



***AGREEMENT ON THE DELEGATION OF RESPONSIBILITY FOR THE PROVISION  
OF THE AIR TRAFFIC SERVICES BETWEEN THE COUNCIL OF MINISTERS OF  
BOSNIA AND HERZEGOVINA, THE GOVERNMENT OF THE REPUBLIC OF  
SERBIA AND THE GOVERNMENT OF MONTENEGRO***

## **PREAMBLE**

The Council of Ministers of Bosnia and Herzegovina, the Government of the Republic of Serbia and the Government of Montenegro (hereinafter: "The Contracting Parties")

Desiring to facilitate the safe conduct of international flight operations across their State boundaries in the interests of the airspace users and their passengers;

For the purpose of promoting air traffic services relations between the States of the Contracting Parties for their mutual benefit;

Being Parties to the Convention on International Civil Aviation, opened for signature in Chicago on December 7, 1944 and desiring to conclude an agreement for the purpose of providing Air Traffic Services according to the international Standards and Recommended Practices set out in Annex 11 to the Chicago Convention, across and beyond their respective territories;

Referring to the ECAC Institutional Strategy for ATM in Europe and the Protocol consolidating the EUROCONTROL International Convention relating to Cooperation for the Safety of Air Navigation of 13 December 1960, as variously amended, which was opened for signature on 27 June 1997 (the revised Convention);

Desiring to conclude an agreement for the purpose of providing Air Traffic Services according to the Single European Sky legislation so that its objectives can be achieved and airspace users may benefit from its implementation;

Referring to the Regulation (EC) No 550/2004 of the European Parliament and of the Council on the provision of air navigation services in the Single European Sky, as amended and in particular Article 2. While not yet a member of the European Union the Republic of Serbia, Montenegro and Bosnia and Herzegovina are applying the said regulation as per its obligations under the European Common Aviation Area Agreement;

Recognizing that the conclusion of an agreement between States regarding the delegation of ATS provision shall not prejudice the principle that every State has complete and exclusive sovereignty over the airspace above its territory or the capacity of every State to exercise its prerogatives with regard to security and defense in its national airspace;

Recognizing, that the aim of this Agreement is to address legal and institutional aspects of the delegation of the responsibility for the provision of air traffic services in accordance with Appendix I to this Agreement;

Have agreed as follows:

## **Article 1**

### **Subject**

The subject of this Agreement is to define the rights and obligations of the Contracting Parties related to the delegation of the responsibility for the provision of air traffic services over a portion of airspace of Bosnia and Herzegovina, as defined in the Appendix 1 to this Agreement according to the provision set forth in Annex 11 of Chicago Convention and under the terms of this Agreement.

## **Article 2**

### **Definitions**

For the purpose of this Agreement, unless otherwise stated, the term:

1. "Agreement" means this Agreement, its Appendices and any amendments thereto.
2. "Air Traffic Service (ATS)" as a generic term includes flight information service, alerting service, air traffic advisory service, air traffic control service provided by the ANSP designated by the States of the Contracting Parties.
3. "Air Navigation Service Provider (ANSP)" means any entity providing air navigation services for general air traffic.
4. "Air navigation service provider (ANSP) concerned" means an appropriate entity designated by the Contracting State to provide Air Traffic Services, namely:
  - For the Republic of Serbia and for Montenegro: Serbia and Montenegro Air Traffic Services SMATSA LLC (hereinafter: SMATSA);
  - For Bosnia and Herzegovina: Bosnia and Herzegovina Air Navigation Services Agency (hereinafter: BHANSA);
5. "Airspace Management (ASM)" means a planning function with the primary objective of maximizing the utilization of available airspace by dynamic time-sharing and, at times, the segregation of airspace among various categories of users based on short-term needs.
6. "Air Traffic Flow Management (ATFM)" means a service established with the objective of contributing to a safe, orderly and expeditious flow of air traffic by ensuring that ATC capacity is utilized to the maximum extent possible, and that the traffic volume is compatible with the capacities declared by the appropriate ATS authority.
7. "Alerting Service" means a service provided to notify appropriate organizations regarding aircraft in need of search and rescue aid, and assist such organizations as required.
8. "ATS Unit" means a generic term meaning variously, air traffic control unit, flight information centre, aerodrome flight information service unit or air traffic services reporting office.
9. "Chicago Convention" means the Convention on International Civil Aviation, opened for signature in Chicago on December 7, 1944 and includes:

- any amendment thereof that has been ratified by both States of the Contracting Parties and has entered into force under Article 94a of the Convention, and
- any Annex or any amendment thereto adopted under Article 90 of the Convention, insofar as the international Standards referred to in Article 37 of the Convention in such Annex or amendment are at any given time effective for both States of the Contracting Parties.

10. "Certifying NSA" means, with respect to a particular ANSP, the national supervisory authority (NSA), nominated or established by particular Contracting Party, that has certified that ANSP, namely:

- the Civil Aviation Directorate of Republic of Serbia (hereinafter: CAD), that has certified SMATSA,
- The Civil Aviation Agency of Montenegro (hereinafter: CAA), that has recognised the certificate issued to SMATSA by CAD,

11. "Delegation of ATS" means the delegation from one State (the Delegating State) to another State (the Providing State) of the responsibility for providing air traffic services in a portion of airspace extending over the territories of the former.

12. "Delegating State" means the State which delegates to another State the responsibility for the provision of ATS in the portion of the airspace above its territory, as follows:

- Bosnia and Herzegovina in the cases described in the Appendix 1 to this Agreement.

13. "GAT" or General Air Traffic means flights conducted in accordance with the rules and provisions of ICAO.

14. "MoT" means the Ministry in charge of civil aviation.

15. "Providing States" means the States whose designated ANSP is responsible for the provision of ATS, namely the Montenegro and Republic of Serbia over a portion of airspace defined in Appendix 1 of this Agreement.

16. "OAT" or Operational Air Traffic means flights which do not comply with the provisions stated for GAT and for which rules and procedures have been specified by the appropriate authorities.

17. "Territorial NSA" means, with respect to a particular portion of airspace, the national supervisory authority (NSA) nominated or established by particular Contracting Party, that has responsibility for supervision of the Air Traffic Management and Air Navigation Services provision over that portion of the airspace defined in the Appendix 1 to this Agreement, namely The Bosnia and Herzegovina Directorate of Civil Aviation (hereinafter: BHDCA).

18. "Territory" in relation to a State, has the meaning specified in Article 2 of the Chicago Convention.

19. "ICAO" means International Civil Aviation Organization. ICAO is a specialized UN agency, established in 1944. in order to promote safe and orderly development of international civil aviation in the whole world. ICAO sets standards and recommended practices necessary,

among other, for the safety of air traffic, security of air traffic and environment protection in the aviation field.

20. "FIR" (flight information region) means a specified region of airspace in which a flight information service and an alerting service are provided.

Unless stated otherwise or the context otherwise requires, other terms and expressions used in this Agreement shall be construed in accordance with their use and interpretation in the relevant EU legislation adopted on the basis of the European Common Aviation Area Agreement and on the basis of the Convention on International Civil Aviation.

### **Article 3 Sovereignty**

The provisions of this Agreement shall be without prejudice to the State of Contracting Parties sovereignty over the airspace above their territories or their rights and obligations under the Chicago Convention and other instruments of international law.

### **Article 4 Authorization to ANSPs**

The Contracting Parties agree that the responsibility for the provision of air traffic services, over a portion of the airspace defined in Appendix 1 to this Agreement shall be transferred from BHANSA to SMATSA according to the terms of Annex 11 to the Chicago Convention and this Agreement.

Contracting Parties hereby agree that SMATSA and BHANSA may add, modify or amend the Appendices to this Agreement with prior written approval of respective authorities of the Contracting Parties. The Contracting Parties shall ensure the continuous entirety and integrity of the Agreement.

### **Article 5 Letters of Agreement**

Contracting Parties hereby authorize SMATSA and BHANSA to negotiate and conclude additional Letters of agreements containing the specific operational and technical aspects related to these matters. These agreements will be based on this Agreement and its Appendices.

The operational and technical information pertinent to the transfer of responsibility for ATS provision defined in Article 4 of this Agreement shall be exchanged in writing, between the respective ANSPs taking into account the ICAO Standards and Recommended Practices, applicable EU and national legislation in force, as well as the local circumstances.

These Letters of Agreement (LoA) shall define and specify the rules and procedures to be applied in accordance with the provisions of this Agreement and shall follow the structure of the EUROCONTROL Common Format, Letter of Agreement.

**Article 6**  
**Application of Rules and Procedures**

Contracting Parties agree that the rules and procedures pertaining to the provision of ATS in the Providing States shall apply when providing ATS in a portion of the airspace of the Delegating State defined in the Appendix 1 to this Agreement.

**Article 7**  
**Supervision**

Contracting Parties agree that the Certifying NSAs shall carry out all supervision and safety oversight tasks in respect of the provision of ATS in the portion of the airspace defined in Appendix 1 of this Agreement, including the possibility that the Territorial NSA participates in oversight activities, based on justified request.

The Contracting Parties shall ensure that a written NSA Co-operation Agreement is concluded providing for the detailed conditions of the exercise of the rights, obligations and costs of their NSAs under this Article and for the exchange and dissemination of safety-related and other relevant information.

**Article 8**  
**Licensing and Training**

Contracting Parties agree that an air traffic controller license issued by one Contracting Party, is valid for the provision of air traffic services in the portion of the airspace of the other State of the Contracting Party within which the responsibility for the provision of ATS is delegated under the terms of this Agreement.

Training of ATS personnel of one Contracting Party, providing ATS in the portion of airspace of the other State of the Contracting Party, shall include the requirements pertaining to the airspace concerned.

**Article 9**  
**Airspace Management**

Contracting Parties agree that ASM in the portion of airspace described in Appendix 1 to this Agreement, shall be coordinated and implemented jointly by them, coordinated, in full respect of operational requirements and international obligations, standards and recommended practice.

**Article 10**  
**Financial Arrangements**

In case of occurrence of over or under recovery before SMATSA ceases the provision of ATS within the airspace with respect to arrangements prior to this Agreement, the amount of over or

under recovery shall be reimbursed and paid in the manner agreed by SMATSA and BHDCA, in line with EUROCONTROL Principles.

#### **Article 11 Liability**

The Providing State shall be liable for the damage caused by its wilful misconduct and gross negligence, or that of its agents or of any other person acting on its behalf, under the provisions of this Agreement.

Claims against the Providing State, its agents or any other person acting on its behalf shall be made in the courts, and subject to the law of the Providing State.

The Delegating State may bring an action against the Providing State to recover any compensation or costs paid or incurred as a result of loss or damage caused by the negligence of the Providing State, its agents or any other person acting on its behalf, while applying the provisions of this Agreement. The action shall be brought in the courts, and subject to the law of the Providing State.

#### **Article 12 State Aircraft**

State Aircraft other than those of the Delegating State may not enter that portion of airspace where the responsibility for the provision of ATS has been delegated without prior Diplomatic Clearance or special permission from the Delegating State.

For State aircraft operating as GAT the same rules and procedures are to be applied as for the other GAT but where necessary, special procedures should be established to permit their access to the airspace.

Contracting Parties hereby authorise SMATSA and BHANSA to negotiate and conclude in Letter of Agreement coordination procedure for state aircraft operating as OAT in delegated airspace.

#### **Article 13 Coordination and Contingency Procedures for Military and Other Reasons**

LoAs shall be supplemented by coordination and contingency procedures established by the ANSPs concerned, prior coordinated with appropriate military Authorities.

#### **Article 14 Publication**

The ANSP of the Delegating state is responsible for the provision of Aeronautical Information Services within its Flight Information Region (FIR).

Set of aeronautical information related to the air space depicted in Appendix 1 to this Agreement, shall be a subject of successfully completed coordination process with ANSP of the Providing State.

**Article 15**  
**Investigation of Accidents or Serious Incidents**

Delegating state shall institute an inquiry into the circumstances of accidents or serious incidents occurring in the air space depicted in in Appendix 1 to this Agreement as defined in Annex 13 to the Chicago Convention.

At its request, the Delegating State shall be provided with the necessary materials from the ANSP of the Providing States (e.g. radar data recordings, tape transcriptions, etc.) in order to enable it to conduct an inquiry into an accident or serious incident occurring in the Delegating State's territory.

The Providing States shall be given the opportunity to appoint observers to be present at the inquiry and the Delegating State shall communicate the report and findings of the inquiry to that State.

**Article 16**  
**Dispute Resolution**

Any dispute between the Contracting Parties as to the interpretation or application of this Agreement, including its existence, validity or termination and financial repercussions, shall be settled through negotiations between the Contracting Parties. If a dispute cannot be settled through negotiations within six months from the date of any Contracting Parties written request to hold such negotiations, any Contracting Party may submit the dispute to final and binding arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitrating Disputes between Two States.

The number of arbitrators shall be three. If within sixty days after the date of the receipt of the notice of arbitration the Contracting Parties have not agreed on the three arbitrators, any Contracting Party may request the Secretary-General of the Permanent Court of Arbitration to appoint the arbitrators. Contracting Parties share the costs of the arbitral tribunal equally.

The language to be used in the arbitral proceedings shall be English. The place of arbitration shall be The Hague. The International Bureau of the Permanent Court of Arbitration shall serve as Registrar, and shall provide such administrative services as the Permanent Court of Arbitration shall direct.



**Article 17**  
**Entry into Force**

This Agreement shall enter into force on the date of the receipt of the last written notification by which the Contracting Parties are mutually notified through diplomatic channels that their respective internal legal requirements for the entry into force of this Agreement have been fulfilled.

This Agreement shall be provisionally applied from the date of its signature.

**Article 18**  
**Termination and Suspension**

This Agreement may be terminated by any Contracting Party at any time by written notice to the other Contracting Parties, through diplomatic channels.

The termination shall become effective six (6) months after the date of receipt of such notice by the other Contracting Party.

In the event of war, during a period of emergency or in the interest of public safety, or in other exceptional circumstances, each Contracting Party has the right to suspend or terminate the Agreement with immediate effect, and shall notify the other Contracting Party accordingly.

The Letters of Agreement referred to in Article 5 shall contain provisions regarding their suspension and termination.

**Article 19**  
**Appendices to the Agreement**

The provisions contained in the Appendices to this Agreement shall form an integral part thereof. The provisions contained in the Appendices to this Agreement may be amended under the terms set out in Article 4 of this Agreement.

**Article 20**  
**Amendments**

If a Contracting Party considers it desirable to amend any provisions of this Agreement, it may request consultations with the other Contracting Parties. Any amendments agreed by the Contracting Parties shall be in written form and shall enter into force in accordance with the provision of Article 17 paragraph 1 of this Agreement.

Amendments to the related LoAs may be jointly determined by direct agreement between appropriate ANSPs of the Contracting Parties in written form.

## Appendix 1

### **Designated portion of the airspace of Bosnia and Herzegovina for delegation of responsibility for the provision of air traffic services**

#### *Article 1 Airspace*

Within the airspace of Bosnia and Herzegovina from 9500ft to flight level FL660 the responsibility for ATS provision is delegated to SMATSA east of line defined by the following coordinates:

444114N 0191756E

443547N 0190618E

442110N 0190608E

440812N 0191049E

434624N 0191430E

433154N 0190840E

Along the border between Montenegro and Bosnia and Herzegovina and east of line defined by following coordinates:

433049N 0185523E

432838N 0184714E

432055N 0184155E

430834N 0183329E

425944N 0182954E

***Article 2.***

***Air Traffic Flow Management***

Contracting Parties agree that Air Traffic Flow Management (ATFM) function in the portion of airspace described in Article 1 of this Appendix shall be coordinated and that all measures, from strategic to tactical level, will be planned with full respect of operational requirements and international obligations, standards and recommended practices with mutual consent.

***Article 3.***

***ATS routes***

Providing ATS is based on SECSI FRA rules and on network of ATS routes outside SECSI FRA, which are published in relevant Aeronautical Information Package and shall apply from the date of implementation of this Agreement.

BHANSAs and SMATSA shall agree that the establishing, modification, retreat and closure of ATS routes, regarding the portion of airspace defined in the Article 1 to this Appendix, shall apply mutually and coordinated, with full respect of operational requirements and international obligations, standards and recommended practices.

***Article 4***

***Alerting Service***

SMATSA as an ATS provider in airspace, defined in Article 1 of this Appendix, shall implement alerting service (ALR) activities in accordance with ICAO standards and recommended practices, and all available information about the aircraft in danger shall regularly submit to the responsible Rescue Coordination Centre of Bosnia and Herzegovina, that is responsible for search and rescue coordination in the airspace concerned.

BHANSAs is required, before the application of this Agreement starts, to provide SMATSA with all relevant information about the responsible RCC Bosnia and Herzegovina, which are important for mutual coordination.

SMATSA shall coordinate with RCC Bosnia and Herzegovina via BHANSAs.

**Article 21**  
**Transitional Measures for Agreements in force**

Agreements between the respective ANSPs of Contracting Parties which are in force on the date of entry into force of this Agreement shall be assessed for possible revision in accordance with the provisions set out in this Agreement. The assessment itself shall not prevent the continuity of the existing Agreements.

**Article 22**  
**ICAO Registration**

This Agreement and any of its amendments shall be registered with ICAO, in accordance with the provisions of Article 83 of the Chicago Convention.

**Article 23**  
**Termination of previous Agreements**

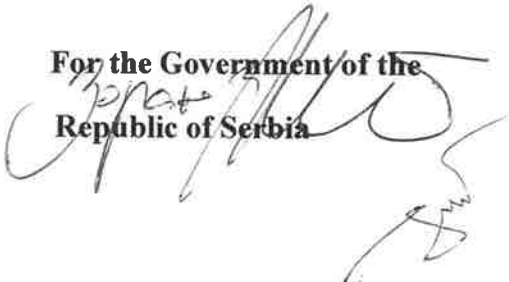
From the date of the entry into force of this Agreement, Agreement on the delegation of responsibility for the provision of air traffic services over a portion of the territory of Bosnia and Herzegovina, signed in Paris on 5 January 2000 is terminated.

During the provisional application of this Agreement in accordance with Article 17 paragraph 2, the application of Agreement on the delegation of responsibility for the provision of air traffic services over a portion of the territory of Bosnia and Herzegovina, signed in Paris on 5 January 2000 is temporarily suspended.

In witness whereof, the undersigned, being duly authorized by their respective Authorities have signed this Agreement.

Done at ..... this 27 day of August 2020, in three original copies each being equal, in the English language.

**For the Council of Ministers of**  
  
**Bosnia and Herzegovina**

**For the Government of the**  
  
**Republic of Serbia**

**For the Government of**  
**Montenegro**

