



# Explanatory Note to Decision 2016/004/R

## Carriage of special categories of passengers

### AMC to Part-ORO — Issue 2, Amendment 6, and AMC and GM to Part-CAT — Issue 2, Amendment 5

RELATED NPA/CRD 2014-01 — RMT.269 & RMT.0270 (MDM.072 (A) & (B)) — 22.1.2016

#### EXECUTIVE SUMMARY

This Decision addresses a safety issue related to the safe carriage of special categories of passengers (SCPs). SCPs are persons with reduced mobility (PRMs), infants and unaccompanied children, deportees, inadmissible passengers, or prisoners in custody. Studies have shown that 90 % of accidents are categorised as ‘survivable’. Therefore, procedures on the safe carriage of SCPs are expected to positively influence the survivability of all passengers and crew members in case of an emergency.

This Decision introduces changes to acceptable means of compliance (AMC)/guidance material (GM) in order to ensure a practicable and cost-efficient framework for the carriage of SCPs. These changes are based on passenger rights and anti-discrimination regulations such as Regulation (EC) No 1107/2006 and will provide operators with more reliable tools to mitigate SCP-related risks and hazards.

Through the above-mentioned changes, the following effective risk mitigating measures whenever SCPs are carried by air are established:

- Guidelines on establishing the maximum number of SCPs to be carried;
- GM to assist operators when developing safety information procedures for some SCPs and accompanying passengers or persons sitting next to SCPs;
- GM to assist operators when developing procedures on safe seating allocations of some SCPs and accompanying passengers or persons sitting next to SCPs; and
- AMC regarding cabin crew training.

This Decision amends ED Decision 2014/017/R (Part-ORO) and ED Decision 2014/015/R (Part-CAT). It only applies to European commercial air transport (CAT) operators and is related to Regulation (EU) No 965/2012 on Air Operations.

Applicability		Process map	
Affected regulations and decisions:	Decision 2014/017/R (Part-ORO) Decision 2014/015/R (Part-CAT)	Concept paper:	No
Affected stakeholders:	Passengers, EU operators, cabin crew	Terms of Reference:	17.2.2012
Driver/origin:	Safety (Recommendations from a study conducted by TÜV Rheinland commissioned by EASA)	Rulemaking group:	Yes
Reference:	N/A	RIA type:	Full
		Technical consultation during NPA drafting:	No
		Publication date of the NPA:	8.1.2014
		Duration of NPA consultation:	4 months
		Review group:	Yes
		Focused consultation:	N/A
		Publication date of the CRD:	23.04.2015



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## 1. Procedural information

### 1.1. The rule development procedure

The European Aviation Safety Agency (hereinafter referred to as the 'Agency') developed this Decision in line with Regulation (EC) No 216/2008<sup>1</sup> (hereinafter referred to as the 'Basic Regulation') and the Rulemaking Procedure<sup>2</sup>.

The SCP rulemaking activity is included in the [Agency's Rulemaking Programme](#) under RMT.0269 & RMT.0270 (MDM.072 (a) & (b)). The scope and timescale of the task were defined in the related Terms of Reference<sup>3</sup>.

The draft text of this Decision has been developed by the Agency based on the input of the Rulemaking Group RMT.0269 & RMT.0270, including representatives from cabin crew organisations, operators (long-haul, charter and low-cost), national aviation authorities (NAAs) and aircraft manufacturers. All interested parties were consulted through NPA 2014-01<sup>4</sup> and CRD 2014-01<sup>5</sup> which received 190 and 10 comments respectively.<sup>6</sup>

The Agency has reviewed the comments received on the NPA. Said comments as well as the Agency's responses thereto were presented in Comment-Response Document (CRD) 2014-01.

The final text of this Decision with the AMC/GM has been developed by the Agency based on the comments received on the CRD and the input of the Review Group.

The process map on the title page contains the major milestones of this rulemaking activity.

### 1.2. Structure of the related documents

Chapter 1 contains the procedural information related to this task. Chapter 2 explains the core technical content. The text of the AMC/GM is annexed to the ED Decision.

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<sup>1</sup> Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1).

<sup>2</sup> The Agency is bound to follow a structured rulemaking process as required by Article 52(1) of the Basic Regulation. Such process has been adopted by the Agency's Management Board and is referred to as the 'Rulemaking Procedure'. See Management Board (MB) Decision 01-2012 of 13 March 2012 concerning the procedure to be applied by the Agency for the issuing of Opinions, Certification Specifications and Guidance Material (Rulemaking Procedure).

<sup>3</sup> <http://easa.europa.eu/rulemaking/terms-of-reference-and-group-composition.php#MDM>

<sup>4</sup> <http://easa.europa.eu/document-library/notices-of-proposed-amendments/npa-2014-01>

<sup>5</sup> <http://easa.europa.eu/document-library/comment-response-documents/crd-2014-01>

<sup>6</sup> In accordance with Article 52 of the Basic Regulation and Articles 5(3) and 6 of the Rulemaking Procedure.



## 2. Explanatory Note

### 2.1. Overview of the issues to be addressed

This Decision amends ED Decision 2014/017/R (Part-ORO) and ED Decision 2014/015/R (Part-CAT). It only applies to European CAT operators and is related to Regulation (EU) No 965/2012<sup>7</sup> on Air Operations. When envisaging the present rulemaking task, the Agency saw no need for amending the implementing rules (IRs) of Regulation (EU) No 965/2012 on carriage of SCPs. Instead, the Agency amended the AMC/GM associated with the IRs.

SCPs are Persons with Reduced Mobility (PRMs), infants and unaccompanied children, deportees, inadmissible passengers, or prisoners in custody. Studies have shown that 90 % of accidents are categorised as 'survivable'. Therefore, procedures on the safe carriage of SCPs are expected to positively influence the survivability all passengers and crew members in case of an emergency.

As described in more detail in the NPA, the need to improve the safe carriage of SCPs is underpinned by a thorough analysis of the recommendations stemming from the wide-ranging study from TÜV Rheinland (commissioned by the Agency) on the carriage of SCPs.

When looking at the safety risks stemming from the carriage of other categories of SCPs, the Rulemaking Group agreed with the assessment of the TÜV Rheinland study. This study concluded that passengers on stretchers, children, infants, extremely obese passengers, and non-ambulatory passengers bear the highest risk to themselves, while the highest risk to other passengers, whenever SCPs are carried, is induced by non-ambulatory passengers, extremely obese passengers, passengers on stretchers and passengers with very low mobility<sup>8</sup>.

This Decision addresses the following areas:

- Adequate information for some specific categories of SCPs, (e.g. on the most suitable exits);
- Better training of cabin crews on safe carriage of SCPs; and
- Appropriate seating of certain categories of SCPs to avoid delays during an evacuation.

With regard to the safety assistant concept, previous studies have shown that airline policies whether an SCP should travel accompanied or not differ across operators and Member States. A study commissioned by the European Commission stated that: 'the Commission should work with EASA to determine safe policies on carriage of PRMs, in particular to address the wide and unjustifiable variation in airline policies on carriage of PRMs (in particular on numerical limits and circumstances under which PRMs are required to be accompanied)<sup>9</sup>'. For this reason, the EASA NPA and CRD included a proposal for a new AMC on a safety assistant in some very limited clearly described cases, i.e. only when the SCP is unable to unfasten the seat belt; or leave the seat and reach an emergency exit unaided; or retrieve and fit a life jacket; or fit an oxygen mask without assistance; or follow the safety briefing and instructions given by the crew in an emergency situation.

<sup>7</sup> Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1).

<sup>8</sup> TÜV Rheinland study, page 158.

<sup>9</sup> 'Evaluation of Regulation 261/2004' by Steer Davies Gleave on the application and enforcement of the Regulation on air passengers' rights in the EU Member States, June 2010, p. 5.



During the whole length of the consultation process most disability rights organisations, including the European umbrella organisation EDF (the European Disability Forum representing the interests of disability rights organisations across the EU), rejected the proposal to require a safety assistant in some very limited cases, whereas operator and airline associations, as well as most NAAs, agreed with the proposed AMC. Following further considerations, the Agency decided to remove all references to the safety assistant for the following reasons:

- An assessment of operator procedures has demonstrated that many operators have amended their policies concerning accompanying persons;
- According to information received from the European Commission following meetings with national enforcement bodies, the number of complaints by disabled passengers made to national bodies has decreased substantially in the past years across Europe; and
- A continuation of the good cooperation between the Commission and the Agency is planned whenever guidance material is produced to Regulation (EC) No 1107/2006<sup>10</sup>.

## 2.2. Objectives

The overall objectives of the EASA system are defined in Article 2 of the Basic Regulation. This proposal will contribute to the achievement of the overall objectives by addressing the issues outlined in Chapter 2.

The specific objective of this proposal is to improve the level of safety for SCPs, all other passengers, as well as operating crew members whenever SCPs are carried on board.

## 2.3. Outcome of the consultation

CRD 2014-01 contains a detailed analysis and assessment of the comments received.

During the consultation process of the NPA and the CRD, the following main topics of discussion were identified which are described in detail in Chapter 2 of the CRD. These topics are the following:

- **Definition and age limit of the safety assistant**
  - The Agency decided to remove all references to the safety assistant, including also the definition of the safety assistant previously contained in a proposed new Guidance Material to Annex I (Definitions) to Regulation (EU) No 965/2012.
  - The NPA proposed a minimum age of the safety assistant. Some comments received on the CRD disagreed with an age limit of 18 years, raising the concern that the proposed age limit of 18 years of age may preclude a fellow travelling companion, including a family member, under the age of 18 years from being able to act as safety assistant. Persons younger than 18 years of age who are physically and mentally able to follow crew instructions, and assist in an emergency situation or evacuation of the SCP, may be capable of fulfilling the role of safety assistant. The information provided to SCP and safety assistant should enable them to respond appropriately in an emergency situation. Setting a limit of 18 years would unduly impact on an SCP's ability to travel. It may also prevent an

<sup>10</sup> Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (OJ L 204, 26.7.2006, p. 1).



SCP from being able to travel with a safety assistant who best knows the particular needs of the SCP; for example, a family member or close companion.

— **Safety assistants in limited clearly described cases and more than one safety assistant needed**

Most disability rights organisations rejected the proposal to require a safety assistant in some very limited clearly described cases. All operator and airline associations, as well as most NAAs, agreed with the proposed AMC.

- The Agency carefully assessed the comments received on the AMC. Today's variety of different requirements is confusing and has been identified by the European Commission as an area in need of EU-wide safety requirements.
- The Agency continues to believe that the clear examples included in the AMC (unfasten seat belt, leave the seat and reach an emergency exit unaided, retrieve and fit a life jacket, fit an oxygen mask without assistance, or follow the safety briefing and instructions given by the crew in an emergency situation) are clear and unambiguous. However, given that many operators have amended their policies concerning accompanying persons and safety assistants and given that the number of complaints made to national bodies has decreased in the past years across Europe, the final Decision does no longer include a reference to the concept of the safety assistant in some clearly described cases.
- During the consultation, the Agency received many comments in favour of more than one safety assistant. While the concept of the safety assistant has been removed from the Annex to the Decision (AMC/GM), the Agency would like to emphasise that to impose more than one assistant or accompanying person would likely be contrary to Regulation (EC) No 1107/2006, because it would de facto exclude a significant number of persons with severe disabilities from travelling by air.

— **Management of pre-flight information and workload of cabin crew**

This Decision includes GM related to information provided to SCPs. The Decision includes general information items, as well as specific information items for certain SCP categories. Some commentators stated that it would be impossible for an operator to ensure that all of the SCPs listed in the GM, who would benefit from additional information, have actually received this information prior to take-off. The Agency has responded that the information items are contained in GM, because the Decision acknowledges the fact that information may not always be provided, e.g. in cases where the disability is not known to the operator. Specific information items, e.g. informing parents travelling with lap-held infants on the brace position is already provided by many operators.

- This Decision ensures that the operator will decide how to inform passengers. The GM is destined to be used by operators when developing procedures for the carriage of SCPs. This means that the operator will identify general procedures that are tailored to its operation and business model.
- The Agency is fully aware that most SCPs do not pre-notify. In addition, due to online check-in procedures, it will not always be possible in all cases to provide such information to all passengers. For this reason, the information items are contained in GM and this Decision specifies that information can already be provided during the booking process.



This is also in line with the European Commission's Interpretative Guidelines<sup>11</sup> on the application of Regulation (EC) No 1107/2006.

— **Maximum number of SCPs on board**

Some commentators requested to impose a stricter limit on the number of SCPs on board, whereas other commentators rejected the AMC to Part-CAT already published in 2012, which states that the maximum number of SCPs should not exceed the number of passengers capable of assisting them in case of an emergency evacuation. According to those commentators, the AMC is discriminatory and aircraft should be designed and operations planned in such a way that an unlimited number of SCPs can travel in the cabin in a given flight.

- In line with recommendations from the TÜV Rheinland study, the Agency does not propose any additional limits. The Agency agrees that pre-notification rates in the EU are too low, but also notes that pre-notification cannot be imposed under Regulation (EC) No 1107/2006, except where passengers travel with certain kinds of mobility or medical equipment, e.g. electric wheelchairs, portable oxygen containers.
- The Agency maintains the existing AMC1 CAT.OP.MPA.155(b). While being an AMC, the operator could still fly with a larger number of SCPs applying the alternative means of compliance procedure.

— **Information for passengers whose physical size would possibly prevent them from passing through some emergency exits**

Many commentators stated that the term 'extremely obese passengers' is too vague and open to various interpretations. The term 'extremely obese passenger', they argued, should be avoided, since there is no clear definition.

- The Agency agrees with the comment that specific information for passengers whose physical size would possibly prevent them from passing through some emergency exits is not necessary, since the seating allocation should ensure that those passengers are seated nearby suitable exits. Therefore, the GM on information provided to those passengers has not been included in this Decision.
- The GM on passenger seating remains, but the wording has been amended and now clearly states that only those passengers would be considered, whose physical size would possibly prevent them from passing through some emergency exits. This is in line with Regulation (EC) No 1107/2006, which in Article 4.1.(b) refers to passengers where 'the size of the aircraft or its doors makes the embarkation or carriage of that disabled person or person with reduced mobility physically impossible.'

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<sup>11</sup> European Commission, STAFF WORKING DOCUMENT, Interpretative Guidelines, on the application of Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air, 11 June 2012.



— **Group seating of SCPs**

Some airline associations stated that while the GM on avoiding group seating of ‘extremely obese’ passengers and non-ambulatory passengers is supported in principle, from a practical point of view, the implementation of the provisions would be difficult to achieve in an actual operation.

- This Decision contains a GM on passengers seating. This GM will assist operators in establishing a procedure on group seating of SCPs. The GM is not mandatory. Therefore, the operator is not required to check before each flight, that all SCPs have been seated in accordance with the GM.

— **Cabin crew training**

NAA and operators agreed to the proposed AMC (AMC1 ORO.CC.140) on cabin crew training. Some commentators argued that the transition period for the triennial training of cabin crew should be amended. They stated that all AMCs/GMs should apply 18 months after the publication of the Decision except for the AMC on cabin crew training, which should only apply after 4 years.

Two NAAs and one airlines association also commented that while the Regulatory Impact Assessment (RIA) mentioned conversion AND recurrent training, the actual NPA proposal in AMC1 ORO.CC.140 only addresses the operator’s recurrent training. Therefore, the commentators asked that the same text should also be included into the operator’s conversion training and, hence, AMC1 ORO.CC.125(d) should be amended.

- The Agency maintains its NPA proposal that the proposed procedures should apply 18 months (i.e. 1.5 years) following the adoption of the AMC/GM. However, the Agency agrees that the extended transition period to 4 years for cabin crew training elements is necessary to allow operators enough time to amend their training manuals and to adapt the new procedures to their training cycles.
- The Agency agreed with the comments received to align the AMCs for recurrent and conversion training. Therefore, the Agency has amended AMC to ORO.CC.125(d) on conversion training to ensure that cabin crew are also trained on the operator’s SCP procedures during conversion training.

— **Open question on exempting severely disabled children of more than 2 years to be restraint in the lap of the accompanying guardian during critical phases of the flight.**

The NPA requested feedback on whether the rules that require children over the age of 2 years to be seated in a separate seat, should be amended. The rule change would have allowed severely disabled children to remain on the lap of the accompanying adult/guardian also during taxi, take-off and landing and at any other time as the pilot-in-command deems necessary.

- The Agency agrees with the comments, including those from disability rights organisations that a child over the age of 2 years with disabilities should not be placed on the lap of the accompanying adult.
- The Agency already stated in the CRD that ideally a restraint device should enable the disabled child to stay in its own seat. Therefore, the Agency concludes that other options



should be explored with manufacturers of disability restraint aids. Therefore, the option of amending the IR to allow severely disabled children to sit on the lap of their accompanying adult/parent during critical phase of flight (taxi, take-off and landing) was no longer pursued in the CRD.

#### 2.4. Summary of the Regulatory Impact Assessment (RIA)

The complete RIA related to the present rulemaking task can be found in Chapter 4 of the NPA.

The RIA assesses the safety, economic and social impact of each option. It also looks at how any given option fares in the context of international cooperation. The RIA addresses a number of effective risk mitigating measures that will improve safety of all passengers whenever SCPs are on board:

- Adequate briefing for some categories of SCPs, e.g. on the most suitable exits. This will improve safety, because the briefing will prevent delays in eventual evacuation or delaying behaviour in an emergency situation, which presents a safety risk for SCPs and other passengers;
- Better training of cabin crews will improve safety;
- Inappropriate seating of certain categories of SCPs has been identified by the TÜV Rheinland study as a major safety risk, because it can hinder or seriously delay quick evacuation of passengers. In addition, group seating of passengers in the same seat row, whose physical size would possibly impede their moving quickly or reaching and passing through an emergency exit, could put additional strain on the seat structure with safety risks to the SCPs themselves and passengers sitting in the vicinity.
- Previous studies have shown that today, safety requirements for safety assistants, i.e. accompanying persons or safety assistants, differ across operators and Member States. The variety of different requirements is confusing and has been identified by the European Commission as an area in need of EU-wide safety requirements. Regulation (EC) No 1107/2006 prohibits an operator from refusing carriage to a PRM, i.e. an SCP. The European Commission's Interpretative Guidelines on the application of Regulation (EC) No 1107/2006<sup>12</sup>, state that 'air carriers can require PRMs to travel with a safety assistant only for safety reasons'. Since the publication of those studies, airlines have amended their procedures and the number of complaints received by national bodies have decreased.
- Finally, safety risks stemming from certification requirements, such as evacuation test requirements, and specific certification elements, such as minimum number of cabin crew, number and position of cabin crew stations, aisle width, size of emergency exit doors, access to exits considering evacuation of SCPs, have also been assessed in the RIA. When compared to the safety risk mitigating measures mentioned above, e.g. briefing, training, seating and safety assistants in limited cases, the RIA concluded that a change in certification requirements whenever SCPs are carried is not called for, because other mitigating measures (see above) are already believed to be highly effective.

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<sup>12</sup> European Commission, STAFF WORKING DOCUMENT, Interpretative Guidelines, on the application of Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air, 11 June 2012, p. 8.



## 2.5. Overview of the amendments

NPA 2014-01 and CRD 2014-01 provide a detailed description of the amendments originally proposed by the Agency. A summary of the amendments contained in the Annex to the Decision follows below.

### **AMC to Part-ORO (see Annex I to this Decision)**

#### — **Cabin crew training**

- Compared to CRD 2014-01, the AMC has not been amended.
- The transition periods for cabin crew training items has been increased to 4 years to allow operators enough time to amend cabin crew training items and to adapt this training to the three year training cycle of cabin crew training items.

### **AMC/GM to Part-CAT (see Annex II to this Decision)**

#### — **Proposed AMC on a safety assistant**

- Given that many operators have amended their policies concerning accompanying persons and safety assistants and given that the number of complaints made to national bodies has decreased in the past years across Europe, the final Decision does no longer include a reference to the concept of the safety assistant in some clearly described cases.

#### — **GM1 CAT.OP.MPA.155(b) on SCPs travelling with a safety assistant has been deleted**

- The Agency agrees that SCPs cannot be required to travel with more than one assistant/accompanying person. To impose more than one assistant would be contrary to Regulation (EC) No 1107/2006. In addition, more than one safety assistant would de facto exclude a significant number of persons with severe disabilities from travelling by air and would therefore not be in line with Regulation (EC) No 1107/2006.

#### — **Seating allocation of passengers whose physical size would possibly prevent them from passing through some emergency exits**

- The Agency has slightly amended the wording of GM2 CAT.OP.MPA.155(c), which now refers to passengers whose physical size would possibly prevent them from passing through some emergency exits. This wording is in line with Regulation (EC) No 1107/2006 (Article 4.1(b)).



### 3. References

#### 3.1. Related regulations

Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1).

#### 3.2. Affected decisions

- Decision 2014/017/R of the Executive Director of the Agency of 24 April 2014 adopting Acceptable Means of Compliance and Guidance Material to Part-ORO of Regulation (EU) No 965/2012 and repealing Decision 2012/017/R of the Executive Director of the Agency of 24 October 2012 — ‘AMC and GM to Part-ORO — Issue 2’
- Decision 2014/015/R of the Executive Director of the Agency of 24 April 2014 adopting Acceptable Means of Compliance and Guidance Material to Part-CAT of Regulation (EU) No 965/2012 and repealing Decision 2012/018/R of the Executive Director of the Agency of 24 October 2012 — ‘AMC and GM to Part-CAT — Issue 2’

#### 3.3. Reference documents

- TÜV Rheinland study on Carriage by Air of Special Categories of Passengers. EASA Contract Number EASA.2008.C.25. 1 December 2009. See also:
  - <http://www.easa.europa.eu/document-library/research-projects/easa2008c25>Please refer to **the extensive reference list** of the TÜV Rheinland study, pages 494–497, which has served as the basis of the Agency’s rulemaking task.
- Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1).
- Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (OJ L 204, 26.7.2006, p. 1).
- ICAO Annex 9 and Annex 6: Part I International Commercial Air Transport Aeroplanes; Chapter 4 Flight operations and Chapter 12 Cabin crew.
- ECAC DOC No 30 (Part I), Section 5 and its Annexes A to G.

