



Director General of Civil Aviation Authority of Kosovo,

Pursuant to Articles 15.1(e) and 21.2 of the Law No. 03/L-051 on Civil Aviation (“Official Gazette” of the Republic of Kosovo, Year III, No. 28, 4 June 2008),

For the purpose of ensuring that specific persons undertaking certain duties affecting the safety of aircraft, air traffic services or operations at airports in the Republic of Kosovo comply with the required standards of safety while discharging their duties,

Hereby issues the following:

**REGULATION No. 5/2011
ON USE OF PROHIBITED SUBSTANCES FOR PERSONNEL
WORKING ON AVIATION SAFETY SENSITIVE FUNCTIONS**

**Article 1
Scope of Application**

The present Regulation shall apply to all personnel in relation to:

- a) an aviation safety sensitive function or aviation safety sensitive activity performed or carried out in the Republic of Kosovo, and
- b) a flight function performed on the Kosovo registered aircraft.

**Article 2
Definitions**

For the purpose of the present Regulation, the following definitions shall apply:

Alcohol - means an intoxicating agent in beverage alcohol, such as beer, wines, spirits, liqueurs, ethyl alcohol or other low molecular weight alcohols, including methyl or isopropyl alcohol;

Aviation Safety Sensitive Activity - means an activity which for the purpose of the present Regulation is ancillary to an aviation safety sensitive function;

CAA Inspector - shall mean staff of Civil Aviation Authority of Kosovo having accorded this title after fulfillment of necessary conditions set forth in the Quality Manual and respective inspector's handbook and who are entitled, by virtue of the Law No.03/L-051 on Civil Aviation or CAA Regulation, to carry out specific oversight duties in respect of air operators, aviation facilities and aviation personnel;

Flight Function - means a function falling within Article 3.1 (a) to (f);

Ground Handling Personnel - means personnel employed or hired to provide services to airport users at airports as described in Annex 1 to the CAA Regulation No. 04/2011 on Access to the Ground Handling Market;

Hospital or medical clinic - means an institution which provides medical or surgical treatment respectively for in-patients or out-patients;

Kosovo Registered Aircraft - means an aircraft registered in accordance with applicable laws of the Republic of Kosovo;

Law on Police - means Law No.03/L-035 on Police ("Official Gazette" of the Republic of Kosovo, Year III, Nr. 28, 4 June 2008);

Police officer- means any sworn officer of the police of Republic of Kosovo who has been given authority to exercise police powers in the performance of his her duty and who is equipped with the breathalyzer equipment to conduct the breath test for alcohol;

Police powers - means the power of a police officer pursuant to the Law No.03/L-035 on Police;

Prohibited Substance - means opioids, cannabinoids, and other psychostimulants such as sedatives, hypnotics, hallucinogens and volatile solvents or any other intoxicating substance intended to affect the structure or any function of the human body;

Offence - under the present Regulation means reporting for duty of an aviation safety sensitive function or a function which is ancillary to it while impaired because of use of alcoholic beverages and/or prohibited substances. The time on stand-by shall for the purpose of the present Regulation be considered as the time on duty;

Article 3 **Aviation Safety Sensitive Functions**

3.1 For the purpose of the present Regulation, the following are aviation safety sensitive functions:

- a) acting as a pilot of an aircraft in-flight;

- b) acting as flight navigator of an aircraft in-flight;
- c) acting as flight engineer of an aircraft in-flight;
- d) acting as flight radiotelephony operator of an aircraft in-flight;
- e) acting as a member of the cabin crew of an aircraft in-flight;
- f) attending the flight deck of an aircraft during flight to give or supervise training, to administer a test, to observe a period of practice or to monitor or record gaining of experience;
- g) acting as an air traffic controller;
- h) acting as a licensed aircraft maintenance engineer.

3.2 For the purpose of the present Regulation, the following are aviation safety sensitive activities:

- a) acting as ground security coordinator;
- b) acting as security screener; and
- c) acting as ground handling personnel.

3.3 For the purpose of paragraph 1 item (h), a person acts as licensed aircraft maintenance engineer if:

- a) he issues a document relating to the maintenance, condition or use of an aircraft or equipment in reliance to a license granted under or by virtue of an enactment related to aviation; or
- b) he carries out or supervises work of an aircraft or equipment with a view to, or in connection with, the issue by him of a document of the kind specified under (a) of this paragraph.

3.4 Reference to an activity which is ancillary to an aviation safety sensitive function is a reference to anything which falls to be treated as such by virtue of paragraphs 5 to 7 of this Article.

3.5 An activity shall be treated as ancillary to an aviation safety sensitive function, if it is undertaken:

- a) by a person who has reported for a period of duty in respect of the function; and
- b) as a requirement of, for the purpose of or in connection with, the performance of an aviation safety sensitive function during that period of duty.

3.6 A person, who in accordance with the terms of an employment or undertaking, holds himself ready to perform an aviation safety sensitive function if called upon, shall be treated as carrying out an activity ancillary to the function.

3.7 Where a person sets out to perform an aviation safety sensitive function, anything which he does by way of preparing to perform the function shall be treated as an activity ancillary to it.

3.8 For the purpose of the present Regulation, it is not relevant whether a person performs a function or carries out an activity in the course of an employment contract or being hired otherwise.

Article 4 **Prescribed limit of alcohol**

4.1 A person commits an offence if:

- a) he performs an aviation safety sensitive function at a time when the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit; or
- b) he carries out an activity which is ancillary to an aviation safety sensitive function at a time when the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.

4.2 The prescribed limit of alcohol in relation to the aviation safety sensitive functions specified in Article 3.1 point (a) to (g) is:

- a) in the case of breath, 9 micrograms of alcohol in 100 milliliters;
- b) in the case of blood, 20 milligrams of alcohol in 100 milliliters; and
- c) in the case of urine, 27 milligrams of alcohol in 100 milliliters.

4.3 The prescribed limit of alcohol in relation to the aviation safety sensitive function specified in Article 3 paragraph 1 point (h) and aviation safety sensitive activity specified in paragraph 2 point (a) to (c) thereof is:

- a) in the case of breath, 35 micrograms of alcohol in 100 milliliters;
- b) in the case of blood, 80 milligrams of alcohol in 100 milliliters; and
- c) in the case of urine, 107 milligrams of alcohol in 100 milliliters.

Article 5 **Being unfit for duty**

5.1 A person is considered unfit for duty, if he consumes alcohol in excess of the prescribed limit, and/or prohibited substances within eight (8) hours before reporting to duty.

5.2 A person commits an offence if:

- a) he performs an aviation safety sensitive function at a time when his ability to perform the function is impaired because of consumption of alcohol in excess of prescribed limit and/or prohibited substances; or
- b) he carries out an activity which is ancillary to an aviation safety sensitive function at a time when his ability to perform the function is impaired because of consumption of alcohol in excess of prescribed limit and/or prohibited substances; or
- c) he consumes alcohol in excess of the prescribed limit and/or prohibited substances within six (6) hours after completing the duty, if the conduct at work may lead to an investigation or an inquiry on, or related to, his involvement in any occurrence set forth in Article 7.1 (c) and (d).

Article 6

Right of entry

6.1 Police officers may board an aircraft if reasonable grounds of suspicion exist for exercising the powers granted by Article 7 and Article 8 of the present Regulation in respect of a person who is or may be in the aircraft.

6.2 Police officers may enter any place if reasonable grounds of suspicion exist for exercising the powers granted by Article 7 and Article 8 of the present Regulation in respect of a person who is or may be in that place.

6.3 For the purpose of boarding an aircraft or entering a place under this Article, the police officers:

- a) may use reasonable force as provided for in the law on police;
- b) shall be accompanied by CAA Inspector at all the times.

Article 7

The conduct of tests

7.1 The police officers shall upon request of the CAA Inspector request a person undergo a breathing test on the spot and/or request the subject person undergo blood or urine test at the nearest medical clinic to determine the prescribed limit, where:

- a) reasonable grounds of suspicion exist that the person is over the prescribed limit set forth above in Article 4, or his/her ability to perform his/her aviation safety sensitive function or a function ancillary to it, is impaired through, either use of alcohol and/or prohibited substances;
- b) reasonable grounds of suspicion exist that the person has been over the prescribed limit set forth above in Article 4 or impaired through use of alcohol beverages and/or prohibited substances, and continues to have alcohol and/or prohibited substances in his/her body or remains to be under the influence of alcohol and/or prohibited substances;
- c) reasonable grounds of suspicion exist that the person of an aircraft involved in an incident, serious incident or accident was undertaking at the time of occurrence an aviation safety sensitive function, or an activity ancillary to an aviation safety sensitive function in relation to that aircraft; or
- d) reasonable grounds of suspicion exist that the person of an aircraft involved in an incident, serious incident or accident had undertaken an aviation safety sensitive function, or an activity ancillary to an aviation safety sensitive function in relation to that aircraft.

7.2 Any person who, without reasonable grounds of excuse, fails to provide a specimen of breath on the spot and/or fails to undergo a blood or urine test at the nearest medical clinic when required to do so by the police officer and/or the CAA Inspector in pursuance of this Article commits an offence and renders him/herself unfit for duty.

Article 8

Apprehension without warrant

8.1 Police officers may upon call of the CAA Inspector apprehend a person without a warrant if reasonable grounds of suspicion, exist that the person:

- a) is committing an offence under Article 5.2 (a), or (b) and remains to be under the influence of alcohol and/or prohibited substances; and
- b) fails to abide by the orders of the CAA Inspector and police officers issued to him.

8.2 No person may be apprehended under the provisions of this Article while undergoing medical treatment as an in-patient at a hospital.

8.3 Apprehension stipulated in this Article shall be governed by the respective provisions on the police powers provided for in the applicable law on police.

Article 9
Punitive Provisions

9.1 Person(s) found guilty of an offence under the present Regulation shall be held liable and be subject to punitive provisions of Title IV of the Law No. 03/L-051 on Civil Aviation, including:

- a) issuance of an administrative fine by the CAA in an amount of at least 500 Euro but not exceeding the statutory maximum prescribed by the law, for the person(s) specified herein under Article 3.1 points (a) to (h);
- b) issuance of an administrative fine by the CAA in an amount of up to 500 Euro, for the person(s) specified under Article 3.2 points (a) to (c); and
- c) in conjunction with the fine issued under (a) or (b), revocation or suspension for definite or indefinite period of the certificate, permit or license issued by the CAA.

9.2 Notwithstanding paragraph 1 of this Article, violations of respective provisions of the present Regulation may amount to criminal liability pursuant to the Criminal Code of Kosovo.

Article 10
Final Provisions

The present Regulation repeals UNMIK Administrative Direction No. 2004/09 of 13 May 2004, Implementing UNMIK Regulation No. 2004/5 on the Provisional Regulation of Civil Aviation in Kosovo.

Article 11
Entry into Force

The present Regulation shall enter into force on 15 June 2011.

Dritan Gjonbalaj
Director General