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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the delegation of power under 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
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Delegations will find attached document COM(2019) 465 final.

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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

on the delegation of power under 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

1. INTRODUCTION

Regulation (EU) No 376/2014 aims to improve aviation safety by ensuring that relevant safety information relating to civil aviation is reported, collected, stored, protected, exchanged, disseminated and analysed. The sole objective of occurrence reporting is the prevention of accidents and incidents.

Article 7(6) of this Regulation lays down that the Commission shall be empowered to adopt delegated acts in accordance with Article 18 to define the common European risk classification scheme (ERCS).

In addition, Article 17 of the Regulation says that the Commission shall be empowered to adopt delegated acts in accordance with Article 18 in order to:

(a) update the list of mandatory data fields in occurrence reports laid down in Annex I where, in the light of experience gained in the application of this Regulation, changes prove necessary in order to improve aviation safety;

(b) update the request for European Central Repository¹ information form provided in Annex III, to take account of experience gained and of new developments;

(c) align any of the Annexes with the ECCAIRS² software and the ADREP³ taxonomy, as well as with legal acts adopted by the Union and with international agreements.

In this context, Article 18(2) of the Regulation states that the Commission shall draw up a report to the European Parliament and to the Council in respect of the delegation of power conferred on it.

2. EMPOWERMENT TO ADOPT DELEGATED ACTS

European Risk Classification Scheme (ERCS)

Although Article 7(6) of the Regulation is as such the legal basis for the delegated act defining the ERCS, it is important also to bear in mind paragraphs 5 and 7 of this Article.

Before the delegated act “defining” the ERCS is adopted under paragraph 6 of Article 7, the ERCS needs to be “developed” in accordance with paragraph 5 of the same Article. Furthermore, the ERCS, as defined in a delegated act, is to be implemented in accordance with arrangements established by means of an implementing act adopted in accordance

¹ European Central Repository (ECR): The repository to store all occurrence reports collected in the Union. It is managed by the Commission

² ECCAIRS: European Co-ordination Centre for Accident and Incident Reporting Systems.

³ ADREP: Accident/Incident Data Reporting. This system is operated and maintained by ICAO. The ADREP system operates using ECCAIRS software platform. ICAO stands for International Civil Aviation Organisation. It is a UN specialized agency, established by States in 1944 to manage the administration and governance of the Convention on International Civil Aviation (Chicago Convention).

with Article 7(7). In other words, the eventual implementation of the ERCS follows a series of successive, but closely related steps.

The ERCS development was concluded on 15 May 2017 as per the target date set out in Article 7(5).

Works for the subsequent adoption of the delegated act, defining the ERCS, have been commenced, but have so far not been concluded. It appeared to the Commission that it would be preferable with a view to achieving a consistent set of rules, in the interest of successful implementation of the scheme, to prepare the delegated act under paragraph 6 in parallel to the implementing act(s) provided for in paragraph 7, and to adopt them at the same time.

Consequently, the delegation conferred in Article 7(6) of Regulation (EU) No 376/2014 has so far not been exercised.

Amendment of the Annexes

Article 17 of the Regulation empowers the Commission to adopt delegated acts, as appropriate, to amend the Annexes of the Regulation. While it is expected that such amendments will be needed in due course in view of experience gained and of new developments associated with the implementation of the Regulation, it has been determined that so far the content of the Annexes, as they stand today, is still fit for purpose.

Consequently, the empowerment to adopt delegated acts, for the purposes of amending the Annexes, has so far not been exercised.

3. CONCLUSIONS

For the reasons outlined in the preceding section, the Commission has so far not exercised its powers to adopt delegated acts as provided for in the aforementioned articles. The adoption of such acts remains necessary in respect of Article 7(6) and may become necessary in respect of Article 17.