

Cooperation Agreement

In order to implement Article 72 of Regulation (EU) No. 996/2010 of the European Parliament and of the Council of 20 October 2010, on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC, in accordance with the provisions of Sections 55 to 55e of Act No. 49/1997 Coll., on civil aviation and amending and supplementing Act No. 455/1991 Coll., on trade licensing (Trade Licensing Act), as subsequently amended, and in accordance with the relevant provisions of Act No. 141/1961 Coll., on criminal judicial proceedings (Code of Criminal Procedure), the following:

**Air Accidents Investigation Institute, represented by the Director
Ing. Pavel Strůbl (M.Sc.),**

**Police Presidium of the Czech Republic, represented by the Police President
Col. Mgr. Petr Lessy (M.Sc.),**

**Supreme Public Prosecutor's Office, represented by the Supreme Public Prosecutor
JUDr. Pavel Zeman (LLD)**

(hereinafter "Parties")

conclude this

Cooperation Agreement

Article 1 Definition of Terms

For the purposes of this Cooperation Agreement (hereinafter "Agreement") the following is a definition of terms:

- a) "Regulation" means Regulation (EU) No. 996/2010 of the European Parliament and of the Council of 20 October 2010, on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC;
- b) "air accident" means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, if during it occurred consequences expected by other legal regulations¹;

¹ Article 2 (1) of the Regulation.

Section 55 (1) of Act No. 49/1997 Coll., on civil aviation and amending and supplementing Act No. 455/1991 Coll., on trade licensing (Trade Licensing Act), as subsequently amended (hereinafter only "Civil Aviation Act").

- c) “incident” means an occurrence other than an accident which is associated with the operation of an aircraft that could affect air traffic²;
- d) “serious incident” means an incident whose circumstances indicate that an accident nearly occurred³;
- e) “causes” means activities, neglect, occurrences, conditions or a combination thereof which led to an accident or incident without the assignment of fault or the determination of administrative, civil or criminal liability⁴;
- f) “authorities active in criminal proceedings” means the court, the public prosecutor, and the police authority⁵;
- g) “criminal proceedings” means proceedings according to the Code of Criminal Procedure⁶;
- h) “safety investigation” means a process conducted by a safety investigation authority for the purpose of accident and incident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of cause(s) and/or contributing factors and, when appropriate, the making of safety recommendations⁷;
- i) “preservation of evidence” means ensuring safe treatment of all evidence and taking all reasonable measures to protect such evidence and maintaining safe custody of the aircraft, its contents and its wreckage for such period as may be necessary for the purpose of a safety investigation⁸;
- j) “protection of evidence” means the preservation, by photographic or other means, of all evidence which might be removed, effaced, lost or destroyed⁹;
- k) “safe custody” means the protection of evidence against further damage, access by unauthorised persons, pilfering and deterioration¹⁰;
- l) “investigation report” means a report in a form appropriate to the type and seriousness of the accident or serious incident¹¹.

Article 2 Scope of Activities and Tasks of the Parties

- 1) The Air Accidents Investigation Institute (hereinafter “AAII”) within the scope of its activities stipulated by other legal regulations¹² particularly:
 - a) will collect and analyse information on air accidents and serious incidents, determine their causes and prepare conclusions and safety recommendations for their prevention;

² Section 55 (2) of the Civil Aviation Act

³ Section 55 (3) of the Civil Aviation Act

⁴ Section 55b (2) of the Civil Aviation Act

⁵ Section 12 (1) of the Code of Criminal Procedure

⁶ Section 12 (10) of the Code of Criminal Procedure

⁷ Article 2 (14) of the Regulation

⁸ Article 13 (1), first sentence, of the Regulation

⁹ Article 13 (1), second sentence, of the Regulation

¹⁰ Article 13 (1), third sentence, of the Regulation

¹¹ Article 16 of the Regulation

Section 55b (4) of the Civil Aviation Act

¹² Particularly Section 55a (1), (5) and (7) of the Civil Aviation Act

- b) will collect and analyze information on incidents which are not of a serious nature, determine their causes and prepare conclusions and safety recommendations only if such information and conclusions may be used for their prevention;
 - c) will work together with permanent authorities for the coordination of integrated rescue system units to determine the cause of air accidents and eliminate their consequences;
- 2) The AAI will in no case be concerned with assessment or apportioning blame or liability, not even when determining status and causes and making conclusions and safety recommendations¹³.
 - 3) The Police Presidium will stipulate, with an internal act of proceedings, more detailed procedures of police authorities when accepting reports of air accidents and serious incidents and during examinations and other tasks at the site of an air accident and serious incident, when carrying out tasks in association with an air accident and serious incident, for the purpose of clarification and verification of the facts that indicate that a crime was committed¹⁴, and also during investigations¹⁵. The extent of specific tasks carried out by a police authority in criminal proceedings is governed by the Code of Criminal Procedure.
 - 4) The Supreme Public Prosecutor's Office will utilize its resources to ensure that public prosecutors, when engaged in criminal matters pertaining to air accidents and serious incidents, will take part in the examination of the site of such an air accident and serious incident, or possibly other tasks important for assessing matters. Further details of the procedures of public prosecutors when carrying out supervision in criminal proceedings are governed by binding internal regulations of the Supreme Public Prosecutor¹⁶.

Article 3 Access to the Site of the Accident

- 1) AAI investigators are entitled to participate in the examination of the site of the air accident or serious incident, and this even for any additional examinations¹⁷. Authorities active in the criminal proceedings have the same entitlements according to criminal proceedings regulations.
- 2) AAI investigators will have:
 - a) immediate, unrestricted and unhampered access, including participation in the team of empowered representatives designated by affected countries and advisors, to the site of the air accident or serious incident, as well as to the aircraft, its contents or its wreckage;
 - b) the right to participate in the gathering of evidence and the controlled removal of wreckage or parts thereof for the purposes of examination or analysis,
 - c) immediate access to and control over flight recorders, their contents and all other relevant and important records.
- 3) AAI investigators, within the scope of their activities, are entitled to:

¹³ Article 2 (4), Article 5 (5) and Article 17 (3) of the Regulation

¹⁴ Section 158 (1) and (3) of the Code of Criminal Procedure

¹⁵ Section 161 (1) of the Code of Criminal Procedure

¹⁶ Instructions of a general nature No. 8/2009, on Criminal Proceedings, as subsequently amended.

¹⁷ Article 11 of the Regulation

- a) direct the work during the removal of parts or components of aircraft that were in an accident;
- b) require an explanation from persons and record their answers;
- c) enter affected sites and buildings or aircraft;
- d) remove and test necessary components and take other necessary measures for the preservation of evidence.

Article 4

Exchange of Information

- 1) The Parties will exchange information to the extent necessary for achieving tasks arising from the subject matter of this Agreement. They will mutually inform each other of any findings or actions that affect the process of the investigation or criminal proceedings.
- 2) The collected and handed over information can be utilized solely for the performance of official tasks. The Parties will ensure the protection of handed over information against unauthorized access by third parties. They will especially ensure the protection of sensitive safety information¹⁸. This information can be disclosed solely under the terms and conditions stipulated by other legal regulations¹⁹.
- 3) If criminal proceedings are commenced, the AAI will immediately inform the Parties to this Agreement about the end of the investigation and that the report is publicly available in electronic form²⁰.

Article 5

Cooperation during the Investigation of an Accident

- 1) If an AAI investigator discovers that a crime could have been committed during an air accident or serious incident, he will immediately inform a police authority and the public prosecutor responsible according to the site of the air accident or incident.
- 2) The police authority will immediately inform the AAI that criminal proceedings have commenced²¹ in connection with an air accident or incident. It will inform the AAI in advance that it intends to carry out an examination of a site of an air accident or incident.
- 3) The AAI will provide the police authority all the cooperation that is necessary in order to preserve evidence, especially the care and safekeeping of flight recorders and all material evidence.
- 4) The police authority is entitled to participate in the reading of data from flight recorders and the processing of other material evidence that is carried out by AAI investigators.

Article 6

Handling Evidence

- 1) AAI investigators are responsible for preserving evidence, for its protection and for its safekeeping, unless it has been taken into custody by an authority that is active in criminal proceedings.

¹⁸ Article 14 of the Regulation

¹⁹ Article 14 (3) of the Regulation

²⁰ Article 16 of the Regulation

Section 55c (4) of the Civil Aviation Act

²¹ Section 158 (3), first sentence or third sentence, of the Code of Criminal Procedure.

- 2) AAI investigators are entitled to have access to all evidence that is applicable to the investigation.
- 3) Pending the arrival of AAI investigators at the site of an air accident or serious incident, no person shall modify the state of the site of the accident, take any samples therefrom, undertake any movement of or sampling from the aircraft, its contents or its wreckage, move or remove it, except where such action may be required for safety reasons or to bring assistance to injured persons, or under the express permission of relevant authorities. This does not apply to the rights of the police authority to carry out tasks in criminal proceedings at the site.
- 4) If the AAI finds out that it is necessary to carry out tests of material evidence and these tests could mean a change in the physical state in which the sample was acquired at the site of the accident or the destruction of part of the test sample, it is obligated to obtain prior consent from the police authority.
- 5) A destructive test can be carried out only after all evidence is preserved that is necessary for a thorough assessment of matters, both for the purposes of the investigation and for the purposes of criminal proceedings.
- 6) An AAI investigator is obligated to:
 - a) inform the police authority sufficiently in advance about the fact that he intends to carry out a destructive test;
 - b) enable the police authority to participate in the destructive test, including the making of the necessary documentation about the course of the test; if the police authority does not participate in the destructive test, then the AAI investigator will ensure the making of documentation in accordance with the requirements of the police authority.

Article 7
Contact Persons

- 1) Each Party will designate a contact person for the purposes of the exchange of information and the creation of conditions for resolving any possible disputes during the performance of duties. It will notify the other parties about the contact data of this person within 30 days from the effective date of this Agreement.
- 2) Contact persons are not entitled to interfere in specific matters during the performance of tasks by the AAI and authorities engaged in criminal proceedings.
- 3) If the contact person changes, the party will notify the other parties no later than within 10 days via the designated by them contact persons.

Article 8
Final Provisions

- 1) This Agreement will become effective the day it is signed and has been concluded for an indefinite period of time.
- 2) The Agreement can be changed, supplemented or terminated solely via written amendments, with the consent of all parties to the Agreement.
- 3) This Agreement has been drawn up in three copies and each party to the Agreement will receive one copy.

In Brno on 5 June 2012

Ing. Pavel Strůbl
Director of the Air Accidents Investigation Institute

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Col. Mgr. Petr Lessy
Police President

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JUDr. Pavel Zeman
Supreme Public Prosecutor

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