



Republika e Kosovës
Republika Kosovo - Republic of Kosovo



Autoriteti i Aviacionit Civil i Kosovës
Autoritet Civilnog Vazduhoplovstva Kosova
Civil Aviation Authority of Kosovo

**REPORT ON PUBLIC CONSULTATION OF INTERESTED
PARTIES
No. 1/2015**

February 19, 2015

I. GENERAL

This report has been drafted in compliance with the requirements of the Administrative Instruction No. 01/2012 on Procedures for Public Consultation of Interested Parties with regards to the following CAA draft-regulation:

- Regulation on fees levied by the Civil Aviation Authority of Kosovo

These draft-regulations were in a public consultation procedure from 19 December 2014 to 23 January 2015. Comments and remarks on the draft-regulation were received from interested parties by applying the method foreseen in Article 5.3 of the Administrative Instruction no. 01/2012 (written consultation) considering that the conditions for organizing a round table with interested parties were not met as foreseen in the Article 5.4 of the Administrative Instruction No. 01/2012.

CAA has carefully reviewed and analyzed every comment/suggestion received on draft-regulations during the public consultations of interested parties.

II. RECEIVED COMMENTS AND CAA RESPONSES

In the call for public consultation of interested parties responded four physical persons who through the CAA official e-mail presented their comments/suggestions. The order of comments/suggestions has been done based on the calendar order of the receipt of comments and/or suggestions of interested parties through e-mails address.

In the following reflected are comments/suggestions in the original form as sent and received by the CAA for this draft - regulation:

- Draft Regulation on fees levied by the Civil Aviation Authority of Kosovo

Comment 1:

On Article 11, Table 11A; As we understood that the "Approved Training Organization (ATO)" is a training organization to issuing a Flight Training but we considered that the explanation is not clear.

On Article 12,

- (a) A1: Issue / renewal of Dangerous Goods certification; it should be clearly defined. It would be understood for every DG certificates and/or every trainer certificate. In according to IATA DG regulations, training may be taken from the certified Training Centers and it means that the trainer has certified certificate to issue a training for the related DG categories.
- (b) A2: We have understood that the fee is for the Training Centers (not for the Airport itself) but it should be detailed that it's for annual or for every renewal session.

- (c) A3: We couldn't understand the meaning of "acceptance of Instructor". We have a some comment what we've gave for A1.
- (d) A4: We couldn't understand the meaning of "inspection of entities for dangerous goods".

On Article 15, table of content was completely changed according to the previous version of Regulation. We couldn't understand that what is the difference between approved aerodrome and certified aerodrome. In addition to that we also understood that "renewal" is for revalidation of expired certification. Would you specify this in the Regulation?

(Sent by: Gokmen Aritay, Director of Aeroportual Services, ANP LKIA "Adem Jashari", dt. 14 janar 2015, ora 14:20 min).

Reply by CAA via email dt. 16 january 2015

On the question 1: Article 11 on "Fees for the Approval of Training Organisations"

Table 11A is wrongly named (typing error)

Present naming of table 11A "Approved Training Organisation (ATO)" to be changed into Flight Training Organisation (FTO)"

On the question 2: A1-A4; the base of fees of Art. 12 stems from Regulation no. 8/2014 on DG, respective articles are 13.1, 13.3, 23, 30.5 and 34;

On the question 3: Table content was changed to reflect on the changes made to Regulation no.1/2008 and 4/2012; Regarding the difference between approved and certified aerodromes, based on the Article 4 of the Regulation No. 3/2012 on Approved aerodromes, the operator of an aerodrome available for public civilian operations shall be in possession of an approval issued by the CAA. On the other hand, the Article 4 of the Regulation No. 4/2012 which is amending and supplementing the Regulation no. 1/2008 on Aerodromes, requires the following: "The operator of an aerodrome or heliport with annual traffic that exceeds 10.000 passengers per year or 850 movements related to cargo operations per year shall be in possession of an aerodrome certificate granted under the terms of the present Regulation".

According to the Article 9 of the Regulation No. 1/2008 on Certified aerodromes, duration of an aerodrome certificate is five (5) years from the issuance date. In order to maintain the aerodrome certificate, at least three (3) months prior to the expiration date, the holder of the certificate is obliged to apply for the renewal, using the application form AACK/AGA -FRM 01 "Application for an Aerodrome Certificate" (which can be found on our official web site).

On question 4: Note taken, technical error, we will replace soon.

And finally, the effective date of its entry into force would be 15 days after its endorsement by the Director General, when would that date be I wouldn't know exactly but certainly after the consultation process is over and the report has been drafted and published.

Comment/Suggestion 2 :

“[...] Management of ANP “Adem Jashari” Air Control, suggests that levy of fees by CAA from ANSP be implemented after normalization of the airspace of the Republic of Kosovo”.

(Sent by: Bahri Nuredini, CEO, ANP-Kontrolli Ajror “Adem Jashari”, dt. 16 janar 2015, ora 15:10 min).

Reply by CAA:

Suggestion is not accepted. Provider of ANS in the Republic of Kosovo is the Agency for Air Navigation Services established by Law no.04/L-250 on the Agency of Air Navigation Services, which is an independent agency with duties and responsibilities in providing air navigation services in the Republic of Kosovo. Despite the fact that the agency for the time being does not provide all services related to air navigation due to non-normalization of the airspace of the Republic of Kosovo, CAA finds it impossible to waive the agency from duty to pay fees until it provides full services. The obligation of CAA to levy fees stems from the Law on Civil Aviation, in which no possibility for waiver from paying fees is provided for.

Comment 3:

Article 12, Table of DG fees;

About A1:

- As we understood, the Dangerous Goods Certificate will be new Certificate and it will start to be issued by CAA with this Regulation.

We would like to clarify the following:

Terms of certification - such as validation of certificate as an certified Ground Handling Operator etc. do we “LIMAK Kosovo Int. Airport JSC” need to be certified for DG?

Comment:

We, as LIMAK Kosovo Int. Airport JSC think that we do not need to be certified separately for DG since we are already certified as GH operator.

According to the regulation it means for us that CAAK needs to certify LIMAK Kosovo International Airport JSC for the Dangerous Goods processing again, which is fine for us, however we have already been certified as GH operator and it means that back in time and during certification process we should have had appropriate DG training and procedures in place that were evaluated by CAA. We kindly ask you to evaluate or clarify the situation of LIMAK Kosovo International Airport JSC.

Reply of CAA:

Correct LKIA needs to be certified. Article 13 of the CAA Regulation No. 8/2014 on Conditions and manner of transporting dangerous goods by air requires that: “Dangerous goods shall be accepted and forwarded only by those entities (shippers,

freight forwarders, ground handling service provider, cargo handling agent and operators) to whom CAAK has issued a Certificate as competent to perform these operations, and who are in possession of a valid dangerous goods Certificate.”

On the other hand, the approval of LKIA as a supplier of ground handling services has been done in accordance with Regulation “04/2011-Access to GH Market” and TP-16-“Criteria and Procedure for Issuance of Groundhandling Approval”.

Approval has been issued, based on the LKIA application, for the following sections:

- Organization and Management (ORM-HS);
- Load Control (LOD);
- Passenger Handling (PAX);
- Baggage Handling (BAG);
- Aircraft Handling and Loading (HDL);
- Aircraft Ground Movement (AGM);
- Cargo and Mail Handling (CGM).

Based on the above LKIA is entitled to handle special cargo, as part of cargo and mail handling, which includes dangerous goods, but is not entitled to perform any acceptance of the dangerous goods except processing such goods from the aircraft to the consignee and vice versa. It is the customer airline responsibility to take care for the acceptance of the dangerous goods as a cargo from the shipper

Therefore, in accordance with Regulation 8/2014, LKIA “Adem Jashari” must be equipped with the certificate for dangerous goods issued by CAA, not later than 31 March 2015, if it intends to accept and handle dangerous goods. Exceptionally, if LKIA “Adem Jashari” **fulfils all conditions** prescribed in Reg. 8/2014, it may be waived from the payment of the fee for the certificate of dangerous goods. In any case, the certificate for DG will be issued in accordance with the requirements of the Reg. 8/2014.

Comment 4:

About A2:

- It looks like the fee will be the second fee for the Training Providers who is also obliged to pay the fee of approval of Training Providers as explained in under the Article 12 and/or Article 17.

Comment:

We think that it should be clarified and fixed.

- Even when Training Provider Approval Fee and A2 fees have been paid, the Training Provider will be obliged to pay A5 and it looks that there will be 3 times payment for the same subject.

Comment:

We believe that the relations between the fees should be reconsidered and fixed.

About A3:

- Is it a single fee for each instructor and what is the validity of it? Please clarify.

Comment:

According to IATA DG regulation, if the Instructor provides DG training continuously there is no need for revalidation. We believe that the fee should be paid once only, when the instructor is accepted or again if the instructor does not provide training for certain time and loses its validation.

About A5:

- We believe that if A2 will be implemented there should not be A5, and vice versa.

Reply by CAA:

Article 23.1 of the Regulation 8/2014 on the Conditions and manner of transporting dangerous goods by air states that: "The training provider is an organisation that has adequate staff, equipment, operating in appropriate environment and conducting theoretical training in accordance with the training programme approved by CAAK."

Article 23.2 of the same Regulations requires that "An organization intending to conduct training for dangerous goods shall be approved by CAAK."

Therefore, if the LKIA intends to deliver training on DG it shall be approved by CAA in line with the requirements of the Regulation 8/2014.

Article 23.5 d) on the Certification of training providers (i.e. for dangerous goods, as referred to in question A3) requires that the training is conducted by competent instructors. Instructors conducting initial and recurrent dangerous goods training programmes shall meet the requirements of the Article 30 of the Regulation no. 8/2014 on Conditions and manner of transporting dangerous goods by air.

The fee for acceptance of instructor for dangerous goods is 50 eur0, and it is a single fee provided that the instructor delivers initial and recurrent dangerous goods training at least every 24 months.

Comment 5:

About A4:

- LKIA shall give DG training for approximately 300 staff every 2 years cycle in approx. 20 persons capacity class (this limit has been executed by the CAAK)

We would like to clarify the following:

Does it mean that we will have to pay 6.000 € additional cost each 2nd year.

Comment:

We believe that it should be reconsidered by CAAK and we believe that we shall not be obliged to pay an inspection fee while we don't call for it.

Reply by CAA:

Law on Civil Aviation (Law No.03/L-051) and the Regulation on Inspectors Authorisations and Credentials (Regulation No 08/2011), empower the CAA Inspectors to carry out inspections to all entities and individuals who are involved in the transport of dangerous goods by air regarding compliance with provisions of the applicable legislation in force in the Republic of Kosovo.

Moreover Article 34 of the Regulation no. 8/2014 on Conditions and manner of transporting dangerous goods by air, describes the requirements of the Compliance and Enforcement Mechanisms, thus authorizing an CAA inspector an unhindered access to any aircraft, aerodrome, facility, structure, equipment and tools, and to the documents including, certificates, manuals, records and data to take samples and confiscate dangerous goods for which reasonable suspicion exists of not being handled in accordance with the provisions of the applicable legislation in force.

Therefore LKIA as the operator of an aerodrome is subject to such oversight activities by CAA at any time and without prior notification.

Comment 6:

Comment:

Amending is not like certifying completely therefore we think that this fee shall be lower than 20000EUR.

Example: To change aerodrome category from 4C to 4E, CAA will check RWY, TWY width, apron size etc. and not the complete set-up of the aerodrome.

To avoid from any doubts, similar implementation of the fees is found in the Article 19, Table 19A of the drafted regulation.

Reply by CAA:

Pursuant to the Article 13 of the Regulation" 01/2008 on Certified Aerodromes", CAA will amend the aerodrome certificate if:

- a) there is a change in the operator of the aerodrome; or
- b) there is a change in the use or operation of the aerodrome; or
- c) there is a change in the boundaries of the aerodrome; or
- d) the holder of the aerodrome certificate requests the amendment and the requirements of Article 6.2, Article 18 and Article 19 are met.

Furthermore Article 6.2 of the Regulation “01/2008 on Certified Aerodromes” states before granting an aerodrome certificate, the CAA must be satisfied that:

- a) the aerodrome facilities, services and equipment are in accordance with the standards of Annex 14, this Regulation and any other standards specified by the CAA;
- b) the aerodrome's operating procedures make satisfactory provision for the safety of aircraft;
- c) an effective safety management system is in place;
- d) an Aerodrome Services and Operations Manual that contains all relevant information for the applicant's aerodrome has been prepared and submitted within the provisions of regulation;
- e) the CAA is satisfied that the applicant will be able to operate and maintain the aerodrome properly.

Based on the requirements as specified above, if the amendment will be subject to substantial changes it will undergo the same process as the certification.

However, pursuant to the Article 15 of the present regulation, in cases where the holder of the certificate requests non-substantial amendment of the certificate other than those referred to in Article 13 a), b) or c) of the Regulation “1/2008 on Certified Aerodromes”, the charge equivalent to the annual charge shall be levied, in amount of 5000 €.

Comment 7:

Article 17;

About A1 to A4:

Comment:

- According to your email, the fees of Article 17 are related with the Aerodrome Training Organizations.

Reply by CAA:

The fees under the Article 17 are related to professional training organizations under the Regulation no. 01/2014 on professional training of employees and other aerodrome contracted workers, providers of ground handling services, and users of aerodrome services providing self-handling of ground handling services

Comment 8:

Article 18 – Fees for Ground-handling Approvals;

About A2 and A3:

Comment:

We think that the fees under column “Annual Charge” should not be shown. Annual charge fee is listed under A1 and it covers the annual charge.

Reply by CAA:

Note taken, it will be corrected.

Other:

In addition to the comments related to the articles, our general comments are as follows:

While Prishtina International Airport “Adem Jashari” is the only Airport and Ground Handling in Kosovo, the articles which are related with the ground operations have direct cost effect to LIMAK Kosovo International Airport JSC.

Due to strict PPP agreement of our Company, budget projection for year 2015 has been made in the last part of previous year and has been approved by BOD of LIMAK Kosovo International Airport JSC.

As we could see in the draft regulation, there are some fees which have never been issued before and this means for us additional cost, and it will directly affect the revenue share of Republic of Kosovo via PPP Unit under the organization of Ministry of Finance.

Comment 9:

In addition to all, since the fees which are related with ANSP are not in our scope to review and comment, but it attracted our attention that ANSP has no annual fee.

Reply by CAA:

Incorrect observation. Please read Art. 19, Fees for ANSP, Table 19A4, Annual Fee for Oversight.

Comment 10:

We also believe that the CAA fee which has been charged to every departure passenger is to cover the needs of CAAK to perform their safety oversight activities. In this sense, all inspections might be considered in the scope of safety activities and should have no fees.

(Sent by: *Gokmen Aritay, Director of Aeroportual Services, ANP LKIA “Adem Jashari”, dt. 19 january 2015, ora 14:37 min*).

Reply by CAA:

CAA is a public institution vested with powers to regulate safety of civil aviation, air navigation services and the economy of aerodromes. As an independent agency established by the Parliament within the legal order of the Republic of Kosovo, CAA shall have its independent budget to ensure performance of the duties and responsibilities as required

by the law. The budget of CAA is comprised of dedicated revenues in accordance with Art. 25.1 of the Law on Civil aviation which consists of:

- Aviation related taxes, charges and fees;
- A percentage of air navigation services provided within the Republic of Kosovo's air space;
- Passenger safety charges, and certificate and licensing charges which are provided for in respective regulations with their scope. To this end, some of the inspections and oversight activities of CAA are considered the duties by international law which must be carried out in accordance with international standards and appropriate national regulation for which no fees are levied, e.g SAFA inspections, and other ad hoc inspections on aviation facilities, just to name a few.

On the other hand, certification and licensing activities are primarily aimed to authorize aviation related operators to perform certain functions in the aviation sector. CAA has a duty by law (Ref. Art. 25.1 of Law on Civil Aviation) that in addition to the passenger safety charge to set and levy fees for certification and licensing of aviation operators. This process is based on endurance of costs by CAA for which reasonable fees apply. Therefore, duty and obligation of CAA to ensure safety of civil aviation is its *raison d'être*, internally and also externally for it carries out duties on behalf of the state of Kosovo. In the end, for your attention, it must be considered that the financial sustainability of CAA is an imperative required by the Constitution of the Republic of Kosovo and other laws which regulate functioning of independent institutions. Such a practice is recommended in the acts of ICAO¹, and as such it has found its wider application among many states.²

Therefore, levying of revenues provided for under Art. 25.1 of the Law on Civil Aviation is a duty and responsibility of CAA required by law. Moreover on this issue, please refer to the appropriate benchmark on explanation of the regulation on fees which will be published upon its entry into force, in which all fees are thoroughly described and grounded on an comparative analysis of similar fees levied by other aviation authorities in the region.

III. CONCLUSION

During the public consultation phase of the interested parties regarding the draft regulation under item I of this report, were evaluated 15 comments/suggestions received from 19 December 2014 to 23 January 2015.

From these remarks/comments, the CAA accepted one (1) suggestion. All other comments received an adequate response.

CAA hereby would like to thank all interested parties for the expression of interest on the issues addressed with this regulation./

¹ Shih shtojcën nr. 19 në Konventën për Aviacionin Civil Ndërkombëtar, App-1-1, pika 3.2

² Shtetet e rajonit por edhe më gjerë, shih Air Traffic Act të RF të Gjermanisë *LuftVG*) or *Luftverkehrsgesetz (LuftVG)* në dispozicion tek: <http://ëëë.gesetze-im-internet.de/bundesrecht/luftvg/gesamt.pdf>



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