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Director General of Civil Aviation Authority of Kosovo,

Pursuant to Articles 15.1 (f), 21.2 and 81 of Law No. 03/L-051 on Civil Aviation,

Taking into the consideration provisions of the CAA Regulation No. 14/2010 on common charging scheme for air navigation services which transposes into internal legal order the EC Regulation 1794/2006;

For the purpose of establishing the rate to be charged by an air navigation services provider for the use of its aeronautical facilities and services, setting forth charging principles to be taken into consideration by an air navigation services provider when calculating this charge and for the purpose of establishing the procedure for the approval of such charge;

Hereby issues the following:

## **REGULATION No. 2/2011 ON TERMINAL NAVIGATION CHARGE**

### **Article 1 Scope of Application**

This Regulation shall apply to terminal air navigation services whose providers levy charges on users for the availability or provision of their facilities and services.

### **Article 2 Definitions**

For the purposes of this Regulation:

*“Air navigation services provider”* means an independent entity established for the purpose of managing and operating air navigation services, and empowered to manage and use the revenues it generates to cover its costs;

*“User”* means the operator of the aircraft at the time when the flight was performed or, if the identity of the operator is not known, the owner of the aircraft, unless he proves that another person was the operator at that time;

*“Terminal navigation services”* means aerodrome control services, aerodrome flight information services including air traffic advisory services and alerting services, air traffic services related to the approach and departure of aircraft within a certain distance of the airport on the basis of operational requirements, communication, navigation and surveillance activities, meteorological services and aeronautical information services;

*“Terminal navigation charge”* means a levy collected for the benefit of the air navigation services provider and paid by the users for the use of facilities and services, which are exclusively provided by the air navigation services provider and which are related to terminal navigation services;

*“CAA”* means the Civil Aviation Authority of the Republic of Kosovo.

### **Article 3** **Basic charging principles**

The air navigation services provider shall observe the following basic principles when levying charges on users:

- a) The terminal navigation charge shall reflect the costs incurred either directly or indirectly in the provision of terminal navigation services;
- b) The terminal navigation charge shall be established and applied in a fair and transparent manner, after consultations of users;
- c) The terminal navigation charge must not discriminate among users;

### **Article 4** **Structure of terminal navigation charge**

4.1 The structure of terminal navigation charge shall be objective and transparent and must not encourage users to diminish safety.

4.2 Terminal navigation charge is collected for the air navigation services provided at and around the airports in the Republic of Kosovo. This charge shall be levied on landing and shall cover costs for the provision of terminal navigation services during landing and subsequent takeoff.

4.3 Terminal navigation charge shall be based on the weight formula, using the maximum permissible take-off weight of the aircraft given in the air worthiness certificate.

## **Article 5**

### **Modulation of terminal navigation charge**

5.1 The air navigation services provider may, on a non-discriminatory and transparent basis introduce incentive schemes to support improvements in the provision of air navigation services or the reduction of the environmental impact of aviation. The criteria used for such a modulation shall be relevant, objective and transparent.

5.2 Incentive schemes, if offered by the air navigation services provider shall be limited in time, scope and amount.

## **Article 6**

### **Consultation**

6.1 Air navigation services provider shall have a Consultative Committee (“the committee”) composed by the representatives of an air navigation services provider, users and air transport associations.

6.2 The air navigation services provider shall create this committee and set the criteria for its composition and submit the establishing document to the CAA for final approval.

6.3 This committee shall set its terms of reference at its inauguration meeting and submit it to the CAA for final approval.

6.4 The CAA may attend the committee’s meetings however it may have no voting right. This committee shall meet regularly in order to express an opinion about terminal navigation charge and investments plan. It may be consulted about any subject in respect of terminal charge. Minutes of the meeting shall be compiled at all the times.

6.5 The air navigation services provider shall submit any proposal to modify the level or modulation, if applicable, of terminal navigation charge to the committee with duly justified reasons for the modification as well as for the new proposed level or modulation of charge, and with regard to modulation also explanation what is the expected impact of the new incentive scheme on the provision of ANS or environment, no later than 4 months before their planned entry into force. The initial proposal shall be also sent to the CAA as advance information no later than 4 months before new charge is planned to enter into force.

6.6 The air navigation services provider shall consult the committee before the plans for new infrastructure projects are finalized.

## **Article 7** **Transparency**

7.1 When the committee meets to express its opinion about terminal navigation charge, the air navigation services provider shall provide its members with detailed information on the components serving as a basis for determining the level of the terminal navigation charge. The information shall include at least:

- a) A list of the various services and infrastructure provided in return for the terminal navigation charge levied;
- b) The methodology used for setting the terminal navigation charge;
- c) The overall cost structure with regard to the facilities and services which terminal navigation charge relates to;
- d) The revenue of the terminal navigation charge and the total cost of the services covered by them;
- e) Any financing from public authorities of the facilities and services which terminal navigation charge relates to;
- f) Forecasts of the situation at the air navigation services provider as regards the charges, traffic growth and proposed investments;
- g) The predicted outcome of any major proposed investments and
- h) Result of the application of the incentive scheme, when modulation is implemented

7.2 When the committee meets to express its opinion about terminal navigation charge, the representatives of the users in this committee shall submit information to the air navigation services provider, concerning in particular the forecasts as regards traffics and any other information that may be relevant for the provider.

7.3 The information provided on the basis of this article shall be considered as confidential or economically sensitive and handled accordingly

**Article 8**  
**Submission of the final proposal to the CAA**

8.1 The air navigation services provider shall submit to CAA the final proposal for the new level of terminal navigation charge, or modulation, if applicable, no later than 2 months before they enter into force. This proposal shall be accompanied with the following documentation:

- a) Operating expenses target;
- b) Forecast of operating incomes;
- c) Consultation Committee's meeting minutes;
- d) Investments plan and its financing
- e) Information on expected impact on provision of ANS or environment, when modulation is proposed

**Article 9**  
**Determination by the CAA**

9.1 Where the CAA determines that the proposed new level or modulation of terminal navigation charge is consistent with the charging principles set out in Articles 3, 4, 5, 6 and 7, the Director General of the CAA shall issue a Decision for the approval of terminal navigation charge. This Decision shall specify the new rate of terminal navigation charge applicable at a certain airport and its effective date.

9.2 Where the CAA determines that the proposed terminal navigation charge is not consistent with the charging principles set out in Articles 3, 4, 5, 6, and 7, the Director General of the CAA shall request the air navigation services provider to modify its proposal in accordance with this Regulation and resubmit it to the CAA for approval.

9.3 Upon issuance of the Decision for the approval of terminal navigation charge by the Director General of the CAA, the air navigation services provider shall give at least one month advance notification to the users on the new level or modulation, if applicable, of the terminal navigation charge and their effective date.

9.4 The CAA shall publish in its website the most current Decision on approval of terminal navigation charge as soon as it comes into force.

**Article 10**  
**Exemptions**

10.1 The following shall be exempt from terminal navigation charge:

- a) Aircraft involved in search and rescue operations activities connected with incidents involving civil aviation;
- b) Aircraft used for humanitarian assistance in case of a natural disaster or state of emergency, and
- c) Aircraft in distress

10.2 Exemptions granted in the preceding paragraph may be waived by the CAA in accordance with Article 82.2 of Law No. 03/L-051 on Civil Aviation.

**Article 11**  
**Entry into force**

This Regulation shall enter into force on 18 January 2011.

**Dritan Gjonbalaj**  
Director General