

COMMISSION REGULATION (EU) No 1254/2009

of 18 December 2009

setting criteria to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002⁽¹⁾, and in particular Article 4(4) thereof,

Whereas:

- (1) The criteria should be set to allow Member States to derogate from the common basic standards on civil aviation security and to adopt alternative security measures that provide an adequate level of protection on the basis of a (local) risk assessment. Such alternative measures should be justified by reasons relating to the size of the aircraft, or by reasons relating to the nature, scale or frequency of operations or of other relevant activities. Therefore, the criteria to be set should be also justified by these reasons.
- (2) In accordance with Article 24 of Regulation (EC) No 300/2008, the Annex to the said Regulation shall apply as from the date to be specified in the implementing rules, but not later than 24 months after the entry into force of Regulation (EC) No 300/2008. Therefore, the application of the criteria adopted pursuant to Article 4(4) of Regulation (EC) No 300/2008 should be deferred until the adoption of implementing rules pursuant to Article 4(3), but not later than 29 April 2010.
- (3) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Civil Aviation Security,

HAS ADOPTED THIS REGULATION:

Article 1

Member States may derogate from the common basic standards referred to in Article 4(1) of Regulation (EC) No 300/2008 and

adopt alternative security measures that provide an adequate level of protection on the basis of a local risk assessment at airports or demarcated areas of airports where traffic is limited to one or more of the following categories:

1. aircraft with a maximum take-off weight of less than 15 000 kilograms;
2. helicopters;
3. law enforcement flights;
4. fire suppression flights;
5. flights for medical services, emergency or rescue services;
6. research and development flights;
7. flights for aerial work;
8. humanitarian aid flights;
9. flights operated by air carriers, aircraft manufacturers or maintenance companies, transporting neither passengers and baggage, nor cargo and mail;
10. flights with aircraft with a maximum take-off weight of less than 45 500 kilograms for the carriage of own staff and non fare-paying passengers or goods as an aid to the conduct of company business.

Article 2

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply as from the date specified in the implementing rules adopted in accordance with the procedure referred to in Article 4(3) of Regulation (EC) No 300/2008, but no later than 29 April 2010.

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

Done at Brussels, 18 December 2009.

For the Commission
The President
José Manuel BARROSO

⁽¹⁾ OJ L 97, 9.4.2008, p. 72.