorities on the one hand and air navigation service providers and the training organisations on the other hand. The competent authorities shall exercise their powers impartially and transparently.

The first subparagraph also applies to the Agency, where it acts as a competent authority pursuant to Article 6(2)(b) and (3)(a)(ii).

5. Member States shall ensure that the competent authorities have the necessary capability to conduct the certification and oversight activities covered by their certification and oversight programmes, including sufficient resources to fulfil the requirements of Annex II (Part ATCO.AR). In particular, Member States shall use the assessments produced by the competent authorities in accordance with point ATCO.AR.A.005(a) of Annex II in order to demonstrate their capability.
6. Member States shall ensure that, with respect to the personnel of the competent authorities that carry out the oversight and certification activities under this Regulation, there is no direct or indirect conflict of interest, in particular relating to family or financial interests of the personnel concerned.
7. The competent authority(ies) nominated or established by a Member State for the purposes of Commission Regulation (EU) No 805/2011 shall be deemed to remain the competent authority for the purposes of this Regulation, unless otherwise determined by the Member State concerned. In the latter case, Member States shall notify the Agency of the name(s) and address(es) of the competent authority(ies) that they nominate or establish in application of this Article, as well as any changes thereto.

#### *Article 6*

#### **Competent authority for the purposes of Annexes I, III and IV**

1. For the purpose of Annex I, the competent authority shall be the authority(ies) nominated or established by the Member State to whom the person applies for the issue of a licence.
2. For the purpose of Annex III and for the oversight of the requirements of Annex I regarding air navigation service providers, the competent authority shall be:
  - (a) the authority nominated or established by the Member State as its competent authority for oversight where the applicant has its principal place of operation or its registered office, if any, unless otherwise provided for in bilateral or multilateral agreements between Member States or their competent authorities;
  - (b) the Agency, if the applicant has its principle place of operation or its registered office, if any, outside the territory of the Member States.
3. For the purpose of Annex IV, the competent authority shall be:
  - (a) for aero-medical centres:

- (i) the authority designated by the Member State in which the aero-medical centre has its principal place of business;
  - (ii) the Agency, when the aero-medical centre is located in a third country;
- (b) for aero-medical examiners:
- (i) the authority designated by the Member State in which the aero-medical examiner has his or her principal place of practice;
  - (ii) if the principal place of practice of an aero-medical examiner is located in a third country, the authority designated by the Member State to which the applicant aero-medical examiner applies for the issue of the certificate.

### *Article 7*

#### **Transitional provisions**

1. Licences, ratings and endorsements issued in accordance with the relevant provisions of national legislation based on Directive 2006/23/EC and licences, ratings and endorsements issued in accordance with Regulation (EU) No 805/2011 shall be deemed to have been issued in accordance with this Regulation.
2. The Area Control Procedural (ACP) rating with the Oceanic Control (OCN) rating endorsement issued on the basis of national rules based on Article 31(1) of Regulation (EU) No 805/2011 shall be deemed to have been issued in accordance with this Regulation.
3. Medical certificates and certificates for training organisations, aero-medical examiners and aero-medical centres, approvals of unit competence schemes and training plans issued in accordance with the relevant provisions of national legislation based on Directive 2006/23/EC in accordance with Regulation (EU) No 805/2011 shall be deemed to have been issued in accordance with this Regulation.

### *Article 8*

#### Replacement of licences, adaptations of privileges, training courses and unit competence schemes

- 1 Member States shall replace the licences referred to in Article 7(1) with licences complying with the format laid down in Appendix 1 of Annex II to this Regulation by 31 December 2015, or 31 December 2016, when the Member State makes use of the derogation in Article 11(2), at the latest.
- 2 Member States shall replace the certificates for air traffic controller training organisations referred to in Article 7(3) with certificates complying with the format laid down in Appendix 2 of Annex II to this Regulation by 31 December 2015, or 31 December 2016, when the Member State makes use of the derogation in Article 11(2), at the latest.

3. Member States shall replace the certificates for aero-medical examiners and the certificates for aero-medical centres referred to in Article 7(3) with certificates complying with the format laid down in Appendices 3 and 4 of Annex II to this Regulation by 31 December 2015, or 31 December 2016, when the Member State makes use of the derogation in Article 11(2), at the latest.
4. The competent authorities shall convert the privileges of examiners and assessors for initial training pursuant to Article 20 of Commission Regulation (EU) No 805/2011 and of competence examiners and competence assessors for unit and continuation training approved by the competent authority pursuant to Article 24 of Regulation (EU) No 805/2011 into the privileges of an assessor endorsement pursuant to this Regulation, if appropriate, by 31 December 2015, or 31 December 2016, when the Member State makes use of the derogation in Article 11(2), at the latest.
5. The competent authorities may convert the privileges for national simulator or synthetic training device instructors into privileges for a synthetic training device instructor endorsement according to this Regulation, if appropriate, by 31 December 2015, or 31 December 2016, when the Member State makes use of the derogation in Article 11(2), at the latest.
6. Air navigation service providers shall adapt their unit competence schemes to comply with the requirements of this Regulation by 31 December 2015, or 31 December 2016, when the Member State makes use of the derogation in Article 11(2), at the latest.
7. Air traffic controller training organisations shall adapt their training plans to comply with the requirements of this Regulation by 31 December 2015, or 31 December 2016, when the Member State makes use of the derogation in Article 11(2), at the latest.
8. Certificates of completion of training courses that started prior to the application of this Regulation in accordance with Regulation (EU) No 805/2011 shall be accepted for the purpose of the issue of the relevant licences, ratings and endorsements in accordance with this Regulation provided that the training and the assessment have been completed by 30 June 2016, or 30 June 2017, when the Member State makes use of the derogation in Article 11(2), at the latest.

#### *Article 9*

#### *Amendment to Commission Implementing Regulation (EU) No 923/2012*

In Article 2 of Commission Implementing Regulation (EU) No 923/2012, point 104 is replaced by the following:

‘104. ‘psychoactive substance’ means alcohol, opioids, cannabinoids, sedatives and hypnotics, cocaine, other psychostimulants, hallucinogens, and volatile solvents, whereas caffeine and tobacco are excluded;’

*Article 10*  
**Repeal**

Commission Regulation (EU) No 805/2011 is repealed.

*Article 11*  
**Entry into force and application**

1. 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 30 June 2015.

2. By way of derogation from paragraph 1, Member States may decide not to apply Annexes I to IV, in whole or in part, before 31 December 2016.

When a Member State makes use of this possibility, it shall notify the Commission and the Agency by 1 July 2015 at the latest. This notification shall describe the scope of the derogation(s) as well as the programme for implementation containing actions envisaged and related timing. In that case, the relevant provisions of Commission Regulation (EU) No 805/2011 shall continue to apply.

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

Done at Brussels,

*For the Commission*  
*The President*