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**COVER NOTE**

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To:	General Secretariat of the Council
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Subject:	COMMISSION DECISION of XXX authorising the United Kingdom to derogate pursuant to Article 14(6) of Regulation (EC) No 216/2008 of the European Parliament and of the Council from certain common aviation safety rules concerning restraint systems on flight crew seats of helicopters used in commercial air transport operations

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Delegations will find attached document D036228/01.

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Encl.: D036228/01



EUROPEAN  
COMMISSION

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

## **COMMISSION DECISION**

of **XXX**

**authorising the United Kingdom to derogate pursuant to Article 14(6) of Regulation (EC) No 216/2008 of the European Parliament and of the Council from certain common aviation safety rules concerning restraint systems on flight crew seats of helicopters used in commercial air transport operations**

(Text with EEA relevance)

## COMMISSION DECISION

of **XXX**

**authorising the United Kingdom to derogate pursuant to Article 14(6) of Regulation (EC) No 216/2008 of the European Parliament and of the Council from certain common aviation safety rules concerning restraint systems on flight crew seats of helicopters used in commercial air transport operations**

(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 Article 14(7) thereof,

Whereas:

- (1) The United Kingdom notified its intention to grant an approval derogating from the common aviation safety rules implementing Regulation (EC) No 216/2008 contained in Commission Regulation (EU) No 965/2012<sup>2</sup>. The intended derogation, notified by the United Kingdom on 9 July 2014, concerns CAT.IDE.H.205 (b)(2) set out in Annex IV to Regulation (EU) No 965/2012.
- (2) Pursuant to Article 14(7) of Regulation (EC) No 216/2008, the Commission assessed the need for, and the level of safety emerging from, the intended derogation, based on a recommendation of the European Aviation Safety Agency (hereinafter: the Agency).
- (3) CAT.IDE.H.205(a)(5) set out in Annex IV to Regulation (EU) No 965/2012 requires that flight crew seats in helicopters operated in commercial air transport operations are equipped with a seat belt with an upper torso restraint system (hereinafter: UTR) incorporating a device that will automatically restrain the occupant's torso in the event of rapid deceleration. CAT.IDE.H.205 (b)(2) specifies that a seat belt with an UTR on flight crew seats and on the seats for the minimum required cabin crew shall include two shoulder straps, i.e. a four-point restraint system. Those requirements apply as from 28 October 2014.

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

<sup>2</sup> 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, 5.10.2012, p. 1).

- (4) In its notification the United Kingdom explained that a significant number of R22 and R44 type helicopters, manufactured by Robinson Helicopter Corporation, are used in commercial air transport operations in Europe, which do not meet the requirements of CAT.IDE.H.205 (b)(2), as they are equipped with flight crew restraint system consisting of a seat belt and a diagonal shoulder strap, i.e. a three-point restraint system.
- (5) The United Kingdom further stated that, for design reasons, it is not possible to install a four-point restraint system on the existing R22 type helicopters, while for the existing R44 type helicopters there is a technical solution available. However, the cost of such retrofit would make the operations conducted by R44 type helicopters non-sustainable. According to the United Kingdom, complying with the requirement of a four-point restraint system in accordance with CAT.IDE.H.205(b)(2) would force all R22 and the majority of R44 type helicopters currently used for passenger air transport in Europe to cease operations from 28 October 2014. It also stated that a withdrawal of those helicopters from commercial services is likely to affect the capacity of the industry for a number of years. At the same time, for newly built R44 type helicopters viable options exist to install four-point restraint systems on the flight crew seats.
- (6) Therefore, the United Kingdom intends to grant approvals derogating from CAT.IDE.H.205 (b)(2) so as to allow its commercial air transport operators to continue to operate helicopters of type R22 and R44, manufactured by Robinsons Helicopter Corporation, with the existing three-point restraint system mounted on the flight crew seats, on the condition that the R44 type helicopters concerned have been first issued a Certificate of Airworthiness before 28 October 2014. According to the United Kingdom, that condition will eventually prevent newly manufactured helicopters after that date to be used in commercial air transport operations with a three-point restraint system and will lead the total number of helicopters concerned by the derogation to naturally decrease in time as old aircraft are retired from service.
- (7) Information provided by Robinsons Helicopter Corporation, the manufacturer of the helicopters, demonstrates that the three-point restraint system currently in use on the R22 and R44 type helicopters meets the emergency landing dynamic condition requirements of FAR 27.562 and 27.785<sup>3</sup>, equivalent to CS 27.562 and 27.785<sup>4</sup>, and is therefore able to ensure an equivalent level of protection as the four-point restraint system. Also, research done at the United Kingdom Air Accidents Investigation Branch indicates that on small non-complex aircraft, such as the R22 and R44 type helicopters, a three-point restraint system provides the same level of safety as a four-point restraint system. It should be noted that, due to the specific cabin layout, the additional hardware required for the installation of a four-point restraint system on R44 type helicopters might impose additional risks to the rear seat passengers in the event of an accident or a hard landing.
- (8) Based on the recommendation from the Agency, issued on 10 September 2014, the Commission concluded that the proposed derogation would provide a level of protection equivalent to the one attained by application of the common aviation safety rules, provided certain conditions are met.

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<sup>3</sup> Design requirements for helicopters as contained in US Federal Aviation Regulation FAR-27.

<sup>4</sup> Design requirements for helicopters as contained in EASA Certification Specifications CS-27.

- (9) In accordance with Article 14(7) of Regulation (EC) No 216/2008, a decision by the Commission that a Member State may grant a proposed derogation needs to be notified to all Member States, which would also be entitled to apply the measure in question. This Decision should therefore be addressed to all Member States. The description of the derogation, as well as the conditions attached to it, should be such as to enable other Member States to also apply that measure when they are in the same situation, without requiring a further decision by the Commission. Member States should however exchange information on the application of the measure where they apply it, in accordance with Article 15(1) of Regulation (EC) No 216/2008, as this application may have effects outside the Member States that grant the derogation.
- (10) The measures provided for in this Decision are in accordance with the opinion of the European Aviation Safety Agency Committee,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The United Kingdom may grant approvals derogating from CAT.IDE.H.205 (b)(2) set out in Annex IV to Commission Regulation (EU) 965/2012 to its commercial air transport operators to continue to operate helicopters of types R22 and R44, manufactured by Robinsons Helicopter Corporation, with a restraint system on the flight crew seats having a seat belt and a diagonal shoulder strap. Those approvals may only be granted for R44 helicopters that have been first issued a Certificate of Airworthiness before 28 October 2014.

#### *Article 2*

All Member States shall be entitled to apply the measure referred to in Article 1. Member States applying this measure shall notify the Commission, the Agency and the national aviation authorities thereof.

#### *Article 3*

This Decision is addressed to the Member States.

Done at Brussels,

*For the Commission*  
*Siim Kallas*  
*Vice-President*