



Council of the
European Union

Brussels, 9 December 2025
(OR. en)

15918/25

Interinstitutional File:
2025/0314(NLE)

AVIATION 171

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION amending Decision (EU) 2023/746 as regards the extension of the period of its application and as regards its Annex

COUNCIL DECISION (EU) 2025/...

of ...

amending Decision (EU) 2023/746

as regards the extension of the period of its application and as regards its Annex

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Convention on International Civil Aviation, which was signed in Chicago on 7 December 1944, (the ‘Chicago Convention’) and which regulates international air transport, entered into force on 4 April 1947. It established the International Civil Aviation Organization (‘ICAO’).
- (2) The Member States are Contracting Parties to the Chicago Convention and ICAO Contracting States, while the Union has observer status in certain ICAO bodies. Six Member States are currently represented in the Council of the ICAO (the ‘ICAO Council’).
- (3) Pursuant to Article 37 of the Chicago Convention, ICAO is to adopt and amend international standards and recommended practices and procedures dealing, for instance, with communication systems and air navigation aids, rules of the air and air traffic control practices and such other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate.

- (4) Pursuant to Article 38 of the Chicago Convention, any ICAO Contracting State which finds it impracticable to comply in all respects with any international standard or to bring its own regulations or practices into full accord with any international standard after amendment of the latter, or which deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, is to give immediate notification to ICAO of the differences between its own regulations or practices and those established by the international standard. In the case of amendments to international standards, any State which does not make the appropriate amendments to its own regulations or practices is to give notice to the ICAO Council within sixty days of the adoption of the amendment to the international standard or indicate the action which it proposes to take.
- (5) Pursuant to Article 54(1) of the Chicago Convention, the ICAO Council is to adopt international Standards and Recommended Practices ('SARPs'), and designate them as Annexes to the Chicago Convention ('ICAO Annexes').
- (6) Pursuant to Article 90 of the Chicago Convention, any ICAO Annex or any amendment to an ICAO Annex becomes effective within three months after its submission to the ICAO Contracting States, or at the end of such longer period of time as the ICAO Council prescribes, unless in the meantime a majority of ICAO Contracting States register their disapproval. Once they have been adopted by the ICAO Council and have become effective, international standards are binding on all ICAO Contracting States, including all Member States of the Union, in accordance with and within the limits set out in the Chicago Convention, in particular in Articles 37 and 38 thereof.

- (7) The internal rules of the ICAO, in particular those which cause the latest versions of documents for decisions regarding new SARPs or amendments to SARPs to be available to the ICAO Council only late, the deadlines set by the ICAO for ICAO Contracting States to notify differences with respect to international standards, as well as the sheer number of differences in the areas of civil aviation safety, air navigation and air traffic management to be notified each year, make it difficult to establish the position to be taken on the Union's behalf in a Council Decision based on Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) in a timely manner for new SARPs or amendments to SARPs to be adopted, or for each difference to be notified.
- (8) It is therefore appropriate to establish the criteria and procedure to be followed for establishing the position to be taken on the Union's behalf regarding the adoption of SARPs or amendments to SARPs, insofar as those SARPs are capable of decisively influencing the content of Union law in the area of civil aviation, as well as regarding decisions to disapprove or not to disapprove SARPs pursuant to Article 90 of the Chicago Convention and regarding the notification of differences with respect to international standards pursuant to Article 38 of the Chicago Convention.

- (9) Given the specificity of civil aviation safety, air navigation and air traffic management compared to other areas dealt with by the ICAO, in particular the high number of SARPs adopted in those areas by the ICAO Council every year and the number of differences to be notified every year, this Decision should relate solely to civil aviation safety, air navigation and air traffic management in order to streamline processes to swiftly establish the position to be taken on the Union's behalf for the adoption of new SARPs and amendments to SARPs, the decisions to disapprove or not to disapprove SARPs or amendments to SARPs adopted by the ICAO Council and deal with the numerous notifications in an efficient way.
- (10) The SARPs adopted by the ICAO Council in the field of civil aviation safety, air navigation and air traffic management can concern matters of Union exclusive competence and might be capable of decisively influencing the content of Union law. It is therefore efficient and appropriate, by means of a decision, to establish the criteria and procedure to be followed for establishing the position to be taken on the Union's behalf with respect to SARPs in those fields, without prejudice to the rights and obligations of Member States as ICAO Contracting States under the Chicago Convention. At ICAO level, civil aviation safety, air navigation and air traffic management SARPs are mainly contained in ICAO Annexes 1, 2, 3, 4, 6, 8, 10, 11, 14, 15, 18 and 19.

- (11) At Union level, the requirements contained in SARPs for civil aviation safety are mainly reflected and referred to in Regulations (EU) 2018/1139¹ and (EC) No 2111/2005² of the European Parliament and of the Council and in the implementing and delegated acts adopted on the basis thereof, in particular Commission Regulations (EU) No 1178/2011³, (EU) No 748/2012⁴,

¹ 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 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, ELI: <http://data.europa.eu/eli/reg/2018/1139/oj>).

² Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (OJ L 344, 27.12.2005, p. 15, ELI: <http://data.europa.eu/eli/reg/2005/2111/oj>).

³ Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 311, 25.11.2011, p. 1, ELI: <http://data.europa.eu/eli/reg/2011/1178/oj>).

⁴ Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental protection certification or declaration of compliance of aircraft and related products, parts, appliances, control and monitoring units and control and monitoring unit components, as well as for the capability requirements of design and production organisations (OJ L 224, 21.8.2012, p. 1, ELI: <http://data.europa.eu/eli/reg/2012/748/oj>).

(EU) No 965/2012⁵, (EU) No 139/2014⁶, (EU) No 452/2014⁷, (EU) No 1321/2014⁸ and (EU) 2015/640⁹, Commission Implementing Regulation (EU) 2019/947¹⁰, Commission Delegated Regulation (EU) 2019/945¹¹, and Commission Implementing Regulation (EU) 2021/664¹².

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- ⁵ 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, 25.10.2012, p. 1, ELI: <http://data.europa.eu/eli/reg/2012/965/oj>).
- ⁶ Commission Regulation (EU) No 139/2014 of 12 February 2014 laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 44, 14.2.2014, p. 1, ELI: <http://data.europa.eu/eli/reg/2014/139/oj>).
- ⁷ Commission Regulation (EU) No 452/2014 of 29 April 2014 laying down technical requirements and administrative procedures related to air operations of third country operators pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 133, 6.5.2014, p. 12, ELI: <http://data.europa.eu/eli/reg/2014/452/oj>).
- ⁸ Commission Regulation (EU) No 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks (OJ L 362, 17.12.2014, p. 1, ELI: <http://data.europa.eu/eli/reg/2014/1321/oj>).
- ⁹ Commission Regulation (EU) 2015/640 of 23 April 2015 on additional airworthiness specifications for a given type of operations and amending Regulation (EU) No 965/2012 (OJ L 106, 24.4.2015, p. 18, ELI: <http://data.europa.eu/eli/reg/2015/640/oj>).
- ¹⁰ Commission Implementing Regulation (EU) 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircraft (OJ L 152, 11.6.2019, p. 45, ELI: http://data.europa.eu/eli/reg_impl/2019/947/oj).
- ¹¹ Commission Delegated Regulation (EU) 2019/945 of 12 March 2019 on unmanned aircraft systems and on third-country operators of unmanned aircraft systems (OJ L 152, 11.6.2019, p. 1, ELI: http://data.europa.eu/eli/reg_del/2019/945/oj).
- ¹² Commission Implementing Regulation (EU) 2021/664 of 22 April 2021 on a regulatory framework for the U-space (OJ L 139, 23.4.2021, p. 161, ELI: http://data.europa.eu/eli/reg_impl/2021/664/oj).

- (12) At Union level, the requirements contained in SARPs for air navigation and air traffic management are mainly reflected and referred to in Regulations (EC) No 549/2004¹³, (EC) No 550/2004¹⁴ and (EU) 2024/2803¹⁵ of the European Parliament and of the Council and in the implementing and delegated acts adopted on the basis thereof, in particular Commission Regulation (EU) No 1332/2011¹⁶, Commission Implementing Regulation (EU) No 923/2012¹⁷, Commission Regulation (EU) 2015/340¹⁸ and Commission Implementing Regulation (EU) 2018/1048¹⁹.

¹³ 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 (the framework Regulation) (OJ L 96, 31.3.2004, p. 1, ELI: <http://data.europa.eu/eli/reg/2004/549/oj>).

¹⁴ Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation) (OJ L 96, 31.3.2004, p. 10, ELI: <http://data.europa.eu/eli/reg/2004/550/oj>).

¹⁵ Regulation (EU) 2024/2803 of the European Parliament and of the Council of 23 October 2024 on the implementation of the Single European Sky (OJ L, 2024/2803, 11.11.2024, ELI: <http://data.europa.eu/eli/reg/2024/2803/oj>).

¹⁶ Commission Regulation (EU) No 1332/2011 of 16 December 2011 laying down common airspace usage requirements and operating procedures for airborne collision avoidance (OJ L 336, 20.12.2011, p. 20, ELI: <http://data.europa.eu/eli/reg/2011/1332/oj>).

¹⁷ 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, ELI: http://data.europa.eu/eli/reg_impl/2012/923/oj).

¹⁸ Commission Regulation (EU) 2015/340 of 20 February 2015 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 (OJ L 63, 6.3.2015, p.1, ELI: <http://data.europa.eu/eli/reg/2015/340/oj>).

¹⁹ Commission Implementing Regulation (EU) 2018/1048 of 18 July 2018 laying down airspace usage requirements and operating procedures concerning performance-based navigation (OJ L 189, 26.7.2018, p. 3, ELI: http://data.europa.eu/eli/reg_impl/2018/1048/oj).

- (13) This Decision should concern only the positions to be taken on Union's behalf within the ICAO in areas in which the Union has exclusive competence. This Decision is without prejudice to the possibility for the Council to adopt, upon a Commission proposal, decisions based on Article 218(9) TFEU establishing the position to be taken on the Union's behalf within the ICAO, in particular in areas falling outside the scope of this Decision, including where the shared competence of the Union has not yet been exercised.
- (14) The period of application of Council Decision (EU) 2023/746²⁰ should be extended for another ICAO triennial cycle, namely until 31 December 2028. The Commission should submit to the Council a written evaluation of the application of that Decision to serve as the basis for any potential extension or amendment to that Decision.
- (15) The implementation of this Decision should not entail a breach of Member States' obligations under Union law or of their international obligations under the Chicago Convention.
- (16) For the purposes of the implementation of this Decision, Member States and the Commission, in line with the Union's observer status, should act in close cooperation in accordance with their duty of sincere cooperation.

²⁰ Council Decision (EU) 2023/746 of 28 March 2023 establishing the criteria and the procedure for establishing the position to be taken on the European Union's behalf within the International Civil Aviation Organization as regards the adoption of, or amendments to, international standards and recommended practices, and the notification of differences with respect to adopted international standards (OJ L 99, 12.4.2023, p. 7, ELI: <http://data.europa.eu/eli/dec/2023/746/oj>).

(17) Decision (EU) 2023/746 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Decision (EU) 2023/746 is amended as follows:

- (1) in Article 7, paragraph 1 is replaced by the following:

‘1. This Decision shall apply until 31 December 2028.’;
- (2) the Annex is amended as follows:
 - (a) under the title ‘Objectives’, point (4) is replaced by the following:

‘4. To promote the development and deployment of efficient, performant and interoperable air navigation services, in accordance with Regulations (EC) No 549/2004, (EC) No 550/2004 and (EU) 2024/2803, and taking account of the Global Air Navigation Plan and aviation system block upgrades (ASBUs).’;
 - (b) under the title ‘Guidelines’, point (2(c)) is replaced by the following:

‘(c) support the development and implementation of rules, policies and actions in the field of Air Traffic Management and Air Navigation Services (ATM/ANS), in particular in line with Resolutions A42-6, A42-7 and A42-8.’.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at ..., ...

For the Council

The President
