

AGREEMENT

ON THE

DELEGATION OF AIR TRAFFIC SERVICES

preamble

A g r e e m e n t

between

the Government of Republic of North Macedonia

and

Council of Ministers of the Republic of Albania

***on the delegation of air traffic services
in a portion of the airspace above Ohrid Lake***

The Government of the Republic of North Macedonia as the Providing State and the Council of Ministers of Republic of Albania as the Delegating State (hereinafter: "the Contracting States")

Desiring to facilitate the safe conduct of international flight operations across their common State boundaries, in Ohrid, St.Paul The Apostle Airport, in the interests of the airspace users and their passengers;

For the purpose of promoting air traffic services relations between the Contracting States for their mutual benefit;

Being Parties to the Convention on International Civil Aviation, opened for signature at Chicago on December 7, 1944 (hereinafter: "Chicago Convention") desiring to conclude an agreement for the purpose of providing Air Traffic Services according to the international Standards and Recommended Practices set out in Annex 11 to the Chicago Convention, across and beyond their respective territories;

Referring to the ECAC Institutional Strategy for ATM in Europe and the Protocol consolidating the EUROCONTROL International Convention relating to Cooperation for the Safety of Air Navigation, which was opened for signature on 27 June 1997 (the revised Convention);

Recognizing that the conclusion of an agreement between States regarding the delegation of ATS shall not prejudice the principle that every State has complete and exclusive sovereignty over the airspace above its territory or the capacity of every State to exercise its prerogatives with regard to security and defense in its national airspace;

Recognizing that the aim of this agreement is to address legal and institutional aspects of the delegation of ATS and to allow lower level authorities involved to negotiate and conclude Letter of Agreement containing the specific operational and technical aspects related to these matters.

Have agreed as follows:

Article 1 Definitions

For the purpose of this Agreement, unless otherwise stated, the term:

- 1) "*Agreement*" means this Agreement, its Appendices and any amendments thereto.
- 2) "*Air Traffic Service*" as a generic term includes flight information service, alerting service, air traffic advisory service, air traffic control service provided by the Contracting States.
- 3) "*Appropriate ATS authority*" means the relevant authority designated by the Contracting State responsible for providing air traffic services in the airspace concerned.
- 4) "*Chicago Convention*" means the Convention on International Civil Aviation, opened for signature at Chicago on December 7, 1944 and includes:
 - a) any amendment thereof that has been ratified by both Contracting States and has entered into force under Article 94a of the Convention, and
 - b) any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as the international Standards referred to in Article 37 of the Convention in such Annex or amendment are at any given time effective for both Contracting States.
- 5) "*Competent Authorities*" (CA) means one or more entities designated by a Contracting State and having the necessary powers and allocated responsibilities for performing the tasks related to certification, oversight and enforcement.

- (6) "*Delegation of ATS*" means the delegation from one State (the Delegating State) to another State (the Providing State) of the responsibility for providing air traffic services in a portion of airspace extending over the territories of the former.
- (7) "*GAT*" or *General Air Traffic* means flights conducted in accordance with the rules and provisions of ICAO.
- (8) "*OAT*" or *Operational Air Traffic* means flights which do not comply with the provisions stated for GAT and for which rules and procedures have been specified by the appropriate authorities.
- (9) "*Territory*" in relation to a State, has the meaning specified in Article 2 of the Chicago Convention.

Article 2
Authorization to Lower Level
Authorities (CA/ATS Unit /ATS Authorities)

- (1) The Contracting States agree that the responsibility for control of air traffic shall be transferred from an ATS unit of the Delegating State to another ATS unit in a neighboring Providing State, according to the provisions set forth in Annex 11 and under the terms of this Agreement.
- (2) The control information pertinent to the transfer shall be exchanged between the ATS units concerned having due regard to the national regulations in force and to the local circumstances.
- (3) The Delegating State agrees that the appropriate ATS Unit of the Providing State will provide air traffic services in a portion of the airspace of the Delegating State, in accordance with the terms of this Agreement.
- (4) To that effect the Contracting States authorize their appropriate ATS Units to conclude Letter of Agreement (LoA).
- (5) This Letter of Agreement (LoA) shall define the portion of airspace concerned and specify the rules and procedures to be applied in accordance with the provisions of this Agreement and shall follow the structure of the EUROCONTROL Common Format, Letter of Agreement (hereinafter: the *Common Format LoA*).
- (6) Contracting States authorize their appropriate Competent Authorities to conclude Letter of Agreement (LoA) on the oversight for the services provided in a portion of the airspace of the Delegating State.

Article 3 Application of Rules and Procedures

- 1) The rules and procedures pertaining to the provision of ATS in the Providing State shall apply when providing ATS in a portion of the airspace of the Delegating State.
- 2) Both the Delegating and Providing State shall keep each other advised of any changes in the operational status of their communication and/or navigation facilities which may have an influence on the provision of ATS in the portion of airspace within which the responsibility for the provision of ATS is delegated.

Article 4 Financial Arrangements

- 1) Each Contracting State shall bear the costs of any activity performed by it under this Agreement, unless otherwise agreed by the Contracting States.
- 2) The introduction of financial arrangements requires prior written agreement between the appropriate representatives of the Contracting States.

Article 5 Civil Liability

- 1) The Providing State shall be liable for the damage caused by its negligence, or that of its agents or of any other person acting on its behalf, under the provisions of this Agreement.
- 2) Claims against the Providing State, its agents or any other person acting on its behalf shall be made in the courts, and subject to the law of the Providing State.
- 3) The Delegating State may bring an action against the Providing State to recover any compensation or costs paid or incurred as a result of loss or damage caused by the negligence of the Providing State, its agents or any other person acting on its behalf, while applying the provisions of this Agreement.
- 4) The Providing State shall be responsible for the damages which might be caused by the service provider in relation to this Agreement.

Article 6 Certification, Licensing, Training and ongoing oversight

- 1) The Contracting States agree that the ANSP certificate an air traffic controller license issued by the Providing State is valid for the provision of air traffic services in the portion of the airspace of the Delegating State within which the responsibility for the provision of ATS is delegated.

- (2) The training of ATS personnel of the Providing State providing ATS in the portion of airspace of the Delegating State shall include the requirements pertaining to the airspace concerned.
- (3) The ongoing oversight will be conducted as per the agreement of the Competent Authorities based on Article 2 paragraph (6).

Article 7 State Aircraft

- (1) State Aircraft other than those of the Delegating State shall not enter that portion of airspace where the responsibility for the provision of ATS has been delegated without prior Diplomatic Clearance or special permission from the Delegating State.
- (2) For State aircraft operating as GAT the same rules and procedures are to be applied as for Civil Air Traffic, but where necessary, special procedures should be established to permit their access to the airspace. OAT shall be subject to prior coordination between the military unit and the ATS Unit concerned.

Article 8 Coordination and Contingency Procedures for Military and Other Reasons

- (1) Letter of Agreement (LoA) shall be supplemented by coordination and contingency procedures established by the Units concerned.
- (2) The ATS Unit of the Providing State shall provide the appropriate military Authorities/Units of the Delegating State with pertinent flight plans and other data concerning the flights in the airspace where the responsibility for the provision of ATS has been delegated.

Article 9 Search and Rescue

- (1) Contracting States authorize their national rescue coordination centers to establish a coordination agreement to facilitate SAR in the area concerned as prescribed in ICAO annex 12 chapter 3.
- (2) Coverage with the SAR Service shall be harmonized at the beginning of the year through bilateral Letter of Agreement LoA (annual clearance) for support in case of an aviation accident.

Article 10 Publication

Contracting States shall agree upon the content of and publish all relevant information regarding the portion of airspace, where the responsibility for the provision of ATS has been delegated, in their Aeronautical Information Package as defined in Annex 15 to the Chicago Convention.

Article 11 Investigation of Accidents or Serious Incidents

- (1) The Delegating State will institute an inquiry into the circumstances of accidents or serious incidents occurring in its territory.
- (2) The initial investigation shall be carried out from the Contracting State ATS Unit at which the air traffic incident has been reported.
- (3) At its request, the Delegating State shall be provided with the necessary materials from the ATS Unit of the Providing State (e.g. radar data recordings, tape transcriptions, etc.) in order to enable it to conduct an inquiry into an accident or serious incident occurring in the Delegating State's territory.
- (4) The Providing State shall be given the opportunity to appoint observers to be present at the inquiry and the Delegating State shall communicate the report and findings of the inquiry to that State.

Article 12 Dispute Resolution

- (1) If any dispute arises between the Contracting States regarding the interpretation or application of any provision of this Agreement, the Contracting States shall in the first place endeavor to settle it by negotiation.
- (2) If the Contracting States are unable to resolve any disagreement by negotiation, the dispute shall be submitted for final decision to a third party (arbitration) designated by both Contracting States, in accordance with the rules of International Chamber of ICC Paris as in force and the Swiss obligatory law will be applied.
- (3) The costs of arbitration, including its fees and expenses, shall be shared equally by the Contracting States.

Article 13 Termination/Suspension

- (1) This Agreement may be terminated by either Contracting State at any time by written notice to the other Contracting State. The termination shall become effective six months after the date of receipt of such notice by the other

Contracting State.

- ¶(2) In the event of war, during a period of emergency or in the interest of public safety, or in other exceptional circumstances, each Contracting State has the right to suspend or terminate the Agreement with immediate effect and shall notify the other Contracting State accordingly.
- ¶(3) The Letter of Agreement referred to in Article 2 (5) shall contain provisions regarding their suspension and termination.

Article 14 Entry into Force

¶ This Agreement shall enter into force as soon as the Contracting States have notified each other in writing of the completion of their respective legal requirements.

Article 15 Amendments

- ¶(1) If a Contracting State considers it desirable to amend any provisions of this Agreement, it may request consultations with the other Contracting State. Any amendments agreed by the Contracting States shall come into force when they have been confirmed by an exchange of diplomatic notes.
- ¶(2) Amendments to the LoA as prescribed in Article 2, paragraphs (4) and (5), may be jointly determined by the appropriate ATS Units/Authorities of the Contracting States, but shall not contradict the provisions of this agreement.

Article 16 Transitional Measures for Agreements Already in Operation

¶ Agreements which are in operation on the date of entry into force of this Agreement shall be assessed for possible revision in accordance with the provisions set out in this Agreement.

**Article 17
ICAO Registration**

This Agreement shall be registered with the ICAO Council, in accordance with the provisions of Article 83 of the Chicago Convention.

In witness whereof, the undersigned, being duly authorized by their respective governments, have signed this Agreement.

Done in duplicate at SKOPJE ON 14.11. this day of 2022 in the English, Macedonian and Albanian languages. In case of any divergence of interpretation of the text, the English one shall prevail.

For the Government of the
Republic of North Macedonia



Blagoj Bochvareki
Minister of Transport and
Communications

For the Council of Ministers of the
Republic of Albania



Bejinda Balluku
Vice Prime Minister and Minister
Infrastructure and Energy