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Administration Mission
in Kosovo



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Intérimaire des Nations
Unies au Kosovo

UNMIK/REG/2004/5
23 February 2004

REGULATION NO. 2004/5

**ON THE PROVISIONAL REGULATION OF CIVIL AVIATION IN
KOSOVO**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administrative Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo, and UNMIK Regulation No. 2003/18 of 13 June 2003 on the Establishment of a Civil Aviation Regulatory Office for Kosovo (CARO),

In conformity with section 8.1 (s) of the Constitutional Framework for Provisional Self-Government in Kosovo (UNMIK Regulation No. 2001/9 of 15 May 2001) and having consulted with the Government,

For the purpose of safeguarding safety, security, regularity and economy of air navigation of civil aircraft in Kosovo and civil air transport to and from Kosovo and for the purpose of implementation and enforcement of the general principles established by the Convention on International Civil Aviation (Chicago, 1944) and of the international Standards and Recommended Practices adopted by the International Civil Aviation Organization (ICAO) under that Convention during the period of UNMIK administration in Kosovo,

Hereby promulgates the following:

Chapter 1

General provisions

Section 1

Applicability

1.1 The present Regulation applies to the navigation of civil aircraft, civil air transport and the facilities and services related to civil aviation in Kosovo and the air space above it.

1.2 The present Regulation does not apply to state aircraft. Aircraft used in, or exclusively for, the military, police or customs services are deemed to be state aircraft.

Section 2

Terminology

All technical terms and expressions used in the present Regulation and in the Administrative Directions issued thereunder shall be interpreted in accordance with their common international usage and taking into account the definitions set forth in the international Standards and Recommended Practices (SARPs) of the International Civil Aviation Organization (ICAO). The SARPs referred to are those contained in Annexes 1 to 18 to the Convention on International Civil Aviation and their most current version shall be applicable.

Chapter 2

Civil Aviation Regulatory Office

Section 3

Civil Aviation Regulatory Office

3.1 The Civil Aviation Regulatory Office (CARO) established by UNMIK Regulation No. 2003/18 of 13 June 2003 shall be responsible for the highest practicable degree of application, implementation and enforcement of the SARPs of ICAO in all matters related to air navigation, air transport and related facilities and services in Kosovo. The Head of CARO may make recommendations to the Special Representative of the Secretary-General, through the Deputy Special Representative of the Secretary-General for Economic Reconstruction, for the promulgation of

Administrative Directions that may be necessary for the implementation of the SARPs.

3.2 The Head of CARO shall have the authority to take administrative decisions under the present Regulation with respect to all physical and legal persons, equipment or facilities involved in civil aviation activities. His decisions may be appealed to the Special Representative of the Secretary-General for further consideration or reference to judicial proceedings; however, an appeal shall not have the effect of suspending the decision in question if, in the opinion of the Head of CARO, such decision relates to matters of aviation safety or security.

3.3 The Head of CARO may, subject to the approval by the Special Representative of the Secretary-General, delegate to a physical or legal person, to an international body or to a contracting State of ICAO, the function of implementing the applicable SARPs and the verification and validation of required certificates, licences and procedures. Such a delegation shall specify the scope and manner of the performance required and any conclusions shall be subject to the approval by the Head of CARO.

3.4 All physical and legal persons and bodies acting or intending to act in the field of civil aviation in Kosovo are obliged to observe the present Regulation and any Administrative Directions issued thereunder and to comply with the decisions or requests of CARO. They are obliged to provide CARO any required information and to facilitate the access by CARO-designated officials to any documents, equipment, locations and areas under their jurisdiction or control.

3.5 The Head of CARO may grant exemptions from the requirements of the present Regulation or Directives issued thereunder if he finds that such an action would be in the urgent public interest and would not jeopardize the safety of civil aviation.

Section 4 Inspection

4.1 CARO shall establish an Inspection Unit to assist it in carrying out ongoing inspections of aircraft, aerodromes, air traffic control installations, aviation personnel and air operators. CARO and such inspection unit shall have the right, without any special authorization or restriction, to enter and inspect any civil aircraft or aviation facility in Kosovo to ensure that they are operated in accordance

with the SARPs, the present Regulation or any Administrative Directions issued thereunder.

4.2 Any duly authorized inspector designated by CARO shall have the right to direct the operator or aviation personnel that an aircraft is not to operate a flight in situations where:

- (a) the aircraft may not be airworthy; or
- (b) the crew may not be qualified or physically or mentally capable to operate a flight; or
- (c) in his opinion, the operation would cause imminent danger to persons or property on the aircraft or on the ground.

4.3 An inspector may order corrective action to be taken before the flight is permitted.

4.4 Other authorities in Kosovo, designated by the Special Representative of the Secretary-General, shall have the right, without unreasonable delay, to search any aircraft on landing or departure, and to inspect the certificates and other documents prescribed by the present Regulation.

Chapter 3 **Aircraft and aviation personnel**

Section 5 Aircraft

5.1 Any aircraft entering or operating in Kosovo must be duly registered in a contracting state of ICAO and must display its nationality and registration marks in accordance with Annex 7 to the Convention on International Civil Aviation.

5.2 No aircraft shall be permitted to operate within Kosovo unless its operator possesses, with respect to that aircraft, a valid certificate of airworthiness issued or rendered valid by a contracting State of ICAO where the aircraft is registered in accordance with Annex 8 to the Convention on International Civil Aviation.

5.3 Any radio communication equipment may be installed on board an aircraft and may be operated by a flight crew if duly licensed by the State of registry of the aircraft or by the State of its operator. Standards of Annex 10 to the Convention on International Civil Aviation must be observed in all aeronautical communications. Causing of any interference with the communications to or from an aircraft, air traffic services or with radio navigation or surveillance systems shall be severely punishable under Section 20 of the present Regulation, unless such act is punishable under UNMIK Regulation No. 2003/25 of 6 July 2003 on the Provisional Criminal Code of Kosovo.

5.4 Any aerial photography equipment, or remote sensing equipment, installed on an aircraft may be operated in Kosovo only with a special authorization by the Head of CARO.

Section 6 Aviation personnel

6.1 Aviation personnel include the flight crew (pilot, flight navigator, flight engineer), aircraft maintenance personnel (technician/engineer/mechanic) and air traffic controllers. Aviation personnel require for the performance of their functions in Kosovo a valid license issued by a contracting State of ICAO in accordance with the requirements of Annex 1 to the Convention on International Civil Aviation.

6.2 To act as a pilot a person must possess a valid license and rating for the class and type of aircraft concerned, issued or rendered valid by a contracting State of ICAO where the aircraft is registered. The pilot-in-command must be duly appointed by the operator of the aircraft.

6.3 To act as an aircraft maintenance technician/engineer/mechanic in Kosovo a person must possess a valid license and rating issued or rendered valid by a contracting State of ICAO where the aircraft is registered.

6.4 To act as an air traffic controller in Kosovo a person must possess a valid license and rating issued by a contracting State of ICAO and rendered valid by the Head of CARO after due examination.

6.5 Each holder of a license must refrain from performing his functions under his license if he becomes aware that his physical or mental ability is impaired by illness, injury, fatigue or any other cause.

Chapter 4 Aerodromes

Section 7 Aerodrome

7.1 Pristina/Slatina shall serve as the principal airport of Kosovo and shall be open to international flights. The airport shall be operated by an operator of the airport designated by the Head of CARO after consultation with the Special Representative of the Secretary-General. Aircraft may use another airport in Kosovo only with a special permission of the Head of CARO or in cases of an emergency.

7.2 As long as the Pristina/Slatina airport is jointly used by civil and non-civil (NATO, KFOR, UN) operations, the necessary coordination shall be determined by the Special Representative of the Secretary-General and promulgated in an Administrative Direction to the present Regulation. The Special Representative of the Secretary-General shall also determine whether and to what degree another airport in Kosovo may be used by civil aircraft.

7.3 All airports in Kosovo that are to be open to operation of civil aircraft shall be certified as meeting the operational and safety requirements in accordance with Annex 14 to the Convention on International Civil Aviation. Such certification shall be requested from a contracting State of ICAO and shall be then validated by the Head of CARO.

7.4 The operator of the airport shall perform all necessary functions for the safe landing and take off of aircraft, for the protection and servicing of aircraft, for order and safety at the airport and the availability of crash/fire/rescue equipment, ambulance and other health services and for the protection against unlawful acts against the security of civil aviation. The operator of the airport shall facilitate the performance of functions of other authorities responsible for border control, immigration, customs, health and other services.

7.5 The operator of the airport shall perform his functions without discrimination among the different civil aircraft operators; however, priority will be given to the operation of scheduled international flights and to other categories of flights that may be determined by the Special Representative of the Secretary-General.

7.6 The Head of CARO, after consultation with the Special Representative of the Secretary-General, shall have the right and duty to restrict or suspend the operation of any airport in Kosovo if he finds that the airport does not meet the operational and safety requirements.

7.7 The owners or operators of the buildings and installations in the operational vicinity of an airport as defined by the Head of CARO must place and maintain, at their own cost, the prescribed daylight and night warning markings. Erection or reconstruction, in the vicinity of an airport, of buildings, installations, communications, high-voltage power lines, radio technical and other objects that could endanger the safe operation of aircraft or cause interference with radio technical means of an airport shall be subject to approval by the Head of CARO. Persons who violate the established rulings shall perform, at their own costs and by their own resources, demolition, move or necessary change of objects as required by CARO.

Section 8 User charges

8.1 The owners and operators of aircraft are obliged, jointly and severally, to pay to the airport operator, to the provider of air traffic services, meteorological and other services the user charges for the aeronautical facilities and services made available to them. The rate of such charges shall be determined, in observance of international practices, from time to time by the Special Representative of the Secretary-General on the recommendation of the Head of CARO and shall be published in an Administrative Direction. The charges shall not discriminate among the different users. The charges shall be collected by the designated airport operator and shall be remitted to the Kosovo Consolidated Fund in coordination with the Ministry of Finance and Economy in a designated account under control of UNMIK Pillar IV.

8.2 Aircraft involved in search and rescue operations and in humanitarian assistance in case of a natural disaster or state of emergency and aircraft in distress are exempt from the airport and other user charges except when it is otherwise decided by the Head of CARO.

8.3 The airport operator or his representative has the right to delay the departure of any aircraft until its operator pays or presents a suitable guarantee, acceptable to

the airport operator, for the payment of the applicable airport charges and other outstanding bills for services made available.

Chapter 5

Air navigation

Section 9

Flight safety

9.1 On the recommendation of the Head of CARO and after coordination with the appropriate military authorities the Special Representative of the Secretary-General may designate, over Kosovo, airspace of defined dimensions within which

- the flight of civil aircraft is prohibited (“prohibited area”);
- the flight of civil aircraft is restricted in accordance with certain specified conditions (“restricted area”); or
- activities dangerous to the flight of civil aircraft may exist at specified times (“danger area”).

9.2 Any flights of civil aircraft must be performed in a manner to safeguard and protect the safety of the aircraft, its passengers and crew, safety of other aircraft as well as the safety of the persons and property on the surface. All aircraft operators must comply, in Kosovo, with the Rules of the Air set forth in Annex 2 to the Convention on International Civil Aviation and the standards of aircraft operation in Annex 6 to that Convention. Aircraft and its operations have to comply with the principles for the protection of the environment set forth in Annex 16 to the Convention on International Civil Aviation.

9.3 Every commercial aircraft operator must possess an Air Operator Certificate (AOC) issued by the appropriate authority of the State where the operator has his principal place of business. Commercial operation of an aircraft in Kosovo without a valid AOC or in violation of the requirements, conditions or restrictions of that AOC is prohibited and any violations shall be severely punishable under Section 20 of the present Regulation.

9.4 Every aircraft operator must possess and keep in force and adequate insurance policy covering his liability for any damage that could arise from the aircraft operation.

9.5 Each flight of an aircraft shall be performed in accordance with the approved flight plan submitted by the aircraft operator to the authorized air traffic service organization.

9.6 Aerobatic flights and flights of aircraft at low altitudes over the inhabited areas or gathering of people may be performed only in accordance with a special permission of the Head of CARO.

Section 10
Documents on board aircraft

10.1 Each aircraft operating in Kosovo must have on board the following documentation:

- (a) certificate of registration
- (b) certificate of airworthiness
- (c) appropriate licenses for each member of the crew
- (d) journey log book
- (e) permission to install and use radio equipment
- (f) aircraft flight operation manual
- (g) list of passengers, if any, with indication of their places of embarkation and disembarkation
- (h) cargo manifest and a detailed declaration of the cargo.
- (i) aircraft journey logbook
- (j) Air Operator's Certificate (AOC), where applicable

(k) other documents as may be specified by CARO.

10.2 Officials of CARO are entitled to request the presentation of the documents listed in sub-Section 1 for the purpose of verification.

Section 11 Dangerous articles

11.1 No munitions of war or implements of war may be carried by a civil aircraft in the airspace of Kosovo, except with a written permission of the Head of CARO.

11.2 No substance likely to create a danger for the aircraft, its passengers and crew or the persons and property on the surface may be carried on board an aircraft in Kosovo otherwise than in compliance with the Standards of Annex 18 to the Convention on International Civil Aviation and the Technical Instructions issued by ICAO thereunder that identify any substances the carriage by air of which is either prohibited or restricted as to quantity, special packaging and marking.

Section 12 Air navigation services

12.1 Air navigation services in Kosovo shall be provided by a service provider designated by the Head of CARO. The services may be provided by a public body or a corporate entity. With the approval of the Special Representative of the Secretary-General, the Head of CARO may delegate the provision of the services in the airspace above Kosovo to the authorities of a contracting State of the ICAO or to a competent international body. Air navigation services shall be provided in conformity with the regional air navigation plan as applicable in accordance with United Nations Security Council resolution 1244 (1999).

12.2 The provision of air navigation services (including, but not being limited to, air traffic services, aeronautical information service, meteorological service for international air navigation) shall comply with the standards of relevant Annexes to the Convention on International Civil Aviation and shall be provided to all civil aircraft in the airspace above the territory of Kosovo regardless of their nationality or the nationality of their operator.

12.3 User charges for the air traffic services made available to aircraft shall be collected in conformity with Section 8 of the present Regulation.

Section 13
Search and rescue

13.1 All organs and authorities in Kosovo, corporations and physical persons are obliged to assist, under the supervision of the Head of CARO and according to his directives, in search and rescue operations in relation to any aircraft in distress, missing aircraft and aircraft after its emergency landing or accident with a view to save human lives and property, to prevent further damage and to safeguard any evidence essential for the appropriate investigation. Subject to approval by the Special Representative of the Secretary-General, the Head of CARO may request a contracting State of ICAO to assist in search and rescue operations in Kosovo.

13.2 The aeronautical search and rescue in Kosovo shall comply with the standards of Annex 12 to the Convention on International Civil Aviation and be in conformity with the applicable regional air navigation plan as applicable in accordance with United Nations Security Council resolution 1244 (1999).

13.3 The provisions of this Section shall also apply in cases of natural disasters or other emergencies requiring aeronautical assistance.

Section 14
Aircraft accident and incident investigation

14.1 In the event of an accident to a civil aircraft occurring in Kosovo and involving death or serious injury, or indicating a serious technical defect in the aircraft or air navigation facilities, an inquiry shall be initiated by the Head of CARO into the circumstances of the accident. Such inquiry shall be carried out by a body of experts appointed by the Special Representative of the Secretary-General and independent of CARO.

14.2 The purpose of the inquiry shall be to determine the probable cause or causes of the accident and to prevent the repetition of similar accidents; it shall not seek to attribute blame or liability and shall not prejudge any other investigation that may be undertaken by any other organ.

14.3 The investigation shall be conducted in conformity with the provision of Annex 13 to the Convention on International Civil Aviation. The State where the aircraft is registered, the State of the manufacturer of the aircraft and the State of the principal place of business of its operator shall be given the opportunity to appoint accredited representatives to be present at the inquiry and any findings of the inquiry shall be communicated to such States, as well as to ICAO. Observers from other States may be invited to attend the inquiry at the discretion of the body of experts conducting the investigation.

14.4 Nothing in the present Regulation prevents other competent organs from conducting their own investigation of an accident or incident for purposes within their specific competence.

Chapter 6

Air transport

Section 15

Facilitation

15.1 CARO shall elaborate, in consultation with other appropriate authorities in Kosovo, Administrative Directions for approval by the Special Representative of the Secretary-General to facilitate and expedite international air transport by coordinating and simplifying the procedures relating to travel documents, cargo documentation, customs, health and other requirements in international carriage by air compatible to the highest practicable degree with the provisions of Annex 9 to the Convention on International Civil Aviation.

15.2 The measures of facilitation of air transport shall be without prejudice to measures necessary to maintain aviation security, protection of health and prevention of the import or export of prohibited articles or substances.

Section 16

Air transport

16.1 Carriage by air from, to and within Kosovo of persons, baggage, cargo and mail for remuneration or hire may be performed by an air carrier on the basis of a Kosovo Air Carrier's Permit. Such permit shall be issued by the Head of CARO after an approval by the Special Representative of the Secretary-General if it is in

the public interest for Kosovo or on the basis of an agreement between UNMIK and the State of the operator, provided the air carrier:

- (a) has a lawful possession and use of aircraft registered in a contracting state of ICAO with a valid certificate of airworthiness issued or rendered valid by the State of registration;
- (b) has an AOC and air carrier's permit for the particular category of air transport issued or rendered valid by the State where the carrier is incorporated or where the carrier has his principal place of business;
- (c) has a substantial ownership and effective control of the assets of the airline;
- (d) proves that he possesses adequate liability insurance for damage that may arise out of the transport operations, and
- (e) has an adequate security program to prevent acts of unlawful interference with civil aviation.

16.2 The Special Representative of the Secretary-General may appoint an air carrier as the "Kosovo designated air carrier" if that carrier meets the conditions of Subsection 1 above and subject to other conditions that may be determined by the Special Representative of the Secretary-General.

16.3 The Kosovo designated air carrier's permit may be suspended or revoked by CARO if the air carrier ceases to meet the prescribed conditions.

Section 17 Conditions of carriage

17.1 The conditions of carriage of passengers, baggage, cargo and mail are governed by the air carrier's tariff which is subject, for flights to and from Kosovo, to approval by CARO.

17.2 The provisions of the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal, 1999 – Schedule 1) is hereby declared applicable in Kosovo for all contracts of carriage by air of passengers, baggage and

cargo where Kosovo is a point of origin, point of destination or an agreed stopping place.

Chapter 7

Other aeronautical activities

Section 18

Other aeronautical activities

18.1 Any aeronautical activities in which the aircraft operator uses an aircraft to perform work for remuneration or hire (including sightseeing flights, aeronautical training, aerial photography, mapping, crop dusting, etc.) may be performed only on the basis of a license issued by CARO. Such a license may be issued to any applicant (domestic or foreign) upon proof that the aircraft to be used for aeronautical work is registered in a contracting State of ICAO, has a valid certificate of airworthiness issued or rendered valid by that State, that the aviation personnel involved are properly licensed for their functions and that the operator possesses a valid AOC and adequate insurance for liability that may arise in connection with the planned activities.

18.2 Aeronautical schools offering aeronautical instruction and training in Kosovo must be authorized to operate by CARO and the instructors must possess an instructor-pilot license issued or rendered valid by a contracting State of ICAO in which the aircraft is registered; such schools must carry an adequate insurance for liability that may arise out of their activity.

Chapter 8

Aviation security

Section 19

Aviation security

19.1 CARO, in cooperation with the appropriate bodies of the UNMIK shall prepare for Special Representative of the Secretary-General's approval, within 120 days from the date of applicability of the present Regulation, a draft Kosovo program of aviation security to protect civil aviation in Kosovo against acts of unlawful interference. The purpose of the program shall be to prevent and suppress any criminal acts aimed against the safety of civil aviation and its facilities or any

misuse of civil aviation in conformity with Annex 17 to the Convention on International Civil Aviation. The program will include, for application in Kosovo, the relevant provisions of the following international instruments adopted under the auspices of the ICAO:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963 – Schedule 2);
- Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 1970 – Schedule 3);
- Convention on the Suppression of Unlawful Interference with Civil Aviation (Montreal, 1971 – Schedule 4);
- Protocol to the Montreal Convention of 1971 on Unlawful Acts of Violence Committed at Airports Serving International Civil Aviation (Montreal, 1988 – Schedule 5), and
- Convention on the Marking of Plastic Explosives for the Purpose of detection (Montreal, 1991 – Schedule 6).

19.2 CARO shall represent the interests and needs of civil aviation in any appropriate bodies in Kosovo dealing with aviation security.

19.3 Each operator of an airport and each certified air carrier shall prepare, subject to the approval by CARO and in consultation with other appropriate authorities in Kosovo, a program of protection of civil aviation and its facilities against unlawful interference within their sphere of activities. Such plan shall determine the preventive measures, the required personnel and their training and the measures and procedures to be applied.

19.4 All persons in Kosovo involved in the operation of aircraft or in the carriage by air are obliged to subject themselves, their baggage and goods to security screening and search as directed by the appropriate authority. Such authorities may exclude from the carriage by air any person who refuses to undergo the required screening and search or has in his possession articles which may be used to compromise aviation security. Officials of the UN/UNMIK, foreign government personnel on official missions, their baggage, cargo and diplomatic mail are not exempt from such screening and search but the procedure and conditions of their screening and search shall follow internationally established practices.

Chapter 9
Penal provisions

Section 20
Penal provisions

20.1 Acts of unlawful interference with civil aviation under the Kosovo Aviation Security Program shall be deemed to be offences subject to penalties under UNMIK Regulation No. 2003/25 of 6 July 2003 on the Provisional Criminal Code of Kosovo.

20.2 In their administrative authority CARO and its Head may impose fines not exceeding euro 25, 000 on a physical person or euro 1, 000,000 on a corporate entity violating the provisions of the present Regulation or the related Administrative Directions, e.g., by acting without the necessary certificate, permit or license or contrary to the conditions stipulated in such certificates, permits or licenses or otherwise violating the provisions of the present Regulation or Administrative Directions.

20.3 CARO may also suspend or revoke any certificate, permit or license of any person or entity to which such violation is attributable.

20.4 The penal decision of CARO may be appealed to the Special Representative of the Secretary-General who, in his discretion, may confirm it, amend or rescind it or may refer the matter to a judicial review.

Chapter 10
Final provisions

Section 21
Final provisions

21.1 All existing permits, certificates, licenses and concessions shall remain valid only for a period of 120 days from the date of entry into force of the present Regulation and must be, before that date, replaced by new decisions under the present Regulation.

21.2 The texts of the ICAO Annexes to the Convention on International civil Aviation and the texts of the Schedules referred to in the present Regulation are

deposited with the Special Representative of the Secretary-General and with the Head of CARO and interested parties may obtain their copies at cost.

21.3 The present Regulation is of interim duration, concurrent with the interim administration by the Special Representative of the Secretary-General, in conformity with United Nations Security Council Resolution 1244 (1999).

Section 22
Entry into force

The present regulation shall enter into force on 23 February 2004.

Harri Holkeri
Special Representative of the Secretary-General