

Regulations on observation flights conducted under the Treaty on Open Skies

Adopted by Luftfartstilsynet xx.xx.2017 pursuant to Act of 11 June 1993 No 101 on aviation §§ 9-1, 9-2 and 9-7, cf. Royal Decree of 10 December 1999 No 1265; cf. the Ministry of Transport and Communications' Delegation Decision of 10 December 1999 No 1273

Section 1 *Purpose*

The purpose of these regulations is to clarify the conduct of observation flights by state parties, which are considered civil aviation flights, when performing observation flights in Norway and Norwegian airspace in accordance with the Treaty on Open Skies of 24 March 1992.

Section 2 *Definitions and abbreviations*

For the purpose of these Regulations, the below terms from the Treaty on Open Skies are meant to be understood as follows:

- a) «*Observed Party*» means the State Party, i.e. Norway, or group of States Parties, over whose territory an observation flight is conducted or is intended to be conducted, from the time it has received notification thereof from an observing Party until completion of the procedures relating to that flight, or personnel acting on behalf of that State Party or group of States Parties.
- b) «*Observing Party*» means the State Party or group of States Parties that intends to conduct or conducts an observation flight over the territory of another State Party or group of States Parties, from the time that it has provided notification of its intention to conduct an observation flight until completion of the procedures relating to that flight, or personnel acting on behalf of that State Party or group of States Parties.
- c) «*Point of entry*» means a point designated by the observed Party for the arrival of personnel of the observing Party on the territory of the observed Party.
- d) «*Point of exit*» means a point designated by the observed Party for the departure of personnel of the observing Party from the territory of the observed Party.
- e) «*Open Skies airfield*» means an airfield designated by the observed Party as a point where an observation flight may commence or terminate.
- f) «*Refuelling airfield*» means an airfield designated by the observed Party used for fuelling and servicing of observation aircraft and transport aircraft.
- g) «*Observation aircraft*» means an unarmed, fixed wing aircraft designated to make observation flights, registered by the relevant authorities of a State Party and equipped with agreed sensors.
- h) «*Sensor*» means equipment of a category specified in Article IV, paragraph 1 of the Treaty on Open Skies that is installed on an observation aircraft for use during the conduct of observation flights.

For the purpose of these Regulations, the below abbreviations are meant to be understood as follows:

- a) AMSL: Above Mean Sea Level
- b) ATC: Air Traffic Control

Section 3 *Principal rule*

All observation flights must be carried out in accordance with the Treaty on Open Skies, an approved flight plan and published Norwegian ATC rules, procedures and guidelines on flight safety.

Section 4 *Point of entry/exit*

Point of entry and point of exit shall be Oslo Airport, Gardermoen (ENGM), N 60-12-10, E 011-05-02.

Section 5 *Open Skies Airfields*

The following are the Norwegian Open Skies airfields:

- a) Oslo Airport, Gardermoen (ENGM), N 60-12-10, E 011-05-02
- b) Bardufoss Airport (ENDU), N69-03-21, E 018-32-25

Section 6 *Refuelling airfield*

Refuelling may take place at Trondheim Airport, Værnes (ENVA), N 63-27-27, E 010-55-27.

Section 7 *Priority*

In accordance with the Treaty on Open Skies, aircraft undertaking observation flights are to be afforded priority over any regular air traffic.

When within controlled airspace, observation flights are to be afforded non-deviating status and priority over all other aircraft except

- a) aircraft in an emergency
- b) aircraft performing roles where the safety of life is involved
- c) aircraft transporting heads of state
- d) state aircraft performing roles for national security

Observation flights outside of controlled airspace (Class G airspace) must be carried out in accordance with standardised European visual flight rules (VFR) and give way accordingly.

Section 8 *Flight Safety*

In order to ensure the highest level of flight safety all observation flights should be carried out in controlled airspace. All flights in controlled airspace requires ATC clearance. Flights in control zones (CTR) and terminal control areas (TMA) must be carried out at minimum 7000 feet AMSL.

For flight safety reasons and to assist in affording priority over other regular air traffic, whilst operating outside of controlled airspace (Class G airspace), observation flights are strongly recommended to remain within the bounds of radio and surveillance coverage.

Section 9 *Restricted area - Alt. A*

When requested by the Arms Control Office in order to facilitate for an observation flight, the Civil Aviation Authority shall adopt a restricted area to the extent necessary for the flight without public consultation.

All flying within the restricted area other than the observation flight is prohibited except

- a) aircraft in an emergency*
- b) aircraft performing roles where the safety of life is involved*
- c) aircraft transporting heads of state*
- d) state aircraft performing roles for national security*

Section 9 *Restricted area - Alt. B*

For flight safety reasons, and when deemed necessary by the Arms Control Office in order to facilitate for an observation flight, parts of the Class G airspace may be activated by Avinor Flysikring AS as a restricted area in accordance with the principles of "real time activation", cf. AIP Norway ENR 5.1 point 3.4. The restricted area must not be greater in extent than necessary. The Arms Control Office is responsible to define the coordinates for the activated restricted area.

All flying within the activated restricted area other than the observation flight is prohibited except

- a) aircraft in an emergency*
- b) aircraft performing roles where the safety of life is involved*
- c) aircraft transporting heads of state*
- d) state aircraft performing roles for national security*

Section 10 *Other restricted and danger areas*

Restricted and danger areas that are effected by observation flights shall be deactivated, and information to relevant operators and agencies shall be distributed accordingly.

If the area in question cannot be deactivated, Norwegian armed forces personnel must ensure that the flight can be safely conducted.

Section 11 *Language proficiency*

For flight safety reasons the pilot and pilot-in-command must have minimum Operational Level (Level 4) in English in accordance with the ICAO Language Proficiency Rating Scale.

Section 12 *Inspection of observation aircraft and sensors*

Norwegian authorities may conduct an examination and inventory of the observation aircraft and sensors, as specified in the Treaty on Open Skies, at Oslo Airport, Gardermoen.

Norwegian aviation authorities may demand access to any aircraft that is used for aviation activities in Norway and perform a ramp inspection, cf. Aviation Act 11 June 1993 No 101 section 4-8.

Section 13 *Infringements*

Observation flights that violates the regime established in the Treaty on Open Skies or the Norwegian ATC rules, procedures and guidelines on flight safety, must immediately be terminated. The air traffic control or chief flight monitor may terminate the flight.

Section 14 *Entry into force*

These regulations shall enter into force xx.

Section 15 *Amendment of other regulations*

At the time of entry into force the following amendments are made to existing regulations:

- a) Forskrift 11. januar 1995 nr. 42 om opprettelse av restriksjonsområde EN R402 punkt 1.1.4 skal lyde: Restriksjonene i denne forskrift gjelder ikke for ambulanseflyginger og flyginger etter Avtalen om det åpne luftrom.
- b) Forskrift 11. desember 2006 nr. 1388 om opprettelse av restriksjonsområde EN R203 § 2 andre ledd skal lyde: Også ambulanse-, politi, søk- og redningsoppdrag og flyginger etter Avtalen om det åpne luftrom må innhente særskilt tillatelse fra Lufttrafikkjenesten på Flesland før flyging i området EN R203 kan gjennomføres.
- c) Forskrift 16. oktober 2007 nr. 1152 om opprettelse av et permanent restriksjonsområde EN R102 over sentrum av Oslo § 3 andre ledd skal lyde: Forbudet gjelder ikke flyging i forbindelse med politi-, ambulanse-, forsvars-, søk- og redningsoppdrag og flyginger etter Avtalen om det åpne luftrom under forutsetning av at flygingen innrettes etter publiserte anbefalinger for VFR-trafikk i Oslo-området.
- d) Forskrift 22. januar 2016 nr. 49 om etablering av permanent restriksjonsområde EN R103 over området rundt Kongsvinger i forbindelse med det årlige World Rally Championship, Rally Sweden § 4 andre punktum skal lyde: Operasjoner i tilknytning til militær-, ambulanse-, politi-, søk- og redningsoppdrag og flyginger etter Avtalen om det åpne luftrom skal prioriteres foran annen trafikk i restriksjonsområdet.