



01/ZDP/VE/2021  
Date: 19.01.2021

*Courtesy translation-Albanian version is legally valid*

Pursuant to Article 14.2, Article 15.1 letter (f), Article 69 of Law no. 03/L-051 on Civil Aviation ("Official Gazette of the Republic of Kosovo" No. 28, Year III, dated 4 June 2008), Article 41 of Law no. 06/L-113 on the Organization and Functioning of the State Administration and Independent Agencies ("Official Gazette of the Republic of Kosovo" No. 7, dated March 1, 2019) and in accordance with Regulation No. 04/2011 on Access to the Groundhandling Market, as amended and supplemented by Regulation (CAA) no. 05/2019 on amending and supplementing Regulation no. 04/2011 on Access to the Groundhandling Market (hereinafter the Regulation),

Director General of the Civil Aviation Authority of the Republic of Kosovo (hereinafter the CAA) issues the following:

## **DECISION**

1. **OBLIGING** the managing body LKIA J.S.C. to publish the list of centralized infrastructure approved by the CAA, with prices and conditions for its use.
2. **OBLIGING** the managing body LKIA J.S.C. not to apply to the groundhandling providers, the business entity Ex Fis J.S.C., and other providers, charges which have not been determined according to the requirements of PPP agreement and at the same time are not approved by the CAA.
3. **OBLIGING** the managing body LKIA J.S.C. if it decides to apply a charge to groundhandling providers, in accordance with required specifications of the regulation, apply to the CAA for approval of such a charge.
4. **OBLIGING** the managing body LKIA J.S.C. to treat all operators for the provision of groundhandling services equally, as long as this body has not applied for the limitation of groundhandling providers. The LKIA should manage the centralized infrastructure in a transparent, objective and non-discriminatory manner and, in particular, not impede access of groundhandling providers.
5. The decision enters into force on the day of signing.

## JUSTIFICATION

Pursuant to Regulation (CAA) No. 04/2011 on access to the ground handling market, amended and supplemented by Regulation (CAA) 05/2019, Article 8.2, CAA is responsible to ensure that the management of centralized infrastructure of the airports of the Republic of Kosovo are transparent, objective and non-discriminatory, and in particular not to hinder access of groundhandling suppliers, in accordance with the provisions of this Regulation. Further to the requests specified in Article 7 of the Regulation, it is the obligation of the CAA to take all necessary steps to ensure free market access of third party suppliers. Considering that despite these obligations, the list of centralized infrastructure has not been published by the managing body LKIA J.S.C. (hereinafter LKIA), the General Director of CAA has invited in separate meetings LKIA on 23.07.2020, respectively on 24.07.2020 groundhandling fuel provider Ex-Fis J.S.C. In these meetings, LKIA has made it known that in their interpretation it cannot apply the Regulation, because according to the Public Private Partnership Agreement at Prishtina International Airport (hereinafter PPP Agreement), groundhandling charges are fixed. From these two separate meetings some ambiguities arose regarding the commercial conditions between LKIA and Ex-Fis as well as their relation to the PPP Agreement. In addition, other ambiguities were identified about the right to use of centralized infrastructure (such as the fuel depot) and their ownership. From these meetings and the contract between LKIA and Ex-Fis handed to the CAA on 27 July 2020, it is understood that the charge applied by LKIA to Ex-Fis is 0.12 euros, for which charge there has been no prior information of CAA and no approval by CAA.

Due to the application of this charge, the General Director of CAA has addressed a letter on 27.07.2020 to Public Private Partnership Committee, as a public partner in the PPP Agreement, to clarify this issue with LKIA, so that CAA has a clear understanding of this charge. The CAA has not yet received a response on this issue. CAA is aware that based on the PPP Agreement on PIA, Annex 11 Part B, LKIA has the right to apply a charge of 0.02 euros to the operator that provides fuel supply service. The CAA respects in full the PPP Agreement, however, it considers that no additional charge can be set outside the PPP contract which at the same time is not approved by the CAA, in the capacity of economic regulator.

The Department responsible for economic regulation within the CAA has made efforts through the Finance Director of LKIA to clarify the issue of this charge applied by LKIA JSC to the fuel providers of groundhandling services, but this attempt has not yielded any results due to LKIA's reluctance to share this information with the CAA.

Pursuant to Article 8 paragraph 3 of the Regulation, if the airport managing body imposes a charge for the use of centralized infrastructure, this charge must be approved by the CAA, and then published with the prices and conditions for its use, so that the use of this infrastructure is transparent and non-discriminatory. The application of charges not approved by the CAA, may increase the costs for airlines, respectively increase the price of passenger tickets and at the same

time may put Prishtina International Airport Adem Jashari in a non-competitive position with the other airports in the region.

On the other hand, now after the fulfillment of conditions for market opening at PIA Adem Jashari, in accordance with the Regulation, non-publication of the list of centralized infrastructure and the relevant price list, which is a legal obligation based on Article 8 of the Regulation, creates a situation not transparent and discriminatory against potential groundhandling service providers.

While LKIA has not applied for limitation of the number of approved suppliers for groundhandling services, as defined in the Regulation, LKIA is obliged to guarantee equal access on equal terms to all potential groundhandling providers at PIA Adem Jashari.

From what was said in the above and in order to implement regulatory obligations and protect the general public interest, the General Director of the Civil Aviation Authority of Kosovo, in accordance with Article 15.1 letter (f), Article 69 of Law no. 03/L-051 on civil aviation, as well as Article 41 of Law no. 06/L-113 on the Organization and Functioning of the State Administration and Independent Agencies, in conjunction with Regulation no. 04/2011 on Access to the Groundhandling Market, as supplemented and amended by Regulation (CAA), no. 05/2019, has decided as in the operative part of this decision.

**Instruction on legal remedy:** The party dissatisfied with this decision may file an administrative dispute with the Basic Court in Prishtina, Department of Administrative Affairs, within 30 days from the date of receipt of the Decision.

**Bujar Ejupi**

Director General

Delivered to:

- Managing body of PIA Adem Jashari LKIA, 10070 Vrellë, and Municipality of Lipjan;
- Ministry of Infrastructure;
- Parliamentary Committee on Agriculture, Forestry, Rural Development, Infrastructure and Environment;
- Public Private Partnership Committee;
- Central Department for Public-Private Partnership;
- CAA Supervisory Board;
- International Cooperation and Economic Regulation of Aviation Department;
- Aerodromes Department; and
- CAA Archive.