

Luftfahrt-Bundesamt

Announcement of the general ruling for granting an exemption from the obligation to submit air carrier security programmes for air carriers exclusively engaged in operations with aircraft having a maximum weight of up to 5.7 tons pursuant to § 9 para 1 sentence 2 LuftSiG (Aviation Security Act)

Dated 26 July 2017

The Luftfahrt-Bundesamt adopts the following

I.

General ruling

1. An exemption is granted from the obligation to submit the air carrier security programme for air carriers exclusively engaged in operations with aircraft having a maximum weight of up to 5.7 tons.
2. The exemption from the obligation to submit an air carrier security programme does not apply for the granting of special air carrier security programmes for admissions into the airspace with flight restrictions ED-R 146 (Berlin).
3. In the individual case, the Luftfahrt-Bundesamt may, by derogation from point 1, require the presentation of an air carrier security programme, if deemed necessary.
4. This general ruling is issued subject to the partial or complete revocation at any time and may be accompanied by collateral clauses at any time.

II.

Justification

The general ruling is based on § 9 para 1 sentence 2 LuftSiG according to which the Luftfahrt-Bundesamt as competent aviation security authority may grant exemptions from the obligation to submit air carrier security programmes of air carriers in terms of § 16 para 3 sentence 1 LuftSiG.

In the present case, the Luftfahrt-Bundesamt makes use of this possibility since, currently, a general obligation to submit air carrier security programmes for air carriers exclusively engaged in operations with aircraft having a maximum weight of up to 5.7 tons is not deemed necessary.

To avoid misunderstanding, it is expressly stated that the regulation under point 1 of this general ruling does not release the air carriers concerned from the principal obligation to draw up an air carrier security programme and to carry out the security measures to be determined in this programme.

In accordance with article 13 para 1 sentence 1 of Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 (OJ L 97, 9.4.2008, p. 72) in conjunction with § 9 para 1 sentence 2 LuftSiG, every air carrier shall draw up, apply and maintain an air carrier security programme for protection against attacks on aviation security. This programme shall lay down methods and procedures as well as quality assurance measures applied by the air carrier to avert dangers regarding aviation security in particular aircraft hijacking, acts of sabotage and terrorist attacks.

This exemption only releases from the obligation to submit the air carrier security programme to the Luftfahrt-Bundesamt.

The regulation under point 2 is required, since authorizations for admissions into the airspace with flight restrictions ED-R 146 (Berlin) are granted by the BAF (Federal Supervisory Authority for Air Navigation Services) only after approval of an air carrier security programme.

Point 3 ensures that, in the individual case, the Luftfahrt-Bundesamt may also oblige air carriers exclusively engaged in operations with aircraft having a maximum weight of up to 5.7 tons to submit the air carrier security programme, if deemed necessary. This may be required, if an air carrier operates in the so-called high-risk sector.

The reserve of revocation pursuant to § 36 para 2 no 3 of the Law of Administrative Proceedings under point 4 ensures that the Luftfahrt-Bundesamt may react to new circumstances and requirements in a timely manner. A revocation is taken into consideration, in particular if there are any changes in the risk assessment of the aviation security situation.

III.

Entry into force

IV.

Instructions about available legal remedies

An appeal to this general ruling may be raised within one month following notification and must be submitted in writing or for recording at the Luftfahrt-Bundesamt, Hermann-Blenk-Str. 26, 38108 Braunschweig.

Braunschweig, 26 July 2017

Luftfahrt-Bundesamt

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