

THE CROATIAN PARLIAMENT

1076

Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby pass the

DECISION

PROMULGATING THE ACT ON THE ESTABLISHMENT OF THE AIR, MARITIME AND RAIL TRANSPORT CASUALTY INVESTIGATION AGENCY

I hereby promulgate the Act on the Establishment of the Air, Maritime and Railway Transport Casualty Investigation Agency, adopted by the Croatian Parliament at its session held on 19 April 2013.

Class: 011-01/13-01/63

Number: 71-05-03/1-13-2

Zagreb, 25 April 2013

President

of the Republic
of Croatia

Ivo Josipović,

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ACT

ON THE ESTABLISHMENT OF THE AIR, MARITIME AND RAILWAY CASUALTY INVESTIGATION AGENCY

Article 1

This Act established the Air, Maritime and Rail Transport Casualty Investigation Agency (hereinafter: Agency) as a legal entity with public authority and regulates the activities, management method, funds for the establishment and operation of the Agency and other issues important for the operation of the Agency.

Article 2

(1) This Act regulates the implementation of Regulation (EU) No. 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and

prevention of casualties and incidents in civil aviation and repealing Directive 94/56/EC (SL L 295, 12 November 2010, p. 35).

(2) This Act contains provisions that are in accordance with the following European Union directives:

– Directive 2009/18/EC of the European Parliament and of the Council of 23 April 2009 establishing the fundamental principles governing the investigation of casualties in the maritime transport sector and amending Council Directive 1999/35/EC and Directive 2002/59/EC of the European Parliament and of the Council (OJ L 131, 28. 5. 2009, p.114),

– Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (OJ L 164, 30. 4. 2004, p. 44.), amended by Directive 2008/110/EC of the European Parliament and of the Council of 16 December 2008 amending Directive 2004/49/EC on Safety on the Community's Railways (OJ L 345, 23. 12. 2008, p. 62.), as last amended by Commission Directive 2009/149/EC of 27 November 2009 amending Directive 2004/49/EC of the European Parliament and of the Council as regards Common Safety Indicators and common methods to calculate the casualty costs (OJ L 313, 28. 11. 2009, p. 65.).

Article 3

(1) The founder of the Agency is the Republic of Croatia and rights to establishment shall be carried out by the Government of the Republic of Croatia (hereinafter: the Government).

(2) The Agency shall be responsible to the Government for its work.

Article 4

(1) The Agency shall be entered in a court register.

(2) The Agency shall operate under the title Air, Maritime and Railway Casualty Investigation Agency.

(3) The seat of the Agency shall be in Zagreb.

Article 5

The Agency shall functionally and organisationally be independent from all bodies competent for air, maritime and railway transport and from all legal and natural persons.

Article 6

(1) Based on its public authority, the Agency shall carry out the following activities of interest for the Republic of Croatia:

– investigation of aviation casualties and incidents,

- safety investigation aimed at determining the causes of casualties and proposing measures for the avoidance of maritime casualties and promoting navigation safety,
- investigation of serious casualties in railway traffic, as well as emergency incidents that could have led to serious casualties under specific circumstances.

(2) In addition to the activities referred to in paragraph 1 of this Article, the Agency shall also carry out the following activities:

- provide safety recommendations to improve safety in air transport,
- manage the national database,
- provide data on events from the national database to the central database of the European Commission,
- exchange data from its own National database with other investigation bodies with the condition of data confidentiality,
- provide professional assistance to the competent investigation bodies of the Republic of Croatia,
- cooperate with authorities competent for the investigation of aircraft casualties in International Civil Aviation Organisation (ICAO) member states,
- publish the results of investigations respecting the principles of data confidentiality,
- determine a list of experts for the investigation of aircraft casualties.

(3) In addition to the activities referred to in paragraph 1 of this Article, the Agency shall also carry out the following activities:

- manage maritime safety investigations in case of very serious casualties and additionally, in case of serious casualties and incidents, carry out a preliminary investigation aimed at assessing the need for carrying out a safety investigation,
- provide safety recommendations to improve safety in maritime transport,
- manage the national database of marine casualties,
- report to the European Commission on marine casualties and incidents in accordance with the special regulation regulating the method of implementing investigations and submitting data on the results of safety investigations in accordance with the EMCIP (European Marine Casualty Information Platform) database,
- exchange data from the national database with other investigation bodies with the condition of data confidentiality,
- within the framework of realising continuous mutual cooperation, mutual assistance and operation, the Agency shall exchange installations, devices and equipment with other

investigation bodies for the technical investigation of wreckages, shipboard equipment and other objects relevant for the maritime safety investigations, ensure to other bodies the provision of information in connection with the investigation of marine casualties, provide technical cooperation or exchange of knowledge required for the performance of special tasks, obtain and exchange information relevant for the analysis of data on the casualty and the preparation of appropriate recommendations,

- prepare, issue and announce reports of maritime safety investigations,
- collect data on undertaken measures for the implementation of safety recommendations from the reports on performed safety investigations,
- cooperate with other bodies in the Republic of Croatia for the purpose of carrying out maritime safety investigations,
- determine a list of external experts for a particular area of the safety investigation, appointed on a case-to-case basis, who cannot be in a conflict of interest with the task,
- prepare an annual analysis of marine casualties and, if necessary, other analyses and studies,
- participate in international conferences and seminars to ensure the professional development of its staff that deal with conducting investigations.

(4) In addition to the activities referred to in paragraph 1 subparagraph 3 of this Article, the Agency shall also carry out the following activities:

- prepare the final report on the particular conducted investigations which, if necessary, can contain safety recommendations aimed at improving the railway traffic,
- determine a list of external experts for the research of certain areas of railway traffic,
- inform the European Railway Agency (ERA) on the initiation of investigations of serious casualties or emergency incidents within a week from the adoption of the decision on the initiation of the investigation,
- publicly publish final reports on the conducted investigations in railway traffic and forward them to the European Railway Agency (ERA),
- every year, at the latest by 30 September, publish the annual report on the conducted investigations from the previous year and submit them to the European Railway Agency (ERA),
- prepare annual analyses of train crashes and, if necessary, other analyses and studies,
- participate in international conferences and seminars on issues concerning the investigations as well as the professional development of the staff conducting the investigations.

(5) The Agency shall also carry out other activities in accordance with acts regulating air transport, maritime transport as well as the safety and interoperability of railway transport and regulations adopted based on these acts.

(6) The method of performing the investigations and other activities under this Article shall be regulated by regulations referred to in paragraph 5 of this Article.

Article 7

The bodies of the Agency shall be the management board and the director general.

Article 8

(1) The management board of the Agency shall be composed of three members, who after a public tender procedure, carried out by the Ministry of Maritime Affairs, Transport and Infrastructure (hereinafter: the Ministry), shall be appointed by the Government for a period of four years, whereat they can be re-appointed.

(2) Among the members of the management board of the Agency, the Government shall appoint the president and vice-president of the management board.

(3) Members of the management board of the Agency may not be employees of the Agency nor may they be persons employed by or performing business activities for legal persons to which the provisions of the acts regulating air transport, maritime transport safety and interoperability of railway transport apply, nor may they be owners or co-owners or members of the management boards or supervisory boards of such legal persons or perform other business activities that could cause a conflict of interest.

(4) Citizens of the Republic of Croatia resident in the Republic of Croatia with a completed undergraduate and graduate University degree or integrated undergraduate and graduate University degree or specialist graduate professional degree of an economic, legal, maritime, transport or technical profession and with at least five years of work experience in the profession and an active and operative knowledge of the English language can be appointed as members of the Management Board of the Agency.

(5) The Government shall discharge the president, vice president and members of the Management Board of the Agency before the expiration of the period for which they were appointed in the following cases:

- if they request so,
- if they commit a major breach of duty as determined by the Charter,
- if they are not capable of duly performing their duty for a period exceeding six months,
- if they permanently lose their ability to perform their duties,
- if they are convicted for a criminal offence with a final judgement,
- if the reasons prescribed by paragraph 3 of this Article occur, due to which they can no longer be members of the Management Board of the Agency.

(6) The Management Board of the Agency shall manage the Agency. The Management Board of the Agency shall carry out the following activities:

- adopt the Agency Charter and other general acts,
- adopt the annual work and development programme of the Agency and monitor its implementation,
- adopt the financial plan and annual financial statement of the Agency,
- publish the call for proposals for the selection of the director general and appoint and discharge the director general and the deputy director,
- provide approval for the appointment and discharge of investigators -in-charge,
- decide on other issues established by this Act and the Agency Charter, as well as other issues regarding the management of the agency.

(7) The management board of the Agency can bring decisions if all its members are present and by a majority of their votes.

(8) The management board of the Agency shall not have executive authority or authority to impose measures which the Agency's director and chief investigation officer are authorised to impose by this Act. The management board of the Agency shall meet periodically, in conformity with the Agency Statute.

(10) The members of the management board of the Agency are entitled to a monthly fee for their work, paid from the Agency funds. The decision on the amount of the fee for the members of the Management Board of the Agency shall be brought by the minister competent for transport, maritime affairs and infrastructure (hereinafter: "Minister").

Article 9

(1) The Agency shall be represented by the director. The Agency shall also have a deputy director.

(2) The director shall organise and manage the Agency's operation, undertake all legal acts on its behalf and to its account, represent it in all procedures before courts, administrative and other state authorities, as well as legal entities with public authority, and may, within the limits of his authority, give power of attorney to another person for representing the Agency in transactions.

(3) The management board of the Agency shall appoint the director and deputy director of the Agency based on a public competition, for a period of five years, with the possibility of reappointment.

(4) The director and deputy director must have completed an undergraduate and graduate academic study or an integrated undergraduate and graduate academic study or a specialist graduate professional study for economic, legal, maritime, transport or technical professions, and must have at least five years of working experience in the profession.

(5) The director and deputy director of the Agency may be relieved from duty before the expiration of their mandates.

(6) The deputy director of the Agency shall act as a substitute of the director in case the latter is absent or prevented from performing his duties and carry out other activities defined in the Statute and other general acts of the Agency.

(7) The procedure of and other conditions for the appointment and relief from duty of the director and deputy director are regulated by the Statute.

Article 10

(1) The Agency shall have three chief investigation officers, one for each area of investigation referred to in Article 6, paragraph 1 of this Act, who meet the conditions for performing the duties of chief investigation officer in conformity with the Agency Statute.

(2) Chief investigation officers, each for a particular area of investigation, shall manage the professional work of the Agency and be responsible for it.

(3) The authorities of chief investigation officers and the measures which they may undertake are determined by the regulations referred to in Article 6, paragraph 5 of this Act.

(4) Chief investigation officers shall be appointed and relieved from duty by the director of the Agency, with the agreement of the management board of the Agency.

(5) The conditions for the appointment and relief from duty of chief investigation officers shall be regulated by the Agency Statute.

(6) Chief investigation officers must have an official identity card proving their official capacity, identity and authorities.

(7) The Minister shall issue the code which regulates the form and content of the chief investigation officer identity card and the method and procedure of its issuing, returning, confiscation and keeping a record on it.

Article 11

The Agency may have other supervisory, professional and advisory bodies whose structure, method of establishment, scope of work and competence shall be determined by the Agency Statute.

Article 12

(1) Internal organisation, work and activities, authority and decision-making method, general acts, data confidentiality, publicity and other issues important for the Agency's operation shall be regulated by the Agency Statute.

(2) The Agency Statute shall be adopted by the management board of the Agency, with prior consent of the Government.

Article 13

(1) The funds required for the regular activity of the Agency shall be secured within the state budget of the Republic of Croatia.

(2) The Agency may receive funds from other sources as well (donations, foundations etc.) according to regulations, provided this does not impair the autonomy of its activities.

(3) The Agency shall not perform its activities for the purpose of acquiring profit.

Article 14

(1) The Agency may not acquire, encumber or alienate real or other property without the approval of the Government, if the value of the property exceeds the amount determined in the Agency Statute.

(2) The Agency shall meet its liabilities with its entire assets, while the Republic of Croatia shall be liable for the obligations of the Agency jointly and without limitations.

Article 15

The Agency shall keep books of accounts and prepare financial statements according to the regulations for budget accounting.

Article 16

By 30 November each calendar year, the Agency shall submit its annual work programme and financial plan for the following calendar year to the Government for approval.

Article 17

(1) The Agency is obliged to submit to the Government annual work reports by 30 April each calendar year at the latest.

(2) In the report referred to in paragraph 1 of this Article, the Agency shall provide a comprehensive analysis of the state of its work and activities, including an annual financial report.

Article 18

The provisions of the Institutions Act shall apply to issues not regulated by this Act.

Article 19

(1) General labour regulations shall apply to the legal status of Agency employees.

(2) Regulations on salaries in public services shall apply to the salaries of Agency employees.

Article 20

(1) Members of the management board, director, deputy director and employees of the Agency are obliged to keep as a professional secret, or as any other applicable type of secret

according to the act which regulates data confidentiality, all personal and other confidential information which they have found out during the performance of their duties.

(2) The obligation referred to in paragraph 1 of this Article persists after the termination of office of a member of the management board, director or deputy director, that is, after termination of employment in the Agency.

Article 21

(1) Administrative supervision of the Agency shall be carried out by the Ministry.

(2) The supervision referred to in paragraph 1 of this Article shall not be carried out with regard to the professional activities of the Agency.

Article 22

(1) The Government shall appoint the acting managing director of the Agency within 30 days from the date of entry into force of this Act.

(2) The acting managing director shall carry out preparations for the start of operation of the Agency and submit a proposal for entry in the court register.

(3) The mandate of the acting managing director shall last until the appointment of the Agency's director and no longer than six months from the date of entry into force of this Act.

(4) The Government shall appoint the management board of the Agency within 60 days from the date of entry into force of this Act, while the management board of the Agency shall adopt the Statute and other general acts of the Agency in the following 30-day period.

Article 23

(1) The Agency shall start operation on the day of its entry in the court register.

(2) On the day of its entry in the court register, the Agency shall assume the duties of the Aircraft Accident and Incident Investigation Agency and of the Ministry related to safety investigation of marine casualties and accidents, as well as those related to investigation of serious accidents and emergency incidents in railway traffic.

(3) On the day of its entry in the court register, the Agency shall take over the archives and other documentation, the material, technical and financial resources, as well as the rights and obligations of the Aircraft Accident and Incident Investigation Agency and the Ministry, in proportion to the assumed duties.

(4) On the day of its entry in the court register, the Agency shall take over the Ministry officials assigned to the performance of duties referred to paragraph 2 of this Article, as well as the employees of the Aircraft Accident and Incident Investigation Agency. After the adoption of the acts referred to in Article 22, paragraph 4 of this Act, it shall assign them to new positions for which they meet the professional and other criteria.

(5) Until their assignment to new positions, the taken over officials and employees referred to in paragraph 4 of this Article shall continue to perform their previous duties and retain the rights acquired before the takeover.

(6) By way of derogation from paragraph 5 of this Article, the director of the Aircraft Accident and Incident Investigation Agency shall, prior to being assigned to a new position, continue to perform the duties of chief investigation officer for aircraft accidents and incidents.

(7) General labour regulations shall apply to employees who do not consent to the assignment referred to in paragraphs 4 and 6 of this Article.

Article 24

The Aircraft Accident and Incident Investigation Agency shall cease to operate on the day of entry of the Agency in the court register.

Article 25

Funds for the establishment and start of operation of the Agency shall be secured within the State Budget of the Republic of Croatia for 2013, as part of the operational funds of the Ministry and the Aircraft Accident and Incident Investigation Agency.

Article 26

(1) Within six months from the entry into force of this Act, the Minister shall adopt the regulation referred to in Article 10, paragraph 7 of this Act.

(2) Within 30 days from the day of appointment of the Agency management board, the Minister shall bring the decision referred to in Article 8, paragraph 10 of this Act.

Article 27

(1) The following shall cease to be valid on the day of entry into force of this Act:

– Article 12 of the Air Traffic Act ("Official Gazette", Nos. 69/09 and 84/11);

– Article 66, paragraph 6 Railway Safety Act ("Official Gazette", Nos. 40/07 and 61/11) and

– the Decree on the establishment of the Aircraft Accident and Incident Investigation Agency ("Official Gazette", Nos. 110/09 and 152/09).

(2) On the day of entry into force of this Act, Article 3, paragraph 1, point c) of the Air Traffic Act ("Official Gazette", Nos. 69/09 and 84/11) shall be amended to read as follows: "c) the Air, Maritime and Rail Transport Accident Investigation Agency (hereinafter: "Investigation Agency)".

Article 28

The Act enters into force on the 8th day from the day of its publication in the "Official Gazette".

Class: 022-03/13-01/37

Zagreb, 19 April 2013

THE CROATIAN PARLIAMENT

Speaker of the
Croatian
Parliament

Josip Leko, m.p.