

Pursuant to Article 16 and Article 61(2) of the Law on Administration (Official Gazette of BIH 32/02, 102/09 and 72/17) and Article 14(5) of the Aviation Law of Bosnia and Herzegovina (Official Gazette of BIH 39/09 and 25/18), the Director General of the Bosnia and Herzegovina Directorate of Civil Aviation hereby issues the following

RULEBOOK

ON EXEMPTIONS AND DEROGATIONS FROM THE APPLICATION OF THE PROVISIONS OF REGULATIONS OR PORTIONS OF REGULATIONS ISSUED BY THE BOSNIA AND HERZEGOVINA DIRECTORATE OF CIVIL AVIATION

PART ONE – INTRODUCTORY PROVISIONS

Article 1 (Subject matter)

- (1) This Rulebook lays down the rules for issuing a Decision on the exemption from the application of the provisions of regulations or portions of regulations issued by the Bosnia and Herzegovina Directorate of Civil Aviation (hereinafter: BHDCA) and the rules for issuing a Decision on the derogation from regulations or portions of regulations issued by the BHDCA, on request or ex officio, related to the safe conduct of air traffic and the safety of civil aviation.
- (2) The subject of this Rulebook does not include the exemptions already established by the law governing the field of aviation and regulations issued by the BHDCA.
- (3) The rules for issuing a Decision on exemption upon request are applicable to exemptions referred to in paragraph (2) of this article.

Article 2 (Terms)

The terms used in this Rulebook shall have the following meanings:

- a) **Exemption** - exemption from the application of the provisions of regulations or the provisions of portions of regulations issued by the BHDCA, which, based on a conducted abbreviated administrative procedure, in accordance with the provisions of the law governing the administrative procedure of institutions of Bosnia and Herzegovina, and within the time frame set by the official authorised to conduct the procedure, is issued by the Director General of the BHDCA, either upon request or ex officio, in the case of an unforeseen circumstance that requires urgent operational action or when there is an operational need. This exemption is issued for a limited period of validity which cannot exceed 12 months, or until the specific circumstance or operational need no longer exists, provided the conditions outlined in this Rulebook are met;
- b) **Derogation**: derogation from the application of the provisions of regulations or portions of the provisions of regulations issued by the BHDCA, which, based on the conducted procedure, is issued by the Director General of the BHDCA in the administrative procedure, in cases where the application of the regulation or a portion of the regulation issued by the BHDCA is not possible as prescribed, and where the application of another proposed standard ensures an equal (equivalent) level of safety

/ security required by the regulation from which the derogation is requested. This derogation is issued for a validity period determined by the BHDCA, subject to fulfillment of the conditions contained in this Rulebook.

PART TWO – EXEMPTION

Article 3

(Rules for issuing a Decision on exemption upon request)

- (1) The Director General of the BHDCA shall issue a Decision on exemption from the application of a regulation or a portion of a regulation issued by the BHDCA, based on a submitted request, after conducting a procedure in which the official authorised to conduct the procedure determines that there is an unforeseen circumstance that requires urgent operational action or when there is an operational need of a limited duration.
- (2) Along with a Decision on exemption from the application of a regulation or a portion of a regulation issued by the BHDCA, the Director General of the BHDCA shall also issue an exemption, which forms an integral part of the Decision on exemption.
- (3) A Decision on exemption and an Exemption from the application of the provisions of a regulation or a portion of a regulation issued by the BHDCA shall be issued on the basis of a submitted request, provided that:
 - a) the request is accompanied by a detailed explanation of the unforeseen circumstance that requires urgent operational action; or
 - b) the request is accompanied by a detailed explanation of the operational need which is of a limited duration;
 - c) the explanation in points a) and b) includes a reference to the regulation or portion of the regulation from which the exemption is requested;
 - d) the explanation in points a) and b) includes the time period for which the exemption is requested; and
 - e) the request is accompanied by a detailed risk assessment for the measures demonstrating that the achieved level of safety / security will not be compromised, as established by the provisions of the regulations on the safety management system.

Article 4

(Rules for issuing a Decision on exemption ex officio)

- (1) The Director General of the BHDCA shall issue a Decision on exemption from the application of the provisions of a regulation or portions of the provisions of a regulation issued by the BHDCA ex officio, after conducting a procedure in which the official authorised to conduct the procedure determines that there is an unforeseen circumstance requiring urgent operational action, or when there is an operational need that is of a limited duration.
- (2) Along with a Decision on exemption from the application of a regulation or a portion of a regulation issued by the BHDCA, the Director General of the BHDCA shall also issue an Exemption, which forms an integral part of the Decision on exemption.
- (3) A Decision on exemption and an Exemption from the application of a regulation or a portion of a regulation referred to in paragraph (1) of this Article shall be issued under the condition that:
 - a) the official authorised to conduct the procedure determines that this is an exemption from the application of the regulation or a portion of the regulation that

- applies to all holders of licenses, certificates, endorsements, ratings, etc;
- b) the official authorised to conduct the procedure provides a detailed explanation of the unforeseen circumstance that requires urgent operational action; or
 - c) the official authorised to conduct the procedure provides a detailed explanation of the operational need that is of a limited duration;
 - d) the official authorised to conduct the procedure ex officio explains the reference to the provision of the regulation from which the exemption is granted;
 - e) the official authorised to conduct the procedure determines the time period for which the exemption is granted;
 - f) the official authorised to conduct the procedure ex officio assesses the risk of the measures demonstrating that the achieved level of safety / security will not be compromised, based on the risk assessment rules established by the BHDCA.
- (4) Decisions on exemption and Exemptions from the application of the provisions of a regulation or a portion of a regulation issued by the BHDCA, which are taken by the Director General of the BHDCA ex officio, shall be published on the official website of the BHDCA and in the Aeronautical Information Publication of Bosnia and Herzegovina (AIP BIH).

Article 5

(Procedure for the issuance of a Decision on exemption)

- (1) A decision on exemption from the provisions of a regulation or a portion of a regulation issued by the BHDCA referred to in Articles 3 and 4 of this Rulebook shall be taken pursuant to the provisions of the Law on the Administrative Procedure.
- (2) A decision to approve an exemption shall be made within eight (8) days from the date of submission of the request, i.e. from the moment it is established that there is an unforeseen circumstance requiring urgent operational action, or when there is an operational need of a limited duration, when the decision is made ex officio.
- (3) In addition to a request for the issuance of a Decision on exemption, the requester shall submit proof of payment of the administrative fee and the exemption approval fee, in accordance with the Decision on the amounts of fees for the services provided within the scope of responsibility of the BHDCA.
- (4) A decision on exemption from the provisions of a regulation or a portion of a regulation issued by the BHDCA, which is taken ex officio by the Director General of the BHDCA, shall not be subject to the administrative fees and charges collected by the BHDCA.

PART THREE – DEROGATION

Article 6

(Rules for the issuance of a Decision on derogation upon request)

- (1) The Director General of the BHDCA shall issue a Decision on derogation from the application of the provisions of a regulation or a portion of a regulation issued by the BHDCA based on a submitted request, after conducting a procedure in which the official authorised to conduct the procedure determines that the application of the regulation or the portion of the regulation issued by the BHDCA is not possible as prescribed, and that the application of another proposed standard ensures an equal (equivalent) level of safety/security required by the regulation from whose provisions the derogation is requested.

- (2) Along with a Decision on derogation from the application of a regulation or a portion of a regulation issued by the BHDCA, the Director General of the BHDCA shall also issue a Derogation, which forms an integral part of the Decision on derogation.
- (3) A Decision on derogation from the application of a regulation or a portion of a regulation issued by the BHDCA and a Derogation shall be issued on the basis of a submitted request, provided that:
 - a) the request is accompanied by a detailed explanation of the proposed standard that ensures the same level of safety/security as required by the regulation or a portion of the regulation issued by the BHDCA, from whose provisions the derogation is requested;
 - b) the explanation referred to in point a) includes a reference to the regulation or portion of the regulation issued by the BHDCA from which the derogation is requested;
 - c) the explanation referred to in point a) includes the time period for which the derogation is requested; and
 - d) the request is accompanied by a detailed risk assessment for the proposed standard ensuring an equal level of safety/security as required by the regulation or a portion of the regulation from whose provisions the derogation is requested, as established by the provisions of the regulations on the safety management system.

Article 7

(Rules for the issuance of a Decision on derogation ex officio)

- (1) The Director General of the BHDCA shall issue a Decision on derogation from the application of the provisions of a regulation or a portion of a regulation issued by the BHDCA ex officio, after conducting a procedure in which the official authorised to conduct the procedure determines that the application of the regulation or the portion of the regulation issued by the BHDCA is not possible as prescribed, and that the application of another proposed standard ensures an equal (equivalent) level of safety/security required by the regulation from whose provisions the derogation is requested.
- (2) Along with a Decision on derogation from the application of a regulation or a portion of a regulation issued by the BHDCA, the Director General of the BHDCA shall also issue a Derogation, which forms an integral part of the Decision on derogation.
- (3) An ex officio Decision on derogation from the application of a regulation or a portion of a regulation issued by the BHDCA and a Derogation shall be issued under the condition that:
 - a) the official authorised to conduct the procedure determines that this is a derogation from the regulation or a portion of the regulation issued by the BHDCA that applies to all holders of licenses, certificates, endorsements, ratings, etc;
 - b) the official authorised to conduct the procedure provides a detailed explanation of the proposed standard ensuring an equal (equivalent) level of safety/security required by the regulation or portion of the regulation issued by the BHDCA from whose provisions the derogation is requested;
 - c) that the official authorised to conduct the procedure makes a detailed reference in the explanation referred to in point a) to the provision of the regulation or portion of the regulation issued by the BHDCA from whose provisions the derogation is granted;

- d) the official authorised to conduct the procedure determines in the explanation referred to in point a) the time period for which the derogation is granted;
 - e) the official authorised to conduct the procedure makes a detailed assessment of the risk of the proposed standard ensuring an equal level of safety / security as required by the regulation or a portion of the regulation issued by the BHDCA from whose provisions the derogation is requested, based on the risk assessment rules established by the BHDCA.
- (4) Decisions on derogation and Derogations from the application of the provisions of a regulation or a portion of a regulation issued by the BHDCA, which are taken by the Director General of the BHDCA ex officio, shall be published on the official website of the BHDCA and in the Aeronautical Information Publication of Bosnia and Herzegovina (AIP BIH).

Article 8

(Procedure for the issuance of a Decision on derogation)

- (1) A Decision on derogation from the application of the provisions of a regulation or portion of a regulation issued by the BHDCA, referred to in Articles 6 and 7 of this Rulebook, shall be issued pursuant to the provisions of the Law on the Administrative Procedure.
- (2) In addition to the request, the requester shall submit proof of payment of the administrative fee and the derogation approval fee, in accordance with the Decision on the amounts of fees for the services provided within the scope of responsibility of the BHDCA.
- (3) A decision on derogation from the provisions of a regulation or a portion of a regulation issued by the BHDCA, which is taken ex officio by the Director General of the BHDCA, shall not be subject to the administrative fees and charges collected by the BHDCA.
- (4) The BHDCA shall adopt detailed rules on internal procedures when assessing requests for approval of derogations and acceptance of equal (equivalent) safety standards ensuring the same level of safety/security.

PART FOUR – REGULATIONS

Article 9

(Regulations from whose provisions exemptions and derogations may be requested)

The regulations that are issued by the BHDCA and from whose provisions Decisions on exemption or Decisions on derogations may be requested/issued shall be those:

- a) regulating matters in the field of air navigation (ANS/ATM);
- b) regulating matters in the field of aerodromes (AGA);
- c) regulating matters in the field of airworthiness of aircraft (AIR);
- d) regulating matters with regards to aircraft registration;
- e) regulating matters in the field of flight operations (OPS);
- f) regulating matters in the field of flight crews (FCL);
- g) regulating matters in the field of flight safety (SAFETY);
- h) regulating matters in the field of aviation security (AVSEC),
- i) regulating safety-related environmental matters;
- j) regulating safety-related financial matters.

PART FIVE – INTERNAL PROCEDURE

Article 10 (Internal procedure)

Pursuant to this Rulebook, the BHDCA shall adopt an internal procedure regulating the manner in which organisational units act upon request, as well as ex officio, regarding the issuance of decisions on exemptions and derogations, the appearance and content of exemptions and derogations, as well as other procedural matters related to the application of this Rulebook.

PART SIX – FINAL PROVISIONS

Article 11 (Entry into force)

- (1) This Rulebook shall enter into force on the eighth day following the date of its publication in the Official Gazette of BIH.
- (2) The entry into force of this Rulebook shall repeal the Rulebook on the approval of exemptions and derogations from the application of by-laws enacted by the BHDCA (Official Gazette of BIH 88/18).

Ref. number: 1-3-02-2-525-4/21
17 September 2021
Banja Luka

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