



## EXEMPTION NUMBER – BCAA-Exemptions-FCL-2022-002

### EXEMPTION UNDER ARTICLE 71(2) REGULATION (EU) 2018/1139 IN RESPECT OF NON-COMPLIANCE WITH AN LICENSES REQUIREMENT

- 1 Exemption.** The Belgian Civil Aviation Authority, on behalf of Belgium, pursuant to Article 71(2) of Regulation (EU) No 2018/1139, hereby exempts, pilots, training organisations and instructors and examiners intending to operate Pipistrel Virus Electro SW 128 aircraft. Under this exemption those pilots, training organisations and instructors and examiners are permitted, by derogation from Part-FCL, to operate that aircraft in VFR under the existing single-engine piston (SEP) aeroplane class ratings. In order to ensure safety and compliance with the essential requirements for aircrew this exemption is granted under certain conditions. This exemption concerns only the Pipistrel Virus Electro SW 128 aeroplanes registered in Belgium and is granted to persons (pilots, training organisations, instructors and examiners) under the oversight of Belgium.
- 2 Applicability.**

While Regulation (EU) 2018/1139 applies to aircraft irrespective of its kind of propulsion, the requirements of Annex I (Part-FCL) to Commission Regulation (EU) No 1178/2011 apply only to aircraft with ‘piston’ and ‘turbine’ propulsion, and at the moment do not include ‘electric’ propulsion. The current Part-FCL requirements are thus not fit for the pilots intending to obtain privileges for the new Pipistrel Virus Electro SW 128 aeroplane with an electric engine, although this aeroplane falls under the scope of Regulation (EU) 2018/1139 and was certified by EASA (EASA TC NO. EASA.A.573) on 10.06.2020.

The duration of the exemption was fixed by Belgium taking into account the rulemaking plans of the European Union Aviation Safety Agency concerning introduction of aircrew licensing requirements for aircraft with electric propulsion [RMT.0678] (Entry into Force of the amending regulation is planned for 2023/Q4, according to the latest re-planning of this RMT). Until those requirements are introduced by the European Commission into Commission Regulation (EU) No 1178/2011, pilots, training organisations, instructors and examiners cannot ensure compliance with the applicable requirements of Part-FCL in order to obtain privileges necessary to operate those aircraft registered in Belgium.

- 3 Conditions of exemption.** This exemption is granted subject to the following conditions:

This exemption, including the mitigating measures described below, provides a level of safety that is equivalent to the one provided by Commission Regulation (EU) No 1178/2011 for single-engine piston aeroplanes. Environmental protection is not directly affected by this exemption, nevertheless by allowing the operation of aircraft with electric propulsion it supports the operation with lower environmental impact.

Mitigating measures:

In order to ensure adequate level of safety, holders of a single-engine piston (SEP) class rating for aeroplanes and applicants for those ratings, to whom this exemption has been granted, shall comply with all of the following conditions when operating or intending to operate the Pipistrel Virus Electro SW 128 aeroplane (hereinafter: SW 128) covered by this exemption under VFR. Those conditions shall be applicable to those persons in lieu of the corresponding requirements of Commission Regulation (EU) No 1178/2011 applicable or referring to the SEP class aeroplanes, as follows (references to Annex I (Part-FCL) to Regulation (EU) No 1178/2011, unless specified otherwise):

(a) The SW 128 shall be treated as a variant within the single-engine piston class.

(b) The training as set out in the Pipistrel document ‘DOT-128-00-11-401 – Virus SW 128 Difference Training Programme‘ shall be included in:

(1) flight training for an LAPL(A) (as per point FCL.115) or PPL(A) (as per point FCL.210) that is conducted in the SW 128.

(2) the differences training (as per points FCL.135.A(b) and FCL.710) for extending SEP class privileges to the SW 128.

(c) For extending SEP class privileges from the SW 128 to SEP variants with a piston engine, differences training (as per points FCL.135.A(b) and FCL.710) shall consist of elements from the SEP class privileges/rating training, as necessary for the candidate to acquire the competence to safely operate SEP variants with a piston engine.

(d) Compliance with the recency requirements specified in point FCL.140.A will include privileges for both SEP variants with piston engines and the SW 128 only if the LAPL holder completes:

(1) in the case of point FCL.140.A(a) and, as applicable, point FCL.140.A(b)(2), 12 hours of flight time on SEP variants with piston engines or the SW 128 or a combination of both, including all of the following:

(i) at least 3 hours on SEP variants with piston engines;

(ii) at least 3 hours on the SW 128;

(iii) on SEP variants with a piston engine, a training flight as specified in point FCL.140.A(a)(2);

(iv) on the SW 128, a training flight of a least 40 minutes with a flight instructor (FI) or a class rating instructor (CRI); or

(2) in the case of point FCL.140.A(a)(2), a proficiency check on each SEP variants with a piston engine and the SW 128.

(e) Compliance with the revalidation requirements in point FCL.740.A(b) will include privileges for both SEP variants with piston engines and the SW 128 only if the SEP class rating holder completes:

(1) within the 12 hours of flight time, as required by point

FCL.740.A(b)(1)(ii):

- (i) at least 3 hours on SEP variants with piston engines;
  - (ii) at least 3 hours on the SW 128;
  - (iii) on SEP variants with a piston engine, a training flight as specified in point FCL.740.A(b)(1)(ii);
  - (iv) on the SW 128, a training flight of at least 40 minutes with a flight instructor (FI) or a class rating instructor (CRI); or
- (2) in the case of point FCL.740.A(b)(1)(i), a proficiency check on each SEP variants with a piston engine and the SW 128.

(f) If the SEP class rating holder, in accordance with point FCL.740.A(b)(1)(ii), wishes to revalidate privileges for the SW 128 only, the required training flight shall have a minimum duration of 40 minutes.

- (g) The content of the training flight, as specified in points (d)(1)(iv), (e)(1)(iv) and (f) of this exemption, shall include all of the following:
- (1) battery overheating emergency procedure;
  - (2) battery malfunctions:
    - (i) SOC;
    - (ii) reduced battery endurance management (loss of battery);
    - (iii) battery overheating and battery fire (emergency drills and procedures);
  - (3) power (thrust) reduction after derating system activation, simulated by reduced power.

(h) Compliance with the renewal requirement in point FCL.740(b)(1) will only include privileges either for SEP variants with a piston engine or the SW 128, depending on the aircraft used for the proficiency check.

(i) A student pilot who is undergoing LAPL(A) or PPL(A) training in an SW 128 shall be authorised in accordance with point FCL.020(a) to undertake the necessary solo flights and solo cross-country flights on an SEP variant with a piston engine only after he or she has acquired the competence to safely operate such SEP variants.

- (j) The instructor, the examiner or the training organisation, as applicable, shall specify in all of the following documentation that training, testing or checking, as applicable, was carried out on the basis of this Exemption:
- (1) in the case of point (b)(1) of these mitigating measures:
    - (i) the training records as per point ORA.ATO.120 of Annex VII (Part-ORA) and point DTO.GEN.220 of Annex VIII (Part-DTO) to Regulation (EU) No 1178/2011;
    - (ii) the recommendation for skill test (as per point FCL.030(b));
  - (2) in the case of points (b)(2), (c), (d)(1), (e)(1) or (f) of these mitigating measures, the instructor's entry into the logbook of the pilot;
  - (3) in the case of points (d)(2), (e)(2) or (h) of these mitigating measures, or in the case of a skill test for the issuance of an LAPL(A) or a PPL(A) in an SW 128, the examiner's report of the skill test or proficiency check (as per point FCL.1030(b)(3)).

#### Market distortion

This exemption allows, under the current Part-FCL regulatory framework, the operation of the Pipistrel Virus Electro SW 128 which has already obtained an EASA type certificate. In this context, it does not introduce any market distortion since its only purpose is to enable the introduction of an already existing new aeroplane until the related necessary updates to Part-FCL are in place. The mitigating measures ensure an adequate temporary integration of the SW 128 into the Part-FCL regulatory framework while providing similar conditions for both the SW 128 and conventional SEP aeroplanes.

Belgium will ensure non-discriminatory treatment under Article 71(1) Regulation (EU) 2018/1139 of persons in similar circumstances intending to operate any other comparable single engine electric aircraft type certificated by EASA.

#### Essential requirements

Based on the above explanations, compliance with the essential requirements of Annex IV to Regulation (EU) 2018/1139 is ensured with this exemption.

- 4 **Validity.** This exemption shall have effect from 6/01/2022 until 31/12/2023.
- 5 **Notification & assessment.** This exemption is notified to EASA, the European Commission and the member states of the European Union. EASA and the European Commission will assess this exemption. If the outcome of the assessment is negative, the exemption will be revoked.

Koen Milis  
Director General

Date of approval: