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QEVERIA E KOSOVËS - VLADA KOSOVA - GOVERNMENT OF KOSOVO	
MINISTRIA E TRANSPORTIT DHE POSTË-TELEKOMUNIKACIONIT	
MINISTARSTVO ZA SAOBRAĆAJ, POSTU I TELEKOMUNIKACIJE	
MINISTRY OF TRANSPORT AND COMMUNICATIONS	
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Republika e Kosovës

Republika Kosova-Republic of Kosovo

Qeveria - Vlada - Government

Ministria e Transportit dhe Postë-Telekomunikacionit

Ministarstvo za Saobraćaj, Postu i Telekomunikacije

Ministry of Transport and Communications

Pursuant to Article 93.4 of the Constitution of the Republic of Kosovo and Articles 6.1, 35.1 and 36.2 of the Law on Civil Aviation No 03/L-051, for the purpose of setting out the rules and procedures for approval of non-ECAA charter and taxi flights in the Republic of Kosovo,

Hereby issues:

REGULATION 2009/2 FOR THE APPROVAL OF NON-ECAA CHARTER AND TAXI FLIGHTS

Article 1

Scope of application

- 1.1 This Regulation establishes the terms, conditions, and limitations applicable to charter and taxi air transportation to and from Kosovo conducted by air carriers not holding licenses issued by an ECAA Contracting Party in accordance with Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (hereinafter non-ECAA flights).
- 1.2 Charter and taxi flights to and from Kosovo conducted by air carriers holding licenses issued by an ECAA Contracting Party in accordance with Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community shall not be subject to this Regulation, and shall be carried out in accordance with the Agreement on the Establishment of a European Common Aviation Area (ECAA), including, for the purposes of this regulation, Regulation (EC) No. 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No. 295/91, and any amendments thereto.



- 1.3 Tour operators doing business in the Republic of Kosovo selling any charter and taxi flights to and from the Republic of Kosovo shall be governed by Law No. 2004/16 on Hotel and Tourist Activities, and subsequent regulations and amendments, so long as Law No. 2004/16 is not in conflict with Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours.

Article 2 Definitions

In this Regulation:

“Ad-hoc charter flights” means a single flight for a particular purpose.

“Agreement on the Establishment of a European Common Aviation Area (ECAA)” means the Multilateral Agreement between the Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the European Community, the Republic of Iceland, the Former Yugoslav Republic of Macedonia, the Kingdom of Norway, Serbia and Montenegro, Romania and the United Nations Interim Administration Mission in Kosovo on the Establishment of a European Common Aviation Area, which became binding on Kosovo since 30 November 2006.

“Air Operator’s Certificate” means a certificate delivered to an undertaking confirming that the operator has the professional ability and organisation to ensure the safety of operations specified in the certificate, as provided in the relevant provisions of Law on Civil Aviation No 03/L-051.

“ECAA Contracting Party” means a Contracting Party to the Agreement on the Establishment of a European Common Aviation Area (ECAA).

“Air carrier” means an undertaking with a valid operating license or equivalent.

“Charter flights” means non-scheduled, commercial air transport of passengers with aircraft approved for transport of more than 10 passengers or an aircraft of maximum take-off weight of more than 5,700 kg.

“ECAA” means the European Common Aviation Area.

“Minister” means the Minister of the Ministry of Transport and Communications.

“MTC” means the Ministry of Transport and Communications.

“Non-ECAA flights” means flights operated by a foreign air carrier who is not licensed by an ECAA Contracting Party in accordance with Regulation (EC) No. 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community.

“Operator” means any legal or natural person, operating or proposing to operate one or more aircraft. Any person who causes or authorizes the operation of an aircraft, whether with or without the control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of the present Regulation.

“Package” means the pre-arranged combination of not fewer than two of the following when sold or offered for sale at an inclusive price and when the service covers a period of more than twenty-four hours or includes overnight accommodation:



- (a) Transport;
- (b) Accommodation; and
- (c) Other tourist services not ancillary to transport or accommodation and accounting for a significant proportion of the package.

"Scheduled flight" means a flight or series of flights possessing all the following characteristics:

- (a) on each flight seats and/or capacity to transport cargo and/or mail are available for individual purchase by the public (either directly from the air carrier or from its authorised agents); and
- (b) it is operated so as to serve traffic between the same two or more airports, either (i) according to a published timetable, or (ii) with flights so regular or frequent that they constitute a recognisably systematic series,

"Seat-only ticket" means a ticket for a charter or taxi flight which does not form a part of a package.

"Series of charter flights" means more than 4 flights within two months to the same destination.

"Taxi flights" means non-scheduled, commercial air transport of passengers with aircraft approved for transport of 10 passengers or less or an aircraft with a maximum take-off mass of 5,700 kgs or less.

"Tour operator", as defined under Law No. 2004/16 on Hotel and Tourist Activities, means a travel agency organizing tourist package arrangements, and traveling packages, either directly or through its agents/intermediaries.

"Travel agency" as defined under Articles 7 and 12 of the Law No. 2004/16 on Hotel and Tourist Activities means:

- (a) Travel agency – tour operators, selling package arrangements
- (b) Travel agencies – subagent (intermediaries (or agents)), selling seat-only tickets.

"Working day" means every day, except the Saturday and Sunday and days defined as national holidays in the Republic of Kosovo.

Article 3

Non-ECAA Charter and taxi flights

- 3.1 Charter flights may be operated on a round-trip or one-way basis.
- 3.2 Non-ECAA charter and taxi flights shall be carried out to and from Kosovo only by an operator which has been so authorized by its national civil aviation authorities, and only upon permission via an operating permit granted by the MTC.
- 3.3 A request for permission to operate to or from the Republic of Kosovo may be refused, and permissions already granted may be revoked, if aviation charges due in the Republic of Kosovo have not been paid in accordance with the Law on Civil Aviation No 03/L-051, its regulations and amendments.
- 3.4 The use of individual aircraft or certain aircraft types may be prohibited or subject to restrictions in accordance with the Law on Civil Aviation No 03/L-051 and regulations.
- 3.5 A permission must not be transferred. Non-ECAA charter and taxi flights may only be carried out with the operator's own aircraft, as specified in the Air Operator's Certificate, unless otherwise approved by the MTC, under the Law on Civil Aviation No 03/L-051.



Article 4
Application for an operating permit

- 4.1 All non-ECAA charter and taxi flights must have a valid operating permit granted by the MTC prior to the first flight departure.
- 4.2 For a series of non-ECAA charter flights, the application for an operating permit shall be received by the MTC at least thirty (30) working days prior to the first flight departure. The documents and information required under Article 7 shall be attached to the application.
- 4.3 For ad-hoc non-ECAA charter flights, the application for an operating permit shall be received by the MTC at least three (3) working days prior to the flight departure. The documents and information required under Article 8 shall be attached to the application.
- 4.4 For non-ECAA taxi flights, the application for an operating permit shall be received by the MTC at least one (1) working day prior to the flight departure. The documents and information required under Article 9 shall be attached to the application.
- 4.5 Applications shall be sent to the MTC through regular mail, electronic mail, or by fax.

Article 5
Approval and disapproval of operating permits

- 5.1 If a non-ECAA charter or taxi air operator meets all conditions stipulated in this Regulation and the Law on Civil Aviation No. 03/L-051, the MTC will issue an operating permit.
- 5.2 In particular cases, the MTC may refuse to grant an operating permit to a non-ECAA charter or taxi air operator. For the purposes of this Regulation, the following particular issues shall be considered:
- a) lack of declaration of reciprocity by the aeronautical authorities from the State the air carrier is registered;
 - b) considerations related to flight safety and/or security;
 - d) considerations related to financial fitness of the applicant, based on the requirements stated in Article 7.1(g); and
 - e) whether the applicant or its agent has previously violated the provisions of this Regulation.
- 5.3 Applications will not be approved for air carriers or specific aircraft which are subject to an operating ban introduced by the European Community in accordance with Regulation (EC) No 474/2006 establishing the Community list of air carriers which are subject to an operating ban within the Community.

Article 6
Revocation of the operating permit

MTC may revoke an operating permit if the non-ECAA charter or taxi air operator (i) breaches the conditions stipulated in the operating permit, (ii) breaches the applicable law in the Republic of Kosovo, and/or (iii) violates the sovereignty and public order of the Republic of Kosovo.



Article 7

Documents and information for a series of non-ECAA charter flights

- 7.1 The following documents and information must be submitted with the application for an operating permit for a series of non-ECAA charter flights:
- a) Air Operator Certificate;
 - b) Certificate of Registration for each aircraft designated to carry out flights to and from Kosovo;
 - c) Airworthiness Certificate for each aircraft designated to carry out flights to and from Kosovo;
 - d) Specification of navigation equipment for each aircraft designated to carry out flights to and from Kosovo;
 - e) Insurance policy requirements according to Regulation No. 2008/3 on Insurance Requirements for Air Carriers and Aircraft Operators;
 - f) Copy of the air carrier's aviation security program or evidence from the aeronautical authorities of the State the air carrier is registered that its security program is in compliance with Annex 17 of the Chicago Convention;
 - g) Specific financial fitness information about the air carrier, as required under Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (information pursuant to Articles 5 and 8, as listed in Annex 1, §2);
 - h) Detailed information on local arrangements for representation and financial matters pertaining to the operations in Kosovo; and
 - i) Passenger protection arrangements as required under Article 10 of these Regulations.
- 7.2 If the series of non-ECAA charter flights are sold by tour operators in Kosovo, the following documents and information must be submitted along with the application for an operating permit for a series of charter flights, in addition to that required under Article 7.1 of this Regulation:
- a) A certified/notified copy of a contract or contracts with Kosovo tour operators for planned flights to and from Kosovo;
 - b) Certificate of the tour operator's business registration or of its branch in Kosovo; and
 - c) Additional requirements as mandated under Law No. 2004/16 on Hotel and Tourist Activities, and its regulations.

Article 8

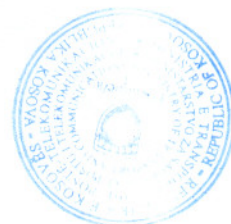
Documents and information for non-ECAA ad-hoc charter flights

The application for an operating permit for ad-hoc non-ECAA charter flights shall contain the documents and information required under Article 7.1(a), (b), (c), (d), (e), (f), and Article 7.2..

Article 9

Documents and information for non-ECAA taxi flights

The application for an operating permit for non-ECAA taxi flights shall contain the documents and information required under Article 7.1(a), (b), (c), (d), (e), and (f). In addition, such operator shall inform the MTC the purpose of the flight and shall submit the flight's list of passengers.



Article 10
Passenger Protection

- 10.1 This Article 10 shall only apply to non-ECAA charter flights operating from non-ECAA member States to Kosovo.
- 10.2 Passenger protection for all non-ECAA charter flights, other than those specified in Article 10.1, flying to and from Kosovo, shall be governed under Regulation (EC) No. 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No. 295/91, and any amendments thereto.
- 10.3 The application submitted by a non-ECAA charter operator specified in Article 10.1 must contain evidence satisfactory to the Minister, that holders of tickets for the flight or any of the flights will be indemnified for any financial loss that may be caused by the failure of the charter operator:
- (a) to fulfill its obligations; or
 - (b) if the application relates to a series of flights - to complete the program.
- 10.4 The non-ECAA charter operator specified in Article 10.1 must provide to the MTC one of the following types of financial guarantees as evidence of consumer protection:
- (a) A surety bond arrangement, in an amount of ten thousand Euro (€ 10,000) per each flight into Kosovo, as requested in the application for an operating permit, the amount not to exceed one hundred thousand Euro (€ 100,000), posted through an independent insurance company and administered on a trust basis on behalf of passengers to ensure they will be indemnified from financial loss arising from a failure by the charter operator to complete the charter services.
 - (b) An insurance policy through an independent insurance company, which allows any ticket holders to claim for financial loss arising from a failure by the charter operator to complete the charter services.
 - (c) A guarantee with a third party airline, where the third party airline undertakes to provide alternative air transport for its passengers arising from a failure by the charter operator to complete the charter services.
 - (d) A trust account, administered on behalf of passengers, into which all monies obtained from the sale of tickets on each flight are deposited and which will be used to compensate passengers for any financial loss arising from a failure by the charter operator to complete the charter services. The charter operator may not withdraw this money until the completion of the relevant flight.
- 10.5 The MTC shall review, and accept or deny the financial guarantee stated in Article 10.5 based on whether it meets the evidentiary criteria stated in Article 10.3
- 10.6 The passenger protection requirements mandated under Regulation (EC) No. 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No. 295/91, and any amendments thereto, shall apply to all non-ECAA charter flights operating from non-ECAA member States to Kosovo.



Article 11
Travel agencies - tour operators

- 11.1 Kosovo based travel agencies acting as tour operators selling any charter and taxi flights to and from Kosovo, as part of a package arrangement, shall be regulated by the Ministry of Trade and Industry, and shall be subject to Law No. 2004/16 on Hotel and Tourist Activities, and subsequent regulations and amendments, so long as Law No. 2004/16 is not in conflict with Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours.
- 11.2 Such travel agencies - tour operators must meet the requirements of Law No. 2004/16 on Hotel and Tourist Activities, and its regulations, in matters including, but not limited to travel agencies-tour operator technical requirements, passenger protection, passenger complaints, and bond requirements.

Article 12
Travel agencies - subagents

- 12.1 Kosovo travel agencies acting as agents for the carriers, and selling seat-only tickets for any charter and taxi flights to and from Kosovo, shall be regulated by the Ministry of Trade and Industry, and shall be subject to Law No. 2004/16 on Hotel and Tourist Activities, and subsequent regulations and amendments.
- 12.2 Such travel agencies – subagent (intermediary or agent) must meet the requirements of Law No. 2004/16 on Hotel and Tourist Activities, and its regulations, in matters including, but not limited to travel agencies – subagent technical requirements, passenger protection, passenger complaints, and bond requirements.

Article 13
Punitive Provisions

- 13.1 As per Article 97.2 of Law No. 03/L-051 on Civil Aviation, the MTC may impose an administrative fine on a carrier violating any provision of the present Regulation in the amount not exceeding one million Euros (€ 1,000,000) for each such violation. If any such violation is a continuing one, each day of such violation shall constitute a separate violation.
- 13.2 As per Part V, Punitive Provisions, of the Law No. 2004/16 on Hotel and Tourist Activities, the Ministry of Trade and Industry may impose fines and prohibitions against Kosovo travel agencies (tour operators and subagents) for any charter and taxi flights to and from Kosovo, if such travel agency violates any provision of the present Regulation and the provisions of Law No. 2004/16 on Hotel and Tourist Activities.

Article 14
Discharge

This Regulation repeals regulation 2009/1 for charter flights .



Article 15
Modifications and amendments

The Minister may modify and/or amend this Regulation, if in the best interest of the public, and according to the Minister's competencies.

Article 16
Entry into force

This Regulation shall enter into force on the 16.11. 2009.

Fatmir LIMAJ
Minister
Ministry of Transport and Communications

