

Information Note

Status of certain non-EU European States following the entry into force of the Commission Regulation (EU) 1178/2011 laying down technical requirements and administrative procedures related to civil aviation aircrew, as amended¹ (the aircrew regulation)

I. Purpose of the note

This note sets out interpretation of the Commission's competent services on the aircrew regulation in relation to the licences of pilots from the non-EU European States whose national aviation authorities (NAAs) participate in the work of the European Aviation Safety Agency (EASA) and have undertaken to apply the EU air safety legislation on the basis of the relevant arrangements or agreements. Its purpose is to clarify the status of these countries under the new EU regulatory framework.

II. Situation today

Today, in addition to 28 EU Member States, there are 17 States, whose NAAs were members of the Joint Aviation Authorities (JAA)/European Civil Aviation Conference (ECAC) on 30 June 2009 (i.e. on the date when JAA was dissolved):

- Iceland, Norway, Liechtenstein and Switzerland (hereinafter the EFTA States);
- Albania, Bosnia and Herzegovina, Georgia, Montenegro, Serbia, the Former Yugoslav Republic of Macedonia (parties to CAA type agreements);
- Armenia, Azerbaijan, Moldova, Monaco, San Marino, Turkey, Ukraine, as States who cooperate with EASA under working arrangements;

A detailed description of the status of States in the different groups is presented in the Annex.

III. Transition towards pan-European applicability of the new EU aircrew regulation

a. General Framework for Transition

Regulation (EU) 1178/2011 is applicable in all EU Member States as of 8 April 2012, subject to additional opt-outs envisaged in Art. 12 which the EU Member States may decide to apply. The interpretation of these opt-outs is set out in the Commission staff working paper:

¹ Commission Regulation (EU) 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), as amended by Regulation XXX/2012

“Transitional periods stemming from the Regulation(s) on aircrew” which has been distributed to the Member States separately.

Up to date, and similarly to the EU Member States, the non-EU European States listed above have been using the Joint Aviation Requirements (JARs), as the applicable national standards related to aircrews. EASA has been also using JARs as reference for standardisation inspections in the aircrew domain.

As concerns mutual recognition of licences, following the dissolution of the JAA in 2009 it has been the responsibility of each NAA, in view of the results of EASA standardisation inspections, whether or not to accept the standard and level of implementation of the JARs under the applicable national rules of the visited State.

Now under Regulation (EU) 1178/2011 EU Member States are able to recognise licences issued in third countries, only under specific conditions (c.f. Article 8 of Regulation (EU) 1178/2011). In addition the approval and oversight of organisations involved in training of aircrews, aeromedical centres and flight simulator training devices located outside of the EU is no longer the responsibility of the Member States but of EASA.

With the replacement of JARs by the aircrew regulation, there is thus a need to provide for an appropriate transition framework for the non-EU European States to allow them for a smooth transition to the new system. This transition has to rely on the existing legal instruments and practical arrangements already in place - notably the working arrangements between EASA and relevant NAAs, as well as the international agreements under which the States concerned have agreed to implement and apply Regulation (EU) 216/2008 and its implementing rules.

b. Key provisions of Commission Regulation (EU) 1178/2011 relevant for the transition

In addition to Art. 12 dealing with the applicability of Regulation (EU) 1178/2011 and possible opt-outs, of key relevance to this information note are Art. 4 and 8 of the regulation.

Art.4 provides for the “grandfathering” of licences, which have been issued before the applicability date² of Regulation (EU) 1178/2011. This provision in particular provides that JAR-compliant licences issued or recognised by a Member State before this Regulation applies shall be deemed to have been issued in accordance with this Regulation. Member States shall replace these licences with licences complying with the format laid down in Part-ARA by 8 April 2018 at the latest.

In addition Art. 8 specifies the general conditions under which the EU Member States may accept the licences from third countries in an absence of an international agreement between the EU and such a third country.

Finally a specific opt-out under Art.12 (4), provides Member States with a possibility of not applying the Regulation “*to pilots holding a licence and associated medical certificate issued*

² The date of applicability may differ for individual EU Member States depending on the opt-outs (if any) they are using.

by a third country involved in the non-commercial operation of aircraft specified in Article 4(1) (b) or (c) of Regulation (EC) No 216/2008 until 8 April 2014”.

As regards aircrew training organisations, aeromedical centres and flight simulation training devices located in third countries, the approval and oversight of these organisations and devices, as of 8 April 2012, is a responsibility of EASA, unless an international agreement to which the EU is a party specifies otherwise. Today only the EFTA States have the necessary legal basis to continue exercising oversight over these organisations and devices via their NAAs..

c. Transition in respect of the different groups of States

The EFTA States

The EFTA States are fully committed to applying Regulation (EU) 216/2008 and its implementing rules. Regulation (EU) 1178/2011 has been incorporated into the Agreement on the European Economic Area, and the Agreement between the European Community and the Swiss Confederation on Air Transport, following which the EFTA States are considered, for the purpose of this regulation, as if they were EU Member States. They are obliged to ensure full implementation of the regulation, subject to any opt-outs they may wish to take advantage of, and are subject to EASA standardisation inspections as if they were EU Member States.

Licences issued by the EFTA States in conformity with previous JARs are grandfathered under Art. 4 of the regulation. These licences will have to be replaced with licences complying with the new format by 8 April 2018 at the latest.

Organisations located in EFTA States are treated as if they were located in an EU Member State and subject to approval and oversight by the local NAA.

Croatia

Croatia became the 28th Member State of the European Union on the 1st of July 2013. As of this date it is a subject to the same obligations and privileges as any other Member State. Consequently, Regulation 1178/2011 is fully applicable in Croatia as of this date subject to the opt outs that Croatia may wish to apply as foreseen by this Regulation.

States with a Common Aviation Area type agreement concluded with the EU

States which have concluded with the EU a Common Aviation Area type agreement have been applying so far the relevant JAR requirements, and have been subject to EASA standardisation inspections verifying the proper implementation of these requirements. A

number of them have achieved a status of “mutual recognition recommendation” under the previous JAA system.³

EU Member States which until the applicability date of Regulation (EU) 1178/2011 have been recognising the JAR compliant licences issued by these States before the applicability date of this regulation, will be able to continue to do so until the date of validity of such licences, but at the latest until 8 April 2018, provided that their associated medical certificate is still valid, and EASA standardisation reports covering this area have confirmed that the State maintains compliance with the relevant standardisation reference standards. It's up to individual Member States to recognize such a license however no formal act of recognition is needed.

After that date, and probably before, the relevant agreements between the EU and those States should have entered into force, meaning that those States that have fully implemented Regulation (EU) 1178/2011, will be considered as though they were EU Member States. If that would still not be the case, the only option to continue accepting licences issued by these States in the EU system would be by following the requirements set out in Art. 8 of Regulation (EU) 1178/2011 ‘Conditions for the acceptance of licences from third countries’.

In case of licences that were not recognised by Member States before the applicability date of Regulation (EU) 1178/2011, as well as licences issued after such applicability date, a simplified approach to Article 8 (and Annex III) of Regulation (EU) 1178/2011 can be applied by EU Member States asked to validate or convert these licences. The simplified approach would be applicable to those States which have notified the Commission and EASA that they have fully implemented Regulation (EU) 1178/2011 under the relevant Working Arrangement and/or international agreement, and where EASA has confirmed such implementation through standardisation inspections. In this respect EASA has ensured that references to JARs in the Working Arrangements are replaced by appropriate references to Regulation (EU) 1178/2011.⁴ EASA will provide to the Member States, on a regular basis, a list of States meeting these conditions.

The simplified approach would cover only the validation or conversion of the licences. Annex III of Regulation (EU) 1178/2011 does not foresee validation of medical certificates, and states that pilots holding a validated licence need to comply with medical requirements laid down in Regulation (EU) 1178/2008.

As of 8 April 2012, and pending entry into force and full implementation of the relevant international EU agreements with these States, training organisations, aeromedical centres and FSTDs located in these States are considered as located in third countries and thus subject to approval and oversight by EASA. Similarly instructors and examiners will need to have their qualifications either issued or validated/converted by an EU Member State. Again

³ For current status JAR-FCL mutual recognition recommendation refer to <http://easa.europa.eu/approvals-and-standardisation/mutual-recognition.php>

⁴ However EASA uses Regulation (EU) 1178/2011 as reference for standardisation inspections only in those cases where the NAA has notified that it has effectively implemented this Regulation at the national level. Where this is not yet the case previous JARs continue to be used as reference standards.

in this regard, the fact that a State applies Regulation (EU) 1178/2011 could potentially ease the approval and/or validation/conversion process.

Other States whose authorities cooperate with EASA in the framework of Working Arrangements

Other former JAA authorities, whose States have not yet concluded Common Aviation Area type agreements with the EU have been also using so far, to a lesser or greater extent JARs as the technical and administrative requirements in the area of aircrews. A very limited number of them (in practice only Turkey) have achieved a status of “mutual recognition recommendation” under the previous JAA system.

EU Member States which until the applicability date of Regulation (EU) 1178/2011 have been recognising the JAR compliant licences issued by these States before the applicability date of this regulation, will be able to continue to do so until the date of validity of such licences, but at the latest until 8 April 2018, provided that their associated medical certificate is still valid, and EASA standardisation reports covering this area have confirmed that the State maintains compliance with the relevant standardisation reference standards.

After that date, and provided that there is no international agreement concluded by the EU under which the State(s) in question would agree to fully apply Regulation (EU) 216/2008 and its implementing rules, the continuing acceptance of such licences by EU Member States would be possible only under Art. 8 of Regulation (EU) 1178/2011 ‘Conditions for the acceptance of licences from third countries’.

In case of licences that were not recognised by Member States before the applicability date of Regulation (EU) 1178/2011, as well as licences issued after such applicability date, a simplified approach to Article 8 (and Annex III) of Regulation (EU) 1178/2011 can be applied by EU Member States asked to validate or convert these licences. [The simplified approach would be applicable only to those States which have notified the Commission and EASA that they have fully implemented Regulation (EU) 1178/2011 under the relevant Working Arrangement and where EASA has confirmed such implementation through standardisation inspections. In this respect EASA has ensured that references to JARs in the Working Arrangements are replaced by appropriate references to Regulation (EU) 1178/2011.⁵ EASA will provide to the Member States, on a regular basis, a list of States meeting these conditions. .

The simplified approach would cover only the validation or conversion of the licences. Annex III of Regulation (EU) 1178/2011 does not foresee validation of medical certificates, and states that pilots holding a validated licence need to comply with medical requirements laid down in Regulation (EU) 1178/2008.

⁵ However EASA uses Regulation (EU) 1178/2011 as reference for standardisation inspections only in those cases where the NAA has notified that it has effectively implemented this Regulation at the national level. Where this is not yet the case previous JARs continue to be used as reference standards.

As of 8 April 2012, and pending eventual conclusion and full implementation of international EU agreements with these States, training organisations, aeromedical centres and FSTDs located in these States, are considered as located in third countries and thus subject to approval and oversight by EASA. Similarly instructors and examiners will need to have their qualifications either issued or validated/converted by an EU Member State. Again in this regard, the fact that a State applies Regulation (EU) 1178/2011 could potentially ease the approval and/or validation/conversion process.

Annex

Current state of play regarding non-EU, former JAA authorities

Iceland, Norway, Liechtenstein and Switzerland (hereinafter the EFTA States)

The EFTA States are associated with EASA under Art. 66 of Regulation (EU) 216/2008, and have undertaken to apply this regulation and its implementing rules under agreements concluded with the EU: the Agreement on the European Economic Area⁶ and the Agreement between the European Community and the Swiss Confederation on Air Transport⁷.

Albania, Bosnia and Herzegovina, Georgia, Montenegro, Serbia, the Former Yugoslav Republic of Macedonia, the Republic of Moldova, as States Parties to Common Aviation Area type agreements

These States have signed with the EU agreements under which they have undertaken to apply Regulation (EU) 216/2008 and its implementing rules. These are the Multilateral Agreement on the Establishment of the European Common Aviation Area, signed on 9 June 2006, the Common Aviation Area Agreement between the EU and its Member States and Georgia, signed on 2 December 2010, and the Common Aviation Area Agreement between the European Union and its Member States and the Republic of Moldova signed on 26 June 2012. The agreements have not yet entered into force, but are being applied at the administrative level. In addition, the NAAs of these States have signed with EASA Working Arrangements in the framework of the transition of the JAA.

Armenia, Azerbaijan, Monaco, San Marino, Turkey, Ukraine, as States who cooperate with EASA under working arrangements.

The NAAs of these States have signed with EASA Working Arrangements in the framework of the transition of the JAA.

⁶ OJ L 1 of 03/01/1994, p. 3

⁷ OJ L 114 of 30/04/2002, p. 73