



Safety recommendation no. 562

Date of the publication	22.12.2020
Number of the final report	2370
Safety deficit	<p>The safety investigation has revealed that the implementation of legal requirements by both the supervisory authority and the air operator for operations with historic aircraft was primarily formal in nature. Many of the processes described in the manuals represented the operational requirements to a limited extent only. In particular, only partial provisions had been made for the relevant risks of visual flight rules operations involving annex II aircraft, as specified in European Regulation 216/2008 (equivalent to today's annex I aircraft, as specified in European Regulation 2018/1139). Overall, regulation proved to be complex and not well adapted to the actual needs of flight operations. Regardless of the organisational form, the level of safety required for air operations involving passengers should be guaranteed. A consultation on possible safety recommendations has shown that a solution needs to be sought at national level. As the legislative process is likely to take some time, a two-step approach is recommended.</p>
Safety recommendation	<p>Until safety recommendation no. 561 has been implemented, the Federal Office of Civil Aviation should ensure that the risks specific to the particular flight operations involving passengers on annex I aircraft, as defined in European Regulation 2018/1139, are identified and effectively reduced with an effort suited to the complexity and scale of the respective operation.</p>
Addressees	BAZL Bundesamt für Zivilluftfahrt
Stage of the implementation	<p>Implemented. The FOCA agrees with Safety Recommendation No 562. Since the entry into force of the new EASA basic regulation (Regulation (EU) 2018/1139 (in force for Switzerland since 1 September 2019), it is no longer possible within the framework of EU regulations to conduct commercial air operations using aircraft that do not have a certificate of airworthiness under European law ('non-EASA aircraft', including historic aircraft). Furthermore, commercial operation of such aircraft will no longer be possible in the future under national law.</p> <p>On October 2020 and at further dates, the FOCA management decided to introduce the following restrictions and accompanying measures:</p> <ul style="list-style-type: none">• Passenger restrictions on aircraft that fall within the special historic category: in the future, a maximum of 9 people, including a maximum of 6 passengers, may be carried on these aircraft;• Division of the highly heterogeneous special historic category into four risk classes, each with different maintenance requirements that become more stringent as risk increases (risk-based approach with the highest risk class (4) including aircraft over 5700 kg MTOM or turbojet propulsion and helicopters over 3175 kg MTOM. Maintenance work on risk class 4 aircraft must be carried out by

approved maintenance organisations; authorised individuals in accordance with AAwO, Art. 34 are no longer sufficient).

- Exclusion of commercial operations under national law by non-EASA aircraft in the special historic category;
- Information obligation: for paid (non-commercial) flights with aircraft in the special historic category (as well as other special categories under the DETEC Ordinance on the Airworthiness of Aircraft (AAwO), and also in some cases for the commercial operation of flights), passengers must be informed about the special features of the aircraft's certification before take-off. In addition, signage near the passenger door must indicate the status of the aircraft.
- Change in registration: for aircraft in the special historic category registered in Switzerland, only national permits to fly are issued. These permits do not meet the requirements of the ICAO, Annex 8 and therefore no longer entitle to the holder to fly these aircraft outside of Swiss territory.
- The FOCA further intends to apply passenger restrictions (max. 9 people, including max. 6 passengers) to foreign aircraft in the special category.

The implementation of the measures decided on by the FOCA management will be included, where necessary, in new legislation, which was already being drafted before the HB-HOT accident on 4 August 2018. The new legislation aims to adapt the DETEC Ordinance on the Airworthiness of Aircraft (AAwO); SR 748.215.1) as far as flight technology is concerned.

At present, no aircraft in accordance with the Annex I of European Regulation 2018/1139 operate commercially with passengers in Switzerland. The Ju-Air aircraft built by Junkers have been grounded until they obtain the new national permit to fly. The historic Super Constellation HB-RSC aircraft is not airworthy and has been grounded until it obtains the new national permit to fly.

**Investigation report concerning
the safety recommendation**

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