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## REPORT

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Subject:	<b><i>Preparation of the Council meeting (<u>Transport</u>, Telecommunications and Energy) on 1<sup>st</sup> December 2016</i></b>  Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and repealing Regulation (EC) No 216/2008 of the European Parliament and of the Council  – General approach
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2015/0277 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and repealing Regulation (EC) No 216/2008 of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

- (1) A high and uniform level of civil aviation safety and environmental protection should be ensured at all times through the adoption of common safety rules and by measures ensuring that any goods, persons and organisations involved in civil aviation activity in the Union comply with such rules and with those adopted to protect the environment.
- (2) In addition, third-country aircraft operated into, within or out of the territory where the relevant provisions of the Treaty on European Union ('TEU') and the Treaty on the Functioning of the European Union ('TFEU') apply (the 'Treaties'), should be subject to appropriate oversight at Union level within the limits set by the Convention on International Civil Aviation, signed in Chicago on 7 December 1944 (the 'Chicago Convention'), to which all Member States are parties.
- (3) It would not be appropriate to subject all aircraft to common rules. In particular, in light of their limited risk to civil aviation safety, aircraft that are of simple design or operate mainly on a local basis and those which are home-built or particularly rare or only exist in a small number should remain under the regulatory control of the Member States, without any obligation under this Regulation on other Member States to recognise such national arrangements.
- (4) However, the possibility should be provided to apply certain provisions under this Regulation to certain types of aircraft which are excluded from the provisions of this Regulation, especially those which are produced in an industrial manner and which could draw benefits from free circulation within the Union. Therefore, organisations involved in the design of such aircraft should be allowed to request the Commission to decide that Union requirements regarding design, manufacture and maintenance of aircraft apply to new types of aircraft which are to be put on the market by such organisations.

- (4a) This Regulation should provide for a number of new tools that should support the implementation of simple and proportionate rules for sport and recreational aviation. The measures taken in accordance with this Regulation to regulate this segment of aviation should be proportionate, flexible and based on existing best practices in the Member States. These measures should be developed in a timely manner.
- (5) It would not be appropriate to subject all aerodromes to common rules. Aerodromes which are not open to public use or aerodromes which do not serve commercial air transport or aerodromes without paved instrument runways of more than 800 metres should remain under the regulatory control of the Member States, without any obligation under this Regulation on other Member States to recognise such national arrangements.
- (6) Member States should be allowed to exempt from the provisions of this Regulation aerodromes with low volumes of traffic, provided that the aerodromes concerned nevertheless meet the minimum common safety objectives laid down in the relevant essential requirements. When a Member State grants such exemptions, those exemptions should also apply to the equipment used at the aerodrome concerned and to the providers of ground handling and apron management services operating at the exempted aerodromes. Exemptions granted by Member States to aerodromes before the entry into force of this Regulation should remain valid, while it should be ensured that information about these exemptions is made available to the public.
- (7) Member States may consider it preferable, notably with a view to achieving safety, interoperability or efficiency gains, to apply the provisions of this Regulation, instead of their national law, to aircraft carrying out military, customs, police, search and rescue, firefighting, border control and coastguard or similar activities and services undertaken in the public interest. They should be allowed to do so. The Commission should be given the necessary implementing powers to decide on such requests. Member States making use of this possibility should cooperate with the European Union Aviation Safety Agency (hereinafter 'the Agency'), in particular by providing all the information necessary for confirming that the aircraft and activities concerned comply with the relevant provisions of this Regulation.

- (8) The measures taken in accordance with this Regulation to regulate civil aviation in the Union, including the delegated and implementing acts adopted on the basis thereof, should correspond to and be proportionate to the nature and risks associated with the different types of operations and activities they address. They should also, in as far as possible, be formulated in a manner which focuses on objectives to be achieved, while allowing different means of achieving those objectives. This should contribute to a more cost-efficient achievement of required safety levels and to stimulating technical and operational innovation. Use should be made of recognised industry standards and practices, where it has been found that they ensure compliance with the essential requirements set out in this Regulation.
- (9) Application of sound safety management principles is essential for continuous improvement of civil aviation safety in the Union, anticipating emerging safety risks, and making best use of limited technical resources. It is therefore necessary to establish a common framework for planning and implementing safety improvement actions. To that end a European Plan for Aviation Safety and a European Aviation Safety Programme should be drawn up at Union level. Each Member State should also draw up a State Safety Programme in accordance with the requirements contained in Annex 19 to the Chicago Convention. That programme should be accompanied by a plan describing the actions to be taken by the Member State to mitigate the identified safety risks.
- (10) In accordance with the provisions laid down in Annex 19 to the Chicago Convention, Member States are to establish an acceptable level of safety performance in relation to the aviation activities under their responsibility. In order to assist the Member States in meeting this requirement in a coordinated manner, the European Plan for Aviation Safety should lay down an acceptable level of safety performance for the Union in respect to the different categories of aviation activities. That acceptable level of safety performance should not have a binding character but express the ambition of the Union and of the Member States with regard to civil aviation safety.

- (11) The Chicago Convention provides for minimum standards to ensure the safety of civil aviation and environmental protection relating thereto. The Union's essential requirements and further rules for their implementation established in this Regulation should ensure that Member States fulfil, in a uniform manner, the obligations laid down in the Chicago Convention, including those vis-à-vis third countries. Where Union rules differ from the minimum standards established by the Chicago Convention, the obligations of Member States to notify the International Civil Aviation Organization accordingly are not affected.
- (12) In line with standards and recommended practices set by the Chicago Convention, essential requirements applicable to aeronautical products, parts, non-installed equipment, aerodromes and the provision of ATM/ANS should be established. Furthermore, essential requirements applicable to persons and organisations involved in the operation of aircraft, the operation of aerodromes and in the provision of ATM/ANS, and essential requirements applicable to persons and products involved in the training and medical examination of aircrew and air traffic controllers should also be established.

- (13) The essential requirements concerning environmental compatibility of the design of aeronautical products should address both aircraft noise as well as emissions, where necessary, to protect the environment and human health from harmful effects of aviation products. They should correspond to the requirements in this regard which have been established at international level, as laid down in the Chicago Convention. In order to ensure full consistency, it is appropriate to refer in this Regulation to the relevant provisions of that Convention as they stand at present. However, products, parts and non-installed equipment which at present are not covered by the relevant provisions of the Chicago Convention should be made subject to the essential requirements for environmental compatibility laid down in Annex III to this Regulation. The same goes for products, parts and non-installed equipment for propeller-driven aeroplanes with a maximum take-off mass below 8 618 kg, subsonic jet aeroplanes with a maximum take-off mass below 5 700 kg and rotorcraft with a maximum take-off mass below 3 175 kg or that are intended for operation at supersonic speed. As regards those products, parts and non-installed equipment, provision should also be made for the possibility of further elaborating the essential requirements through the setting of detailed environmental protection requirements, ~~taking due account of the relevant provisions of the Chicago Convention~~, taking due account of the relevant provisions of the Chicago Convention and the need to ensure international compatibility of environmental certification requirements, especially as regards aeronautical products marketed on a worldwide basis.
- (14) The Union should also lay down essential requirements for the safe provision of ground handling services and apron management services.
- (15) In view of the increasing reliance of civil aviation on modern information and communication technologies essential requirements should be laid down to ensure the security of information used by the civil aviation sector.
- (15a) The obligations of an aerodrome operator may be fulfilled directly by the aerodrome operator or, in some cases, by a third party. In such cases the aerodrome operator should have arrangements in place with that third party to ensure compliance with this Regulation and the measures adopted on the basis thereof.

- (15b) This Regulation should lay down essential requirements concerning reporting and analysis of safety occurrences. The detailed rules adopted in order to ensure uniform implementation of and compliance with these essential requirements should be consistent with the Regulation (EU) No 376/2014 of the European Parliament and of the Council.
- (16) Aeronautical products, parts and non-installed equipment, aerodromes and their equipment, operators of aircraft and aerodromes, ATM/ANS systems and providers, as well as pilots, air traffic controllers and persons, products and organisations involved in their training and medical examination, should be certified or licensed once they have been found to comply with relevant essential requirements or, where relevant, the other requirements established in or pursuant to this Regulation. The Commission should be empowered to adopt the necessary detailed rules for the issuance of those certificates and where relevant, the declarations to be made to this effect, taking into account the objectives of the Regulation and the nature and risk of the particular activity concerned.
- (17) The possibility should be given to the organisations involved in the design and manufacture of aeronautical products and parts to declare the compliance of the design of products and parts with the relevant industry standards, where this is considered to ensure an acceptable level of safety. This possibility should be limited to products used in sport and recreational aviation, and under appropriate limitations and conditions to ensure safety.
- (18) Since unmanned aircraft also operate within the airspace alongside with manned aircraft, this Regulation should cover such aircraft, regardless of their operating mass. Technologies for unmanned aircraft now allow for a wide range of operations possible. The provisions of this Regulation should open the wide use of unmanned aircraft operations by introducing rules that are proportionate to the risk of the particular operation or type of operations and that strive, as far as possible, to ensure the continuation of existing activities.
- (18a) In order to implement a risk-based approach and the principle of proportionality, a degree of flexibility should be provided for the Member States as regards unmanned aircraft operations, taking into account various local characteristics of Member States such as population density, while ensuring an adequate level of safety.



- (19) The rules regarding unmanned aircraft should as much as possible contribute to achieving compliance with relevant rights guaranteed under Union law, in particular the right to respect for private and family life, as set out in Article 7 of the Charter of Fundamental Rights of the European Union, and with the right to protection of personal data, as set out in Article 8 of that Charter and in Article 16 of the Treaty on the Functioning of the European Union ("TFEU") and as regulated in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>3</sup>.
- (20) For some types of unmanned aircraft, the application of the provisions of this Regulation related to certification, oversight and enforcement, as well as of the provisions regarding the Agency is not necessary for the purpose of reaching adequate levels of safety. Market surveillance mechanisms provided by Union product harmonisation legislation should be made applicable to those cases.
- (20a) The conditions for situations in which the design, production, maintenance and operation of unmanned aircraft, as well as the personnel and organisations involved in these activities, should be subject to certification, should take into account the nature and risk of the type of operation concerned. These conditions should in particular take into account the type, scale, and complexity of the operation, including, where relevant, the size and type of the traffic handled by the responsible organisation or person; whether the operation is open to members of the public; the extent to which other air traffic or persons and property on the ground could be endangered by the operation; the purpose of the flight and type of airspace used; the complexity and performance of the unmanned aircraft involved.

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<sup>3</sup> Directive 95/46/EC of the European Parliament and the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

- (20b) Provision should be made for the possibility to prohibit, limit or make subject to certain conditions the activities referred to in Chapter III of this Regulation where necessary in the interest of civil aviation safety. It is also appropriate to clarify that the provisions of that Chapter, in particular those relating to the operation of unmanned aircraft, do not affect the possibility of Member States to prohibit, limit or make subject to certain conditions those activities, for reasons falling outside the scope of this Regulation, while maintaining an adequate safety level. Those reasons can include the safeguarding of security, privacy, personal data or the environment.
- (21) In order to achieve the objectives of this Regulation, the Commission, the Agency and the competent authorities of the Member States should, by sharing resources and working jointly, act as a single European aviation safety system.
- (21a) It is necessary to support Member States in performing their certification, oversight and enforcement tasks by establishing an efficient framework for pooling and sharing of aviation inspectors and other specialists with relevant expertise.
- (22) The Agency and the national competent authorities should work in partnership in order to improve detection of unsafe conditions and take remedial measures as appropriate. Member States should in particular be able to reallocate to each other or to the Agency the responsibilities under this Regulation related to certification, oversight and enforcement, especially where that is necessary for enhanced safety or more efficient use of resources. Such reallocation should be voluntary, only take place where there is sufficient assurance that those tasks can be performed effectively and should, considering the close relationship between certification, oversight and enforcement, necessarily concern all those responsibilities in respect of the legal or natural person, aircraft, equipment, aerodrome, system or constituent concerned by the reallocation. The reallocation of responsibility should be subject to mutual consent, the possibility to revoke the reallocation and the conclusion of arrangements setting out the necessary details to ensure a smooth transition and the continued effective performance of the tasks concerned. When concluding those detailed arrangements, due account should be taken of the views and legitimate interests of the legal or natural persons concerned and, where applicable, the views of the Agency.

- (22a) Upon such reallocation of responsibility to another Member State, the national competent authority of the Member State which accepted the reallocation request should become the competent authority and thus have all powers and responsibilities in respect of the legal or natural persons concerned as provided for in this Regulation, the implementing acts adopted on the basis thereof and the national law of the Member State which accepted the request. The reallocation in respect of enforcement should concern only decisions and measures related to tasks in the area of certification and oversight, reallocated to the national competent authority of the Member State which accepted the request. Those decisions and measures should be subject to review by the national courts of that Member State in accordance with its national law. That Member State may be held liable for the performance of the tasks in question. All other enforcement responsibilities of the Member State which made the request should remain unaffected by the reallocation.
- (22b) The possibility to reallocate responsibility for the performance of the tasks related to certification, oversight and enforcement provided for in this Regulation to the Agency or another Member State should be without prejudice to the rights and obligations of the Member States under the Chicago Convention. Consequently, whereas such reallocation implies a transfer of responsibility to the Agency or to another Member State for the purposes of Union law, it leaves the responsibility of the Member State which made the request under the Chicago Convention unaffected.

- (22c) In certain cases, several Member States may wish to be jointly responsible for the performance of the tasks related to certification, oversight and enforcement in respect of air operators. That possibility should be expressly provided for, subject to compliance with certain conditions which aim to ensure that the joint responsibility is justified and that the applicable requirements are respected in full, including through the establishment of the necessary detailed arrangements between the Member States concerned regarding the modalities for the joint exercise of the responsibility. Joint responsibility should not be permitted, however, where it concerns more than five Member States, considering the practical and legal complications that can be expected to arise in such cases. Furthermore, in order to ensure objective verification, transparency and legal certainty, the Member States concerned should only be allowed to enter into joint responsibility after the Commission has decided that the applicable conditions have been complied with.
- (22d) The rules and procedures pertaining to joint responsibility set out in this Regulation should apply in the same manner independently from the legal situation of the air operator and the Member States concerned at the moment of the notification of the intended decision. The procedure should also be available in respect of air operators which at the date from which this Regulation applies, already hold a certificate issued by the national competent authorities of several Member States and, as the case may be, third countries which apply Union aviation safety legislation on the basis of an international agreement concluded with the Union. The introduction of an explicit provision on the possibility of joint responsibility in this Regulation as such should not be understood as affecting existing legal situations.
- (23) [...]
- (24) In order to achieve the main objectives of this Regulation, as well as objectives related to the free movement of goods, persons, services and capital, the certificates issued and declarations made in accordance with this Regulation and the implementing acts adopted on the basis thereof, should be valid, without further requirements or evaluation, in all Member States.

- (25) When issuing certificates pursuant to this Regulation, account may need to be taken of certificates, or other relevant documentation attesting compliance, issued in accordance with the laws of third countries. That should be done where the relevant international agreements concluded by the Union with third countries or the implementing acts adopted by the Commission pursuant to this Regulation so provide, and in accordance with those agreements or implementing acts.
- (26) In light of the rules on the acceptance of certificates and other relevant documentation attesting compliance, issued in accordance with the laws of third countries, for which this Regulation provides, any international agreements concluded between a Member State and third countries should be terminated or updated where such agreements are not compatible with those rules.
- (27) A degree of flexibility should be provided for with respect to the application of the rules set out in this Regulation or adopted on the basis thereof, in order to allow Member States to take the necessary measures to react immediately to problems relating to civil aviation safety or to grant exemptions in the event of certain urgent unforeseeable circumstances or operational needs, subject to appropriate conditions to ensure, in particular, proportionality, objective control and transparency. For reasons of proportionality, the Agency and the Commission should only assess the measures or exemptions in question with a view to issuing a recommendation or taking a decision, respectively, where their duration exceeds the duration of one airline scheduling season, that is, eight months, without prejudice to the powers of the Commission under Article 258 of the TFEU. Where the Agency is the competent authority with respect to the issuing of certain certificates in accordance with this Regulation, it should also be empowered to grant such exemptions, in the same situations and subject to the same conditions as those that apply with respect to the Member States. In this connection provision should also be made for possible amendments, where appropriate, of the relevant rules as laid down in implementing acts adopted on the basis of this Regulation, in particular so as to allow other means of compliance while still ensuring an acceptable level of civil aviation safety in the Union.

- (28) With a view to ensuring the proper application of this Regulation and having regard to the need to identify, assess and mitigate the risks for civil aviation safety, the Commission, the Agency and the national competent authorities should exchange any information available to them in the context of the application of this Regulation. For this purpose, the Agency should be allowed to organise a structured cooperation on gathering, exchange and analysis of relevant safety-related information. To this end it should be allowed to enter into the necessary administrative arrangements.
- (28a) It is necessary to establish measures to ensure the appropriate protection of information gathered, exchanged and analysed under this Regulation by the Commission, the Agency and the national competent authorities, as well as to ensure the protection of the sources of such information. These measures should not unduly interfere with the justice systems of the Member States. They should therefore be without prejudice to the applicable national material and procedural criminal laws, including the use of information as evidence. In addition, the rights of third parties to institute civil proceedings should not be affected by these measures and should be subject only to national law.
- (29) In order to facilitate the exchange between the Member States, the Commission and the Agency of information, including data, which is relevant for certification, oversight and enforcement activities, an electronic repository of such information should be established and managed by the Agency in cooperation with the Member States and the Commission.

- (30) Directive 95/46/EC of the European Parliament and the Council applies to the processing of personal data carried out in application of this Regulation. Pursuant to that Directive, Member States may provide for exemptions and restrictions in respect of some of the rights and obligations provided for therein, including as regards the processing of medical and health data. The processing of personal data, and in particular medical and health data, in the context of the repository pursuant to Article 63 of this Regulation is necessary to enable effective cooperation between the Member States in certification and oversight of medical fitness of pilots. Exchange of personal data should be subject to strict conditions, and limited to what is absolutely necessary for achieving the objectives of this Regulation. In view of the above, the principles set out in Directive 95/46/EC should be supplemented or clarified in this Regulation, where necessary.
- (31) Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>4</sup> and in particular the provisions thereof concerning confidentiality and security of processing, apply to the processing of personal data by the Agency when carrying out its responsibilities in application of this Regulation and more specifically in the management of the repository pursuant to Article 63 of this Regulation. In view of the above, the principles set out in Regulation (EC) No 45/2001 should be supplemented or clarified in this Regulation, where necessary.
- (32) The Agency has been established by Regulation (EC) No 1592/2002 of the European Parliament and of the Council<sup>5</sup> within the Union's existing institutional structure and balance of powers, is independent in relation to technical matters and has legal, administrative and financial autonomy. The Agency has received further competences in accordance with Regulation (EC) No 216/2008. Certain adjustments should be made in its structure and functioning in order to better accommodate the new tasks conferred on it by this Regulation.

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<sup>4</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

<sup>5</sup> Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, (OJ L 240, 7.9.2002, p. 1).

- (33) Under the institutional system of the Union, implementation of Union law is primarily the responsibility of the Member States. Certification, oversight and enforcement tasks required by this Regulation, and by the implementing acts adopted on the basis thereof, should therefore in principle be carried out at national level by one or more competent authorities of the Member States. In certain clearly defined cases, however, the Agency should also be empowered to conduct those tasks as specified in this Regulation. In those cases the Agency should also be allowed to take the necessary measures related to the operation of aircraft, the qualification of aircrew or the use of third-country aircraft, where this is the best means to ensure uniformity and facilitate the functioning of the internal market.
- (34) The Agency should provide the technical expertise to the Commission in the preparation of the necessary legislation and assist, where appropriate, the Member States and industry in its implementation. It should be able to issue certification and other detailed specifications and guidance material and to make technical findings and issue certificates or register declarations as required.
- (35) Global navigation satellite systems, and in particular the Union Galileo programme, will play a pivotal role in the implementation of a European air traffic management system. The Agency should be empowered to develop the necessary technical specifications and to certify organisations providing ATM/ANS within most or all Member States and which may also extend beyond the airspace above the territory to which the Treaties apply, such as the Union EGNOS service provider, to ensure a high, uniform level of safety, interoperability and operational efficiency.



- (36) Regulation (EC) No 2111/2005 of the European Parliament and of the Council<sup>6</sup> imposes a duty on the Agency to communicate all information that could be relevant for the updating of the list of air carriers which, for safety reasons, are subject to an operating ban in the Union. The Agency should also assist the Commission in the implementation of Regulation (EC) No 2111/2005, by conducting the necessary evaluations of third country operators and authorities responsible for their oversight, and making appropriate recommendations to the Commission.
- (37) In order to ensure compliance with this Regulation, it should be possible to impose fines or periodic penalty payments, or both, on holders of certificates issued by the Agency and on undertakings that made declarations to the Agency, where they infringed the rules applicable to them pursuant to this Regulation. Such fines and periodic penalty payments should be imposed by the Commission acting upon a recommendation of the Agency. In this regard, the Commission should, in light of the circumstances of each individual case, respond to such infringements in a proportionate and adequate manner, taking account of other possible measures such as the withdrawal of a certificate.
- (38) With a view to contributing to the uniform application of this Regulation, the Agency should be empowered to monitor such application by Member States, including by conducting inspections.
- (39) On the basis of its technical expertise, the Agency should assist the Commission in the definition of research policy and in the implementation of Union research programmes. It should be allowed to conduct research which is immediately needed and to participate in ad hoc research projects under the Union Framework Programme for Research and Innovation or other Union and non-Union private or public funding programmes.

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<sup>6</sup> Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier (OJ L 344, 27.12.2005, p. 15).

- (40) Having regard to the existing interdependencies between safety and security in civil aviation, the Agency should take part in the cooperation concerning the area of aviation security, including cyber-security. It should contribute its expertise to the implementation, by the Commission and by Member States, of Union rules in that area.
- (41) The Agency should, on request, assist the Member States and Commission in the field of international relations relating to matters covered by this Regulation, in particular as regards the harmonisation of rules and the mutual recognition of certificates. It should be entitled to establish the appropriate relations, through working arrangements, with the authorities of third countries and international organisations competent in matters covered by this Regulation, subject to the Commission's prior approval. In order to promote safety at the worldwide level, in light of the high standards applied within the Union, the Agency should be allowed to engage, within its field of competence, in ad hoc technical cooperation, research and assistance projects with third countries and international organisations. The Agency should also assist the Commission in the implementation of Union legislation in other technical domains of civil aviation regulation, such as security or the Single European Sky, where the Agency has the relevant expertise.
- (42) In order to promote best practices and a uniform implementation of Union aviation safety legislation, the Agency may approve providers of aviation training and provide training.
- (43) The Agency should be governed and operated in line with the principles of the Joint Statement of the European Parliament, the Council and the European Commission on decentralised agencies of 19 July 2012.
- (44) The Member States and the Commission should be represented within the Management Board of the Agency in order to effectively control its functions. That Management Board should be entrusted with the necessary powers notably to appoint the Executive Director, and to adopt the consolidated annual activity report, the programming document, the annual budget, and the financial rules applicable to the Agency.

- (45) In the interests of transparency, interested parties should be given observer status within the Management Board of the Agency.
- (46) [...]
- (47) Public interest requires the Agency to base its safety-related action solely on independent expertise, strictly applying this Regulation and the implementing acts adopted on the basis thereof. To that end, safety-related decisions of the Agency should be made by its Executive Director, who should enjoy a high degree of flexibility to obtain advice and to organise the internal functioning of the Agency.
- (48) It is necessary to ensure that parties affected by decisions made by the Agency enjoy the necessary remedies in a manner which is suited to the special character of the field of aviation. Therefore, an appropriate appeal mechanism should be set up so that decisions of the Agency can be subject to appeal to a specialised Board of Appeal, the decisions of which can be subject to action before the Court of Justice of the European Union (the 'Court of Justice') in accordance with the TFEU.
- (49) All decisions taken by the Commission under this Regulation are subject to review by the Court of Justice in accordance with the TFEU. The Court of Justice should, in accordance with Article 261 of the TFEU, be given unlimited jurisdiction in respect of decisions by which the Commission imposes fines or periodic penalty payments.
- (50) When the Agency develops draft rules of a general nature to be implemented by national authorities, Member States should be consulted. Furthermore, where rules could have important social implications, stakeholders, including Union social partners, should be appropriately consulted when the Agency prepares corresponding draft rules.

- (51) With a view to effectively carrying out its tasks under this Regulation, the Agency should cooperate, as necessary, with other Union institutions, bodies, offices and agencies in areas where their activities affect technical aspects of civil aviation. In particular, the Agency should collaborate with the European Chemicals Agency in the exchange of information on the safety of chemical substances, their impact on aviation safety and related scientific and technical aspects. When consultation relating to military aspects is required, the Agency should, in addition to the Member States, consult the European Defence Agency.
- (52) It is necessary to provide the public with adequate information pertaining to the level of civil aviation safety and environmental protection relating thereto, taking into account Regulation (EC) No 1049/2001 of the European Parliament and of the Council and relevant national legislation.
- (53) In order to guarantee the full autonomy and independence of the Agency, it should be granted an autonomous budget principally funded from a contribution from the Union and from fees and charges paid by the users of the European aviation safety system. Any financial contribution received by the Agency from Member States, third countries, or other entities or persons should not compromise its independence and impartiality. The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the European Union are concerned, while the auditing of accounts should be carried out by the Court of Auditors. In order to enable the Agency to participate in all relevant future projects, it should be provided with the possibility to receive grants.
- (53a) [...]

- (54) In order to ensure that the Agency can respond to demand for the activities it carries out, in particular as regards certification and activities related to a possible reallocation of responsibility from Member States, in an efficient and timely manner, while respecting sound financial management, the establishment plan should take into account the resources required to meet demands for certification and for other activities of the Agency in an efficient and timely manner, including those resulting from reallocation of responsibility in accordance with Articles 53 and 54. To this end, a set of indicators should be established to measure the Agency's workload and efficiency in relation to activities financed through fees and charges. Having regard to those indicators the Agency should adapt its staff planning and management of resources related to fees and charges so as to be able to adequately respond to such demand and to any fluctuations in revenue from fees and charges.
- (55) [...] *[covered by 28a]*.
- (56) The fees and charges levied by the Agency should be set in a transparent, fair, non-discriminatory and uniform manner. They should not jeopardize the competitiveness of the Union's industry concerned. Furthermore, they should be established on a basis which takes due account of the ability of the legal or natural persons concerned to pay, in particular regarding small and medium-sized enterprises.
- (57) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>7</sup>.
- (58) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to corrective action and safeguard measures, imperative grounds of urgency so require.

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<sup>7</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (59) In order to take into account technical, scientific, operational or safety needs in the field of unmanned aircraft operations, by amending or supplementing the requirements set out in Annex IX to this Regulation, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission for a period of five years. In addition, the Commission should be empowered to amend the references to the provisions of the Chicago Convention laid down in Article 9(2), in order to update them in light of subsequent amendments to Annex 16 to that Convention. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (59a) The annexes to this Regulation contain already well established essential requirements which are not expected to be modified regularly. However, in view of the rapid technological evolution and changes expected in the field of unmanned aircraft, the Commission should be exceptionally empowered, for a limited period of five years, to amend or supplement, by means of delegated acts, Annex IX setting out the essential requirements for unmanned aircraft.
- (60) The involvement of European third countries should be pursued to ensure the improvement of civil aviation safety throughout Europe. Those countries that have concluded international agreements with the Union to adopt and apply the Union *acquis* in the field covered by this Regulation should be associated with the work of the Agency in accordance with conditions set in the framework of those agreements.

- (61) This Regulation sets common rules in the field of civil aviation and maintains the establishment of the Agency. Regulation (EC) No 216/2008 of the European Parliament and of the Council<sup>8</sup> should therefore be repealed.
- (61a) This Regulation sets common rules in the field of ATM/ANS systems and ATM/ANS constituents. Regulation (EC) No 552/2004 of the European Parliament and of the Council should therefore be repealed.
- (61b) Regulation (EC) No 216/2008 provides for the deletion of Annex III to Council Regulation (EEC) No 3922/91<sup>9</sup> from the entry into force of the corresponding measures referred to in Article 8(5) of Regulation (EC) No 216/2008. Considering that all of those measures will be applicable by 1 April 2019 and that other provisions of Regulation (EEC) No 3922/91 have become obsolete, Council Regulation (EEC) No 3922/91 should be repealed from that date. However, Regulation (EEC) No 3922/91 also establishes the committee, within the meaning of Regulation (EU) No 182/2011, known as the 'EU Air Safety Committee', and that Committee also assists the Commission in the context of Regulation (EC) No 2111/2005. Regulation (EC) No 2111/2005 should therefore be amended so as to ensure that, for the purposes of that Regulation, that Committee continues to assist the Commission also after the repeal of Regulation (EEC) No 3922/91.

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<sup>8</sup> Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (OJ L 240, 7.9.2002, p. 1).

<sup>9</sup> Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation (OJ L 373, 31.12.1991, p. 4).

- (62) The changes brought about by this Regulation have an impact on the implementation of other Union legislation. Regulation (EC) No 1008/2008 of the European Parliament and of the Council<sup>10</sup>, Regulation (EU) No 996/2010 of the European Parliament and of the Council<sup>11</sup>, Regulation (EU) No 376/2014 of the European Parliament and of the Council<sup>12</sup>, and Regulation (EC) No 2111/2005 of the European Parliament and of the Council should therefore be amended accordingly.
- (63) Regulation (EC) No 1008/2008 should be amended to take due account of the possibility established by this Regulation that the Agency may become the competent authority for the issuance and oversight of air operator certificates. Moreover, given the growing importance of air carriers with operational bases in several Member States which results in the competent authority for the operating licences and the competent authority for air operator certificates no longer being necessarily identical, there is a need to reinforce the efficient supervision of those air carriers. Regulation (EC) No 1008/2008 should therefore be amended to ensure close cooperation between the authorities responsible for the oversight in respect of the air operator certificate and the operating licence respectively.

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<sup>10</sup> Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3).

<sup>11</sup> 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 (OJ L 295, 12.11.2010, p. 35).

<sup>12</sup> Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 (OJ L 122, 24.4.2014, p. 18).



(64) Since the objectives of this Regulation, namely establishing and maintaining a high uniform level of civil aviation safety, while ensuring a high uniform level of environmental protection, cannot be sufficiently achieved by the Member States because of the largely transnational nature of aviation and its complexity, but can rather, by reason of the Union-wide scope of this Regulation, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### Principles

#### *Article 1*

#### **Subject matter and objectives**

1. The principal objective of this Regulation is to establish and maintain a high uniform level of civil aviation safety in the Union, while ensuring a high uniform level of environmental protection.
2. This Regulation further aims at:
  - a) contributing to the wider Union aviation policy and to the improvement of the overall performance and sustainable growth of the civil aviation sector;
  - b) facilitating, in the fields covered by this Regulation, the free movement of goods, persons, services and capital, providing a level playing field for all actors in the internal aviation market, and improving the competitiveness of the Union's aviation industry;
  - c) promoting cost-efficiency and effectiveness in the regulatory, certification and oversight processes as well as an efficient use of related resources at national and Union level;
  - d) <sup>13</sup>contributing, in the fields covered by this Regulation, to establishing and maintaining a high uniform level of civil aviation security;
  - e) assisting Member States, in the fields covered by this Regulation, in exercising their rights and fulfilling their obligations under the Chicago Convention, by ensuring a common interpretation and timely implementation of its provisions, including international standards and recommended practices, as appropriate;

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<sup>13</sup> DE and EL propose to delete this point.

- f) promoting, worldwide, the views of the Union regarding civil aviation standards and civil aviation rules by establishing appropriate cooperation with third countries and international organisations;
- g) promoting research and innovation, amongst others in regulatory, certification and oversight processes;
- h) promoting, in the fields covered by this Regulation, technical and operational interoperability.

3. The objectives set out in paragraphs 1 and 2 shall be achieved by, inter alia:

- a) the preparation, adoption and uniform application of all necessary acts;
- b) ensuring that the declarations and certificates issued in accordance with this Regulation and its implementing acts are valid throughout the Union, without any additional requirements;
- c) the development, with the involvement of standardisation and other industry bodies, of detailed technical standards to be used as means of compliance with this Regulation and the implementing acts adopted on the basis thereof, where appropriate;
- d) the establishment of an independent European Union Aviation Safety Agency (the 'Agency');
- e) the uniform implementation of all necessary acts by the national competent authorities and the Agency within their respective areas of responsibility;
- f) the gathering, analysis and exchange of information to support evidence-based decision making;
- g) the undertaking of awareness and promotion initiatives, including training, communication and dissemination of relevant safety information.

## *Article 2*

### **Scope**

1. This Regulation shall apply to:
  - a) the design and production of products and parts by a natural or legal person under the oversight of the Agency or a Member State;
  - b) the design, production, maintenance and operation of aircraft, as well as associated products, parts and non-installed equipment, where the aircraft is:
    - i) registered in a Member State, unless and to the extent that the Member State has transferred its responsibilities pursuant to the Chicago Convention to a third country and the aircraft is operated by a third country operator;
    - ii) registered in a third country and operated by an operator established, residing or with a principal place of business in the territory to which the Treaties apply;
  - c) the operation of aircraft into, within, or out of the territory to which the Treaties apply by a third country operator;
  - d) the design, production, maintenance and operation of safety-related aerodrome equipment used or intended for use at the aerodromes referred to in point (e) and the provision of ground handling services and apron management services at those aerodromes;
  - e) the design, maintenance and operation of aerodromes located in the territory to which the Treaties apply, which:
    - i) are open to public use;
    - ii) serve commercial air transport;
    - iii) [...]; and

- iv) have a paved instrument runway of 800 metres or more, or exclusively serve helicopters;
  - f) without prejudice to Union and national legislation on environment and land-use planning, the safeguarding of surroundings of the aerodromes referred to in point (e);
  - g) the provision of 'ATM/ANS' in the Single European Sky airspace, and the design, production, maintenance and operation of systems and constituents used in the provision of those ATM/ANS;
  - h) the design, production, maintenance and operation of unmanned aircraft, their engines, propellers, parts and non-installed equipment, as well as the equipment to control unmanned aircraft remotely, where such aircraft are operated within the territory to which the Treaties apply by an operator established, residing or with the principal place of business within that territory.
2. This Regulation shall also apply to the personnel and organisations involved in the activities referred to in paragraph 1.
3. This Regulation shall not apply to:
- a) aircraft, and their engines, propellers, parts and non-installed equipment, while carrying out military, customs, police, search and rescue, firefighting, border control, coastguard or similar activities or services under the control and responsibility of a Member State, undertaken in the public interest by or on behalf of a body vested with public authority powers, and the personnel and organisations involved in the activities and services performed by those aircraft;
  - b) aerodromes or parts thereof, as well as equipment, personnel and organisations, that are controlled and operated by the military;
  - c) ATM/ANS, including systems and constituents, personnel and organisations, that are provided or made available by the military;

- d) the design, production, maintenance and operation of aircraft the operation of which involves low risk for aviation safety, as listed in Annex I, and to the personnel and organisations involved therein unless the aircraft has been issued, or deemed to have been issued, with a certificate in accordance with Regulation (EC) No 216/2008.

As regards point (a), Member States shall ensure that activities and services performed by the aircraft referred to in that point are carried out having due regard, as far as practicable, to the safety objectives of this Regulation. Member States shall also ensure that, where appropriate, those aircraft are safely separated from other aircraft.

- 4. An organisation responsible for the design of an aircraft type may request the Commission to decide that the provisions of Section I of Chapter III apply to the design, production and maintenance of that aircraft type and to the personnel and organisations involved in those activities, where:
  - a) the aircraft type concerned falls within the scope of points (e), (f), (h), (i), or (j) of point 1 of Annex I;
  - b) that aircraft type is intended for serial production; and
  - c) the design of that aircraft type has not been approved in accordance with the national laws of a Member State.

The Commission shall decide on the basis of that request, after having consulted the Agency and the Member State where the organisation concerned has its principal place of business, whether the criteria of the first subparagraph have been fulfilled. That decision shall be adopted by means of an implementing act which shall be adopted in accordance with the procedure referred to in Article 116(2) and shall be published in the *Official Journal of the European Union*. The Agency shall also include that decision in the repository referred to in Article 63.

From the date specified in that implementing decision, the design, production and maintenance of the aircraft type concerned and the personnel and organisations involved in those activities shall be solely regulated by the provisions of Section I of Chapter III and of the implementing acts adopted on the basis of those provisions. In that case, the provisions of Section IX of Chapter III, Chapter IV and Chapter V relating to the application of the provisions of Section I of Chapter III shall also apply with respect to the aircraft type concerned.

5. Without prejudice to Article 7(5) of Regulation (EU) No 550/2004 on the provision of air navigation services in the Single European Sky<sup>14</sup> Member States shall, as far as practicable, ensure that the military facilities referred to in paragraph 3(b) of this Article that are open to public use and the ATM/ANS referred to in paragraph 3(c) of this Article that are provided or made available by the military to the public offer a level of safety that is equivalent to that resulting from the application of the essential requirements set out in Annexes VII and VIII of this Regulation.
6. Member States may decide to apply the provisions of any of the Sections I, II, III, or VII of Chapter III to some or all activities referred to in paragraph 3(a) of this Article and to the personnel and organisations involved in those activities.

In that case, the Member State concerned shall notify the Commission and the Agency of its intention. That notification shall contain all relevant information, and in particular:

- a) the Section or Sections which it intends to apply;
- b) the activities, personnel and organisations concerned;
- c) the reasons for the intended decision; and
- d) the date as of which the intended decision shall be applicable.

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<sup>14</sup> OJ L 96, 31.3.2004, p.10

The Commission shall decide, after having consulted the Agency, whether, in light of the characteristics of the activities, personnel and organisations in question and the purpose and content of the provisions of the Section or Sections notified to it, the provisions in question can be effectively applied and, where appropriate, under what conditions. The Commission decision, taken by means of an implementing act, shall be adopted in accordance with the procedure referred to in Article 116(2) and shall be published in the *Official Journal of the European Union*. The Agency shall include that decision in the repository referred to in Article 63.

The Member State concerned shall apply the provisions of the Section or Sections notified to the Commission only after a positive Commission decision and, where relevant, after having ensured that the conditions attached to that decision have been fulfilled. In that case, from the date specified in the Member State's decision, the activities, personnel and organisations concerned shall solely be regulated by those provisions and by the provisions of the implementing acts adopted on the basis thereof. In that case, the provisions of Section IX of Chapter III, Chapter IV and Chapter V relating to the application of the provisions of the Section or the Sections notified with respect to the activities, personnel and organisations concerned shall also apply.

The Commission, the Agency and the competent authorities of the Member State concerned shall cooperate for the purpose of the application of this paragraph.

Member States may decide to revoke their decisions adopted pursuant to this paragraph. In that case the Member State concerned shall notify the Commission and the Agency. That notification shall be published in the *Official Journal of the European Union*, and the Agency shall include it in the repository referred to in Article 63. An appropriate transition period shall be provided for by the Member State concerned.



7. Member States may decide to exempt from the provisions of this Regulation the design, maintenance and operation of an aerodrome, and the equipment used at that aerodrome, where that aerodrome handles no more than 10 000 commercial passengers per year and no more than 850 movements related to cargo operations per year, and provided that Member States concerned ensure that such exemption does not endanger compliance with the essential requirements referred to in Article 29.

In such a case, the Member State concerned shall inform the Commission and the Agency of its decision and the reasons thereof.

The Agency shall include that decision in the repository referred to in Article 63.

In that case, from the date specified in the Member State's decision, the design, maintenance and operation of the aerodrome concerned, its equipment, and groundhandling services and apron management service at that aerodrome shall no longer be regulated by the provisions of this Regulation and of the implementing acts adopted on the basis thereof.

If such exemption by a Member State does not comply with the conditions specified in the first subparagraph, the Commission shall take the decision not to permit the exemption. The Commission decision, taken by means of an implementing act, shall be adopted in accordance with the procedure referred to in Article 116 paragraph 2. The decision of the Commission shall be published in the *Official Journal of the European Union* and the Agency shall include it in the repository referred to in Article 63. In such a case, the Member State concerned shall revoke the exemption.

Member States shall, on an annual basis, examine the traffic figures of the aerodromes that they have exempted pursuant to this paragraph. Where that examination demonstrates that, over three consecutive years, one of those aerodromes handles more than 10 000 commercial passengers per year or more than 850 movements related to cargo operations per year, the Member State concerned shall revoke the exemption of that aerodrome. In that case, it shall inform the Commission and the Agency accordingly. The Agency shall include the decision revoking the exemption in the repository referred to in Article 63.

The provisions of this paragraph shall not affect the exemptions granted by Member States pursuant to Article 4(3b) of Regulation (EC) No 216/2008. The Agency shall include the decisions providing for those exemptions in the repository referred to in Article 63.

### *Article 3*

#### **Definitions**

For the purposes of this Regulation, the following definitions shall apply:

- (1) ‘oversight’ means the verification, by or on behalf of the competent authority, on a continuous basis that the requirements on the basis of which a certificate has been issued or the requirements in respect of which a declaration has been made, continue to be complied with;
- (2) ‘Chicago Convention’ means the Convention on International Civil Aviation and its Annexes, signed in Chicago on 7 December 1944;
- (3) ‘product’ means an aircraft, an engine or a propeller;
- (4) ‘part’ means any instrument, equipment, mechanism, apparatus, appurtenance, software, accessory or any other element of a product, as defined by that product’s design;
- (5) ‘ATM/ANS constituent’ means tangible objects such as hardware and intangible objects such as software upon which the interoperability of the European Air Traffic Management Network (EATMN) depends;
- (6) ‘certification’ means any form of recognition in accordance with this Regulation, based on an appropriate assessment, that an organisation or person, product, part, non-installed equipment, equipment to control unmanned aircraft remotely, aerodrome, safety-related aerodrome equipment, ATM/ANS system, ATM/ANS constituent or flight simulation training device complies with the applicable requirements of this Regulation and of the implementing acts adopted on the basis thereof, through the issuance of a certificate attesting such compliance;

- (7) ‘declaration’ means any written statement made in accordance with this Regulation under the sole responsibility of a legal or natural person subject to this Regulation and which confirms that the applicable requirements of this Regulation and of the implementing acts adopted on the basis thereof relating to an organisation or a person, product, part, non-installed equipment, equipment to control unmanned aircraft remotely, safety-related aerodrome equipment, ATM/ANS system, or ATM/ANS constituent are complied with;
- (8) ‘qualified entity’ means an accredited legal or natural person which may be charged with certain certification or oversight tasks under this Regulation by and under the control and the responsibility of the Agency or a national competent authority;
- (9) ‘certificate’ means any certificate, approval, licence, authorisation, attestation or other document issued as the result of a certification attesting compliance with the applicable requirements;
- (10) ‘aircraft operator’ means any legal or natural person operating or proposing to operate one or more aircraft;
- (10a) ‘aerodrome operator’ means any legal or natural person operating or proposing to operate one or more aerodromes;
- (11) ‘flight simulation training device’ means any type of device in which flight conditions are simulated on the ground, including flight simulators, flight training devices, flight and navigation procedures trainers and basic instrument training devices;
- (12) ‘aerodrome’ means a defined area, on land or on water, on a fixed, fixed offshore or floating structure, including any buildings, installations and equipment thereon, intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;
- (13) ‘safety-related aerodrome equipment’ means any equipment, apparatus, appurtenance, software or accessory that is used or intended to be used to contribute to the safe operation of aircraft at an aerodrome;

- (14) ‘apron’ means a defined area of an aerodrome intended to accommodate aircraft for purposes of loading or unloading passengers, baggage, mail or cargo, fuelling, parking or maintenance;
- (15) ‘apron management service’ means a service provided to regulate the activities and the movement of aircraft and vehicles on an apron;
- (16) ‘ATM/ANS’ (‘air traffic management and air navigation services’) means the air traffic management functions and services as defined in Article 2(10) of Regulation (EC) No 549/2004 laying down the framework for the creation of the Single European Sky<sup>15</sup>, the air navigation services defined in Article 2(4) of that Regulation, including the network management functions and services referred to in Article 6 of Regulation (EC) No 551/2004 on the organisation and use of the airspace in the Single European Sky<sup>16</sup>, airspace and procedures design, and services consisting in the origination and processing of data and the formatting and delivering of data to general air traffic for the purpose of air navigation;
- (17) ‘ATM/ANS system’ means the aggregation of airborne and ground-based constituents, as well as space-based equipment, that provides support for air navigation services for all phases of flight;
- (18) ‘ATM Master Plan’ means the plan endorsed by Council Decision 2009/320/EC<sup>17</sup>, in accordance with Article 1(2) of Council Regulation (EC) No 219/2007 of 27 February 2007, on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR)<sup>18</sup>;
- (19) ‘flight information service’ means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights;
- (20) ‘general air traffic’ means all movements of civil aircraft and state aircraft carried out in conformity with the procedures of the International Civil Aviation Organisation (‘ICAO’);

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<sup>15</sup> OJ L 96, 31.3.2004, p. 1.

<sup>16</sup> OJ L 96, 31.3.2004, p. 1.

<sup>17</sup> OJ L 95, 9.4.2009, p. 41.

<sup>18</sup> OJ L 64, 2.3.2007, p. 1.

- (21) ‘international standards and recommended practices’ means the international standards and recommended practices adopted by ICAO in accordance with Article 37 of the Chicago Convention;
- (22) ‘ground handling service’ means any service provided at aerodromes comprising safety-related activities in the areas of ground supervision, flight dispatch and load control, passenger handling, baggage handling, freight and mail handling, apron handling of aircraft, aircraft services, fuel and oil handling and loading of catering. This includes the case where aircraft operators provide these ground handling services to themselves (self-handling);
- (23) ‘commercial air transport’ means an aircraft operation to transport passengers, cargo or mail for remuneration or other valuable consideration;
- (24) ‘safety performance’ means a Member State's, the Union's or an organisation's safety achievement, as defined by its safety performance targets and safety performance indicators;
- (25) ‘safety performance indicator’ means a parameter used for monitoring and assessing safety performance;
- (26) ‘safety performance target’ means a planned or intended objective for complying with safety performance indicators over a given period of time;
- (27) ‘aircraft’ means any machine that can derive support in the atmosphere from the reactions of the air other than reactions of the air against the earth's surface;
- (28) ‘non-installed equipment’ means any instrument, equipment, mechanism, apparatus, appurtenance, software or accessory carried on board of an aircraft by the aircraft operator, which is not a part, and is used or intended to be used in operating or controlling an aircraft, supports the occupants' survivability, or could impact the safe operation of the aircraft;

- (29) ‘unmanned aircraft’ means any aircraft operated or designed to be operated without a pilot on board and which has the capacity to operate autonomously or to be piloted remotely;
- (30) ‘equipment to control unmanned aircraft remotely’ means any instrument, equipment, mechanism, apparatus, appurtenance, software or accessory that is necessary for the safe operation of an unmanned aircraft other than a part and which is not carried on board of that unmanned aircraft;
- (31) ‘aircraft registered in a Member State’ or ‘aircraft registered in a third country’ means aircraft registered in accordance with the international standards and recommended practices contained in Annex 7 to the Chicago Convention entitled "Aircraft Nationality and Registration Marks";
- (32) [...];
- (33) ‘Single European Sky airspace’ means airspace above the territory to which the Treaties apply, as well as any other airspace where Member States apply Regulation (EU) No 551/2004 in accordance with Article 1(3) of that Regulation;
- (33a) [...];
- (34) ‘national competent authority’ means one or more entities designated by a Member State and having the necessary powers and allocated responsibilities for performing the tasks related to certification, oversight and enforcement in accordance with this Regulation and the implementing acts adopted on the basis thereof.

## *Article 4*

### **Principles for measures under this Regulation**

1. When taking measures under this Regulation the Member States, the Commission and the Agency shall:
  - a) reflect the state of the art and best practices in the field of aviation, and take into account worldwide aviation experience and scientific and technical progress in the respective fields;
  - b) build on the best available evidence and analysis;
  - c) allow for immediate reaction to established causes of accidents, serious incidents and intentional security breaches;
  - d) take due account of interdependencies between the different domains of aviation safety, and between aviation safety and other technical domains of aviation regulation;
  - e) lay down, where possible, requirements and procedures in a manner which focuses on objectives to be achieved, while allowing different means of achieving compliance with these objectives;
  - f) promote cooperation and efficient use of resources between authorities at Union and Member State level;
  - g) take non-binding measures, including safety promotion actions, where possible;
  - h) take into account the international rights and obligations in the field of civil aviation of the Union and of the Member States, including those under the Chicago Convention.

(ha) [...] (*moved to Article 47*)

2. The measures taken under this Regulation shall correspond and be proportionate to the nature and risk of each particular activity to which they relate. In preparing and enacting such measures, the Member States, the Commission and the Agency shall take into account, as appropriate for the activity concerned:
- a) whether persons other than flight crew are carried on board, and in particular whether the operation is open to members of the public;
  - b) to what extent third parties or property on the ground could be endangered by the activity;
  - c) the complexity and performance of the aircraft involved;
  - d) the purpose of the flight and type of airspace used;
  - e) the type, scale, and complexity of the operation or activity, including, where relevant, the size and type of the traffic handled by the responsible organisation or person;
  - f) the extent to which the persons affected by the risks involved in the operation are able to assess and exercise control over those risks;
  - g) the results of past certification and oversight activities.



## **CHAPTER II**

### **Aviation Safety Management**

#### *Article 5*

#### **European Aviation Safety Programme**

1. The Commission shall, after consulting the Agency and the Member States, adopt, publish and update as required a document describing the functioning of the European aviation safety system, containing the rules, activities and processes which are used to manage the safety of civil aviation in the Union in accordance with this Regulation (the 'European Aviation Safety Programme').
2. The European Aviation Safety Programme shall include at least the elements related to State safety management responsibilities as described in Annex 19 to the Chicago Convention.

The European Aviation Safety Programme shall also describe the process for the development, adoption, update and implementation of the European Plan for Aviation Safety referred to in Article 6, which shall closely involve the Member States and relevant stakeholders.

#### *Article 6*

#### **European Plan for Aviation Safety**

1. The Agency, in close collaboration with Member States and relevant stakeholders, shall develop, adopt, publish, and subsequently update at least on a yearly basis a European Plan for Aviation Safety. Based on the assessment of relevant safety information, the European Plan for Aviation Safety shall identify the main safety risks affecting the European aviation safety system and set out the necessary actions to mitigate those risks.

2. The Agency, in close collaboration with Member States and relevant stakeholders, shall document in a dedicated safety risk portfolio the safety risks referred to in paragraph 1 and monitor the implementation of related mitigation actions by the parties concerned, including, where appropriate, by setting safety performance indicators.
3. The European Plan for Aviation Safety shall specify, taking into account the objectives set out in Article 1, an acceptable level of safety performance in the Union, which the Member States, the Commission and the Agency shall jointly aim at achieving.

#### *Article 7*

### **State Safety Programme**

1. Each Member State shall establish and maintain a state safety programme for the management of civil aviation safety in relation to the aviation activities under its responsibility (the "State Safety Programme"). That programme shall be commensurate with the size and the complexity of those activities and shall be consistent with the European Aviation Safety Programme.
2. The State Safety Programme shall include at least the elements related to State safety management responsibilities as described in Annex 19 to the Chicago Convention.
3. The State Safety Programme shall specify, taking into account the objectives set out in Article 1 and the acceptable level of safety performance referred to in Article 6(3), an acceptable level of safety performance to be achieved at national level in respect of the aviation activities under the responsibility of the Member State concerned.

## *Article 8*

### **State Plan for Aviation Safety**

1. The State Safety Programme shall include or be accompanied by a State Plan for Aviation Safety. Based on the assessment of relevant safety information, each Member State shall identify in that plan the main safety risks affecting its national civil aviation safety system and set out the necessary actions to mitigate those risks.
2. The State Plan for Aviation Safety shall include the risks and actions identified in the European Plan for Aviation Safety that are relevant for the Member State concerned. The Member State shall inform the Agency of the risks and actions identified in the European Plan for Aviation Safety that it considers not relevant for its national aviation safety system and the reasons thereof.

## CHAPTER III

### SUBSTANTIVE REQUIREMENTS

#### *SECTION I*

#### **Airworthiness and environmental protection**

##### *Article 9*

##### **Essential requirements**

Aircraft referred to in Article 2(1)(a) and (b) and their engines, propellers, parts and non-installed equipment shall comply with the essential requirements for airworthiness set out in Annex II. ~~and,~~

1. As regards noise and emissions, those aircraft and their engines, propellers, parts and non-installed equipment shall comply with the environmental protection requirements contained in the provisions of Amendment 11-B of Volume I, Amendment 8 of Volume II, as applicable on 1 January 2015, and in the initial issue of Volume III of Annex 16 to the Chicago Convention, as applicable on [...] <sup>19</sup> ~~1 January 2020~~, except for:
  - (a) aircraft, and their associated engines, parts and non-installed equipment for propeller-driven aeroplanes with a maximum take-off mass below 8 618 kg, subsonic jet aeroplanes with a maximum take-off mass below 5 700 kg and rotorcraft with a maximum take-off mass of below 3 175 kg;
  - (b) aircraft, and their associated engines, parts and non-installed equipment capable of sustaining level flight at speeds exceeding flight Mach number of 1 or intended for propulsion at supersonic speeds;

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<sup>19</sup> The references to respective Volumes of Annex 16 will need to be updated at a later stage of the legislative process, to take into account the ongoing developments in ICAO.

The products, parts and non-installed equipment referred to in points (a) and (b) shall comply with the essential requirements for environmental compatibility set out in Annex III. Those essential requirements shall also apply to products, parts and non-installed equipment to the extent that the provisions of the Chicago Convention referred to in the first subparagraph do not contain environmental protection requirements.

Organisations involved in the design, production and maintenance of products referred to in points (a) and (b) of Article 2(1) shall comply with point 8 of Annex III.

### *Article 10*

#### **Compliance**

1. As regards aircraft referred to in Article 2(1)(a) and 2(1)(b)(ii) and their engines, propellers and parts, compliance with Article 9 shall be ensured in accordance with Articles 11, 12, 13a, 13b, 15(1)(a) and 16a.
2. As regards aircraft referred to in Article 2(1)(b)(i) and their engines, propellers, parts, and non-installed equipment, compliance with Article 9 shall be ensured in accordance with Articles 11 to 16a.

## *Article 11*

### **Design of products**

1.
  - a) A type certificate shall be required in respect of the design of a product; and
  - b) A certificate, including a supplemental type certificate, shall be required in respect of changes to a type certificate and in respect of repair designs,  
  
except for situations in which, taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, certificates referred to in points (a) and (b) shall not be required, in accordance with the implementing measures adopted pursuant to Article 13b.
2. Those certificates shall be issued upon application if the applicant has demonstrated that:
  - a) the applicant and the design of the product comply with the implementing measures adopted pursuant to Articles 13b and 16a, and
  - b) the design of the product complies with the certification basis established in accordance with Article 13a and has no feature or characteristic making it unsafe or environmentally incompatible for operations.
3. The certificates referred to in paragraph 1 may also be issued without such application, by an organisation approved in accordance with Article 15 which has been granted the privilege to issue those certificates when that organisation has determined that the design of the product complies with the conditions established in paragraph 2.
4. [...]
5.
  - a) When the design of an aircraft does not comply with the essential requirements referred to in Article 9, a restricted type certificate may be issued.

- b) A certificate, including a supplemental type certificate, shall also be required in respect of changes to a restricted type certificate and in respect of repair designs, except for situations in which, taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, such certificates shall not be required, in accordance with the implementing measures adopted pursuant to Article 13b.

Those certificates shall be issued upon application, if the applicant has demonstrated that:

- i) the applicant and the design of the aircraft comply with the implementing measures adopted pursuant to Articles 13b and 16a, and
- ii) the design of the aircraft complies with the certification basis established in accordance with Article 13a and is adequate as regards airworthiness and environmental compatibility, in light of the intended use of the aircraft.

- 5a. No separate type certificate shall be required for the design of engines and propellers that have been certified as part of the design of an aircraft in accordance with this Article. *(moved from paragraph 4)*
- 6. Taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, the implementing measures adopted pursuant to Article 13b may require an approval in respect of the operational suitability data associated with a type design. That approval shall be issued upon application if the applicant has demonstrated that the operational suitability data complies with the certification basis established in accordance with Article 13a and the implementing measures adopted pursuant to Article 13b. That approval shall be included in the type certificate or restricted type certificate, as applicable.
- 7. Those certificates may be limited, suspended or revoked when the holder or the design no longer complies with the conditions for issuing and maintaining such certificates, in accordance with the implementing measures adopted pursuant to Article 13b.

8. When a type certificate is not required by the implementing measures adopted pursuant to Article 13b in respect of the design of a product, taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, those implementing measures may require a declaration confirming the compliance of the design of a product, of changes to that design and of repair designs with the detailed specifications established in accordance with those implementing measures.

## *Article 12*

### **Design of parts**

1. A certificate shall be required in respect of the design of parts except for:
  - a) parts that have been certified as part of the design of a product in accordance with Article 11;
  - b) situations in which, taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, such certificates shall not be required, in accordance with the implementing measures adopted pursuant to Article 13b.
2. That certificate shall be issued upon application, if the applicant has demonstrated that:
  - a) the applicant and the design of the part comply with the implementing measures adopted pursuant to Articles 13b and 16a and
  - b) the design of the part complies with the certification basis established in accordance with Article 13a.
3. That certificate may also be issued without such application, by an organisation approved in accordance with Article 15 which has been granted a privilege to issue those certificates when that organisation has determined that the design of the part complies with the conditions referred to in paragraph 2.



4. [...] (*moved to para 1*)
5. That certificate may be amended to reflect the changes in the design of the part, in accordance with the implementing measures adopted pursuant to Article 13b.
6. That certificate may be limited, suspended or revoked, when the holder or the design no longer complies with the conditions for issuing and maintaining such certificate, in accordance with the implementing measures adopted pursuant to Article 13b.
7. When a certificate is not required in respect of the design of parts by the implementing measures adopted pursuant to Article 13b, taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, those implementing measures may require a declaration confirming the compliance of the design of parts with the detailed specifications established in accordance with those implementing measures.

### *Article 13*

#### **Design of non-installed equipment**

1. Taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, the implementing measures adopted pursuant to Article 13b may require in respect of the design of non-installed equipment:
  - a) a declaration confirming the compliance of the design of non-installed equipment with the detailed specifications established in accordance with those implementing measures, or
  - b) a certificate.
2. That certificate shall be issued upon application, if the applicant has demonstrated that:
  - a) the applicant and the design of non-installed equipment comply with the implementing measures adopted pursuant to Articles 13b and 16a; and

- b) the design of the non-installed equipment complies with the certification basis established in accordance with Article 13a.
- 3. That certificate may also be issued without such application, by an organisation approved in accordance with Article 15 which has been granted a privilege to issue those certificates when that organisation has determined that the design of the non-installed equipment complies with the conditions referred to in paragraph 2.
- 4. That certificate may be amended to reflect the changes in the design of the non-installed equipment, in accordance with the implementing measures adopted pursuant to Article 13b.
- 5. That certificate may be limited, suspended or revoked, when the holder or the design no longer complies with the conditions for issuing and maintaining such certificates, in accordance with the implementing measures adopted pursuant to Article 13b.

#### *Article 13a*

#### **Certification basis for products, parts and non-installed equipment**

The certification basis shall consist of:

- a) the applicable airworthiness, environmental compatibility or operational suitability data certification specifications;
- b) where applicable in accordance with the implementing measures adopted pursuant to Article 13b:
  - i) alternative provisions to the certification specifications referred to in point (a), that provide an equivalent or, in case of restricted type certification, an adequate level of safety or environmental compatibility;
  - ii) special detailed technical specifications necessary when the design features, intended use or experience in operation of a particular product, part or non-installed equipment, render any of the certification specifications provisions inadequate or inappropriate to ensure conformity with the essential requirements referred to in Article 9.

**Implementing measures for the design of products, parts and non-installed equipment**

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 9, for the aircraft referred to in Article 2(1)(a) and (b) and their engines, propellers, parts and non-installed equipment, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions with regard to:
  - a) the conditions for establishing and notifying to an applicant by the Agency in accordance with Article 66 and on the basis of Article 13a:
    - i) the certification basis applicable to a product for the purposes of the type-certification referred to in Article 11;
    - i) the certification basis applicable to a product for the purposes of the approval of operational suitability data referred to in Article 11(6);
    - ii) the certification basis applicable to a part or non-installed equipment for the purposes of the certification referred to in Articles 12 and 13;
  - (aa) detailed environmental protection requirements for the products, parts and non-installed equipment referred to in points (a) and (b) of Article 9(2) and for products, parts and non-installed equipment as well as types of emissions, to that extent that the provisions of the Chicago Convention referred to in the first subparagraph of Article 9(2) do not contain environmental protection requirements;

- b) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Articles 11, 12 and 13, including:
  - i) the conditions for situations in which such certificates shall be or shall not be required;
  - ii) the conditions for situations in which the operational suitability data is required in accordance with Article 11(6), including:
    - the minimum syllabus of maintenance certifying staff type rating training;
    - the minimum syllabus of pilot type rating and the reference data for the objective qualification of associated simulators;
    - the master minimum equipment list, as appropriate;
    - aircraft type data relevant to cabin crew;
    - additional specifications to ensure compliance with Section III of this Chapter;
- c) the privileges and responsibilities of the holders of the certificates issued pursuant to Articles 11, 12 and 13 and of the organisations that made declarations in accordance with these Articles;
- d) the conditions for establishing the detailed specifications applicable to the design of products, parts or non-installed equipment which are subject to a declaration in accordance with Articles 11(8), 12(7) and 13(1);

- e) the conditions and procedures for declaration, in accordance with Articles 11(8), 12(7) and 13(1), with respect to the airworthiness and environmental compatibility of the design of products, parts or non-installed equipment, including:
    - i) the conditions for situations in which such declarations shall be required; and
    - ii) the conditions and limitations for operations.
  - f) [...] <sup>20</sup>
- 1a. When adopting those implementing acts, the Commission shall take due account of the international standards and recommended practices, in particular those set out in Annex 8 to the Chicago Convention and, as regards points (a) and (b) of Article 9(2), in Annex 16 to the Chicago Convention, as well as of the impact on the global competitiveness of products.
- 1b. [...]

#### *Article 14*

##### **Individual aircraft**

1. A certificate of airworthiness shall be required in respect of individual aircraft. A noise certificate shall be required in respect of individual aircraft, except for situations in which, taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature of the activity concerned, such noise certificates shall not be required.
2. Those certificates shall be issued upon application, if the applicant has demonstrated that the aircraft complies with the design certified in accordance with Article 11(1) and with the implementing measures adopted pursuant to Article 14a, and that the aircraft is in condition for safe and environmentally compatible operation.

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<sup>20</sup> Covered by new general paragraph in Article 57.

3. A restricted certificate of airworthiness or a restricted noise certificate shall be issued for aircraft the design of which has either been subject to a declaration in accordance with Article 11(8) or for which a restricted type certificate has been issued in accordance with Article 11(5). In that case, those certificates shall be issued upon application, if the applicant has demonstrated that the aircraft conforms to that design and that the aircraft is in condition for safe and environmentally compatible operation. The detailed provisions concerning the issuing and use of the restricted certificates of airworthiness and restricted noise certificates shall be laid down in the implementing acts adopted in accordance with Article 14a.
4. A permit to fly may be issued to allow operation of an aircraft which does not have a valid certificate of airworthiness or a valid restricted certificate of airworthiness. In that case, such permit to fly shall be issued upon application, if the applicant has demonstrated that the aircraft is capable of performing safely a basic flight. The detailed provisions concerning the issuing and use of permits to fly shall be laid down in the implementing acts adopted in accordance with Article 14a.

The permit to fly may also be issued without such application, by an organisation approved in accordance with Article 15 which has been granted a privilege to issue those permits to fly if that organisation has determined that the aircraft is capable of performing safely a basic flight.

The permit to fly shall be subject to appropriate limitations, as provided for in those implementing acts, in particular to protect the safety of third parties.

5. Those certificates, including permits to fly, shall remain valid as long as the aircraft and its parts and non-installed equipment are maintained in accordance with the implementing measures related to continuing airworthiness adopted pursuant to Article 14a and are in condition for safe and environmentally compatible operation.

6. Those certificates, including permits to fly, may be amended to reflect the changes in the configuration of the aircraft, in accordance with the implementing measures adopted pursuant to Article 14a.
7. Those certificates, including permits to fly, may be limited, suspended or revoked, when the holder or the aircraft no longer complies with the conditions for issuing and maintaining such certificates, in accordance with the implementing measures adopted pursuant to Article 14a.

*Article 14a*

**Implementing measures for individual aircraft**

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 9, for the aircraft referred to in Article 2(1)(b) and their engines, propellers, parts and non-installed equipment, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions with regard to:
  - a) [...]

- b) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 14 including:
  - i) the conditions for situations in which noise certificates referred to in Article 14(1) shall not be required;
  - ii) the conditions on the duration of those certificates and on the renewal of those certificates where their duration is limited;
  - iii) the conditions for the issuing and use of the restricted certificates of airworthiness and restricted noise certificates referred to in Article 14(3);
  - iv) the conditions for the issuing and use of the permits to fly referred to in Article 14(4);
  - v) the conditions for the maintenance of products, parts and non-installed equipment, for the purpose of applying Article 14(5);
  - vi) the conditions for the continuing airworthiness management of aircraft, for the purpose of applying Article 14(5);
- c) additional airworthiness requirements for products, parts and non-installed equipment, the design of which has already been certified, needed to support continuing airworthiness and safety improvements;
- d) the privileges and responsibilities of the holders of the certificates issued pursuant to Article 14.
- e) [...] <sup>21</sup>

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<sup>21</sup> Covered by new general paragraph in Article 57.



2. When adopting those implementing acts, the Commission shall take due account of the international standards and recommended practices, in particular those set out in Annex 6, Annex 8 and Annex 16 to the Chicago Convention.

### *Article 15*

### **Organisations**

1. An approval shall be required in respect of:
  - a) organisations responsible for the design and production of products, parts and non-installed equipment,
  - b) organisations responsible for the maintenance and continuing airworthiness management of products, parts and non-installed equipment, and
  - c) organisations involved in the training of the personnel responsible for the release of a product, a part or non-installed equipment after maintenance,

except for situations in which, taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, such approvals shall not be required, in accordance with the implementing measures adopted pursuant to Article 16a.

- 1a. Those approvals shall be issued upon application, if the applicant has demonstrated that it complies with implementing measures adopted pursuant to Article 16a.
2. [...]
3. [...]
- 3a. Those approvals shall specify the privileges granted to the organisation. The approval may be amended to add or remove privileges, in accordance with the implementing measures adopted pursuant to Article 16a.
- 3b. Those approvals may be limited, suspended or revoked, when the holder no longer complies with the conditions for issuing and maintaining such approval, in accordance with the implementing measures adopted pursuant to Article 16a.
- 3c. When an approval is not required by the implementing measures adopted pursuant to Article 16a, taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, those implementing measures may require the organisation concerned to declare its capability and the availability of the means to discharge the responsibilities associated with the activities it performs in compliance with those implementing measures.

## *Article 16*

### **Personnel**

1. Personnel responsible for the release of a product, a part or non-installed equipment after maintenance shall be required to hold a licence, except for situations in which, taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, such licence shall not be required, in accordance with the implementing measures adopted pursuant to Article 16a.
2. That licence shall be issued upon application, if the applicant has demonstrated that he or she complies with the implementing measures adopted pursuant to Article 16a.

- 2a. The licence shall specify the privileges granted to the personnel. The licence may be amended to add or remove privileges, in accordance with the implementing measures adopted pursuant to Article 16a.
- 2b. The licence may be limited, suspended or revoked when the holder no longer complies with the conditions for issuing and maintaining such licence, in accordance with the implementing measures adopted pursuant to Article 16a.

### *Article 16a*

#### **Implementing measures for organisations and personnel**

- 1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 9, for the aircraft referred to in Article 2(1)(a) and (b) and their engines, propellers, parts and non-installed equipment, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions with regard to:
  - a) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the approvals referred to in Article 15, including the conditions for situations in which such approvals shall not be required;
  - b) the conditions and procedures for declarations referred to in Article 15(3d), including the conditions for situations in which such declarations shall be required;
  - c) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the licences referred to in Article 16, including the conditions for situations in which such licences shall not be required;
  - d) the privileges and responsibilities of the holders of the approvals and licences issued pursuant to Articles 15 and 16, and of the organisations making declarations in accordance with Article 15(3d);

e) the conditions for situations in which organisations that have been issued an approval in accordance with Article 15 may be granted the privilege to issue the certificates referred to in Articles 11(1), 12, 13 and 14(4).

f) [...] <sup>22</sup>

2. When adopting those implementing acts, the Commission shall take due account of the international standards and recommended practices, in particular those set out in Annex 1, Annex 6 and Annex 8 to the Chicago Convention.

#### *Article 17*

### **Derogations**

[...]

#### *Article 18*

### **Delegated powers**

1. As regards the environmental compatibility of aircraft referred to in Article 2(1)(a) and (b) and their engines, propellers, parts and non-installed equipment, the Commission is empowered, by means of delegated acts adopted in accordance with Article 117, to amend the references to the provisions of the Chicago Convention referred to in Article 9(2), in order to update them in light of subsequent amendments to those provisions which enter into force after the date of adoption of this Regulation and which become applicable in all Member States, in so far as such adaptations do not broaden the scope of this Regulation.
2. [...]

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<sup>22</sup> Covered by new general paragraph in Article 57.

## ***SECTION II***

### **Aircrew**

#### *Article 19*

#### **Essential requirements**

Pilots and cabin crew involved in the operation of aircraft referred to in Article 2(1)(b), as well as flight simulation training devices, persons and organisations involved in the training, testing, checking or medical assessment of those pilots and cabin crew, shall comply with the essential requirements set out in Annex IV.

#### *Article 20*

#### **Pilots**

1. Pilots shall be required to hold a pilot licence and a pilot medical certificate appropriate to the operation to be performed, except for situations in which, taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, such licences or medical certificates shall not be required, in accordance with the implementing measures adopted pursuant to Article 21a.
2. That pilot licence shall be issued upon application, if the applicant has demonstrated that he or she complies with the implementing measures adopted pursuant to Article 21a.
3. That pilot medical certificate shall be issued upon application, if the applicant has demonstrated that he or she complies with the implementing measures adopted pursuant to Article 21a.
4. The pilot licences and the pilot medical certificates shall specify the privileges granted to the pilot. The pilot licence and pilot medical certificate may be amended to add or remove privileges, in accordance with the implementing measures adopted pursuant to Article 21a.

- 4a. The pilot licence or the pilot medical certificate may be limited, suspended or revoked when the holder no longer complies with the conditions for issuing and maintaining a licence or a medical certificate, in accordance with the implementing measures adopted pursuant to Article 21a.
- 4b. Training and experience on aircraft not subject to this Regulation may be recognised for the purpose of obtaining the pilot licence referred to in paragraph 2, in accordance with the implementing measures adopted pursuant to Article 21a.

### *Article 21*

#### **Cabin crew**

- 1. Cabin crew involved in commercial air transport operations shall be required to hold an attestation.
- 2. Taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, cabin crew involved in operations other than commercial air transport may also be required to hold an attestation, in accordance with the implementing measures adopted pursuant to Article 21a.
- 3. Those attestations shall be issued upon application, if the applicant has demonstrated that he or she complies with the implementing measures adopted pursuant to Article 21a.
- 4. The attestation shall specify the privileges granted to the cabin crew. The attestation may be amended to add or remove privileges, in accordance with the implementing measures adopted pursuant to Article 21a.
- 5. The attestation may be limited, suspended or revoked when the holder no longer complies with the conditions for issuing or maintaining such attestation, in accordance with the implementing measures adopted pursuant to Article 21a.

6. Before exercising their privileges, and at regular intervals thereafter, cabin crew shall be subject to a medical fitness assessment to ensure compliance with the essential requirements referred to in Article 19 on medical fitness, in accordance with the implementing measures adopted pursuant to Article 21a.

#### *Article 21a*

#### **Implementing measures for pilots and cabin crew**

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 19, for pilots involved in the operation of aircraft referred to in Article 2(1)(b), the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions concerning:
  - a) the different categories of pilot licences and pilot medical certificates referred to in Article 20, as well as different ratings for such pilot licences, adequate for the different types of activities performed;
  - b) the privileges and responsibilities of the holders of pilot licences, ratings and pilot medical certificates;
  - c) the conditions for issuing, maintaining, amending, limiting, suspending or revoking pilot licences, ratings and pilot medical certificates, including:
    - i) the conditions for situations in which such licences, ratings and medical certificates shall not be required;
    - ii) the conditions for the conversion of national pilot licences and national pilot medical certificates into the pilot licences and pilot medical certificates referred to in Article 20(2) and (3), respectively;

- iii) the conditions for the conversion of national flight engineer licences into the pilot licences referred to in Article 20(2);
  - iv) the conditions for the recognition of training and experience on aircraft not subject to this Regulation for the purposes of obtaining pilot licences referred to in Article 20(2).
- d) [...] <sup>23</sup>

When adopting those implementing acts, the Commission shall take due account of the international standards and recommended practices, in particular those set out in Annex 1 to the Chicago Convention.

Those implementing acts shall include, where appropriate, provisions for the issuance of all types of pilot licenses and ratings required under Annex 1 to the Chicago Convention. Those acts may also include provisions for the issuance of other types of pilot licences and ratings.

2. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 19 for cabin crew, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions concerning:
- a) the conditions for issuing, maintaining, amending, limiting, suspending or revoking cabin crew attestations, including the conditions for situations in which such attestations shall be required for cabin crew involved in operations other than commercial air transport;
  - b) the conditions for the medical fitness assessment of cabin crew referred to in Article 21;

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<sup>23</sup> Covered by new general paragraph in Article 57.



- c) the privileges and responsibilities of the holders of cabin crew attestations referred to in Article 21.
- d) [...] <sup>24</sup>

## *Article 22*

### **Training organisations and aero-medical centres**

1. An approval shall be required in respect of aero-medical centres.
  - 1a. An approval shall be required in respect of pilot training organisations and cabin crew training organisations, except for situations in which, taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, such approvals shall not be required, in accordance with the implementing measures adopted pursuant to Article 24a.
2. Those approvals shall be issued upon application, if the applicant has demonstrated that it complies with the implementing measures adopted pursuant to Article 24a.
3. The approvals shall specify the privileges granted to the organisation. The approvals may be amended to add or remove privileges, in accordance with the implementing measures adopted pursuant to Article 24a.
4. The approvals may be limited, suspended or revoked when the holder no longer complies with the conditions for issuing and maintaining such approval, in accordance with the implementing measures adopted pursuant to Article 24a.

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<sup>24</sup> Covered by new general paragraph in Article 57.

5. When an approval is not required in respect of a pilot training organisation or a cabin crew training organisation by the implementing measures adopted pursuant to Article 24a, taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, those implementing measures may require the organisation concerned to declare its capability and the availability of the means to discharge the responsibilities associated with the activities it performs in compliance with those implementing measures.

### *Article 23*

#### **Flight simulation training devices**

1. A certificate shall be required in respect of each flight simulation training device used for the training of pilots, except for situations in which, taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, such certificates shall not be required, in accordance with the implementing measures adopted pursuant to Article 24a.
2. That certificate shall be issued upon application, if the applicant has demonstrated that the applicant and the device comply with the implementing measures adopted pursuant to Article 24a.
3. The certificate shall specify the functionalities of the device. The certificate may be amended to reflect changes to those functionalities, in accordance with the implementing measures adopted pursuant to Article 24a.
4. The certificate may be limited, suspended or revoked when the holder or the device no longer complies with the conditions for issuing and maintaining such certificate, in accordance with the implementing measures adopted pursuant to Article 24a.

## *Article 24*

### **Instructors and examiners**

1. Persons responsible for providing flight training, flight simulation training, or for assessing pilots' skill, as well as aero-medical examiners, shall be required to hold a certificate, except for situations in which, taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, such certificates shall not be required, in accordance with the implementing measures adopted pursuant to Article 24a.
- 1a. Taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, persons responsible for providing cabin crew training or for assessing cabin crew skills may be required to hold a certificate, in accordance with the implementing measures adopted pursuant to Article 24a.
2. Those certificates shall be issued upon application, if the applicant has demonstrated that he or she complies with the implementing measures adopted pursuant to Article 24a.
3. Those certificates shall specify the privileges granted. Those certificates may be amended to add or remove privileges, in accordance with the implementing measures adopted pursuant to Article 24a.
4. Those certificates may be limited, suspended or revoked when the holder no longer complies with the conditions for issuing and maintaining such certificates, in accordance with the implementing measures adopted pursuant to Article 24a.

**Implementing measures for training, testing, checking and medical assessment**

1. In order to ensure the uniform application of and compliance with the essential requirements referred to in Article 19, for flight simulation training devices, and for persons and organisations involved in the training, testing, checking or medical assessment of pilots and cabin crew, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions concerning:
  - a) the conditions for issuing, maintaining, amending, limiting, suspending or revoking approvals and certificates referred to in Articles 22, 23, 24, including the conditions for situations in which such approvals and certificates shall or shall not be required;
  - aa) the conditions and procedures for the declarations by pilot training organisations, and cabin crew training organisations referred to in Article 22(5), including the conditions for situations in which such declarations shall be required;
  - b) the privileges and responsibilities of the holders of approvals and certificates referred to in Articles 22, 23 and 24, and of the organisations making declarations in accordance with Article 22(5).
2. When adopting those implementing acts, the Commission shall take due account of the international standards and recommended practices, in particular those set out in Annex 1 and Annex 6 to the Chicago Convention.

*Article 24b*

**Safeguard measures for aircrew**

[...] <sup>25</sup>

*Article 25*

**Delegated powers**

[...]

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<sup>25</sup> Covered by new Section IX.

### ***SECTION III***

#### **Air operations**

##### *Article 26*

#### **Essential requirements**

The operation of aircraft referred to in Article 2(1)(b) shall comply with the essential requirements set out in Annex V and, if applicable, Annexes VII and VIII.

##### *Article 27*

#### **Aircraft Operators**

1. Taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, aircraft operators established, residing or with a principal place of business in the territory to which the Treaties apply may be required, in accordance with the implementing measures adopted pursuant to Article 28, to:
  - a) declare their capability and the availability of the means to discharge the responsibilities associated with the operation of aircraft in compliance with those implementing measures, or
  - b) hold a certificate.
- 1a. That certificate shall be issued upon application, if the applicant has demonstrated that it complies with the implementing measures adopted pursuant to Article 28.
- 1b. The certificate shall specify the privileges granted to the aircraft operator. The certificate may be amended to add or remove privileges, in accordance with the implementing measures adopted pursuant to Article 28.

- 1c. The certificate may be limited, suspended or revoked, when the holder no longer complies with the conditions for issuing and maintaining such certificate, in accordance with the implementing measures adopted pursuant to Article 28.
- 1d. Taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, the aircraft operators referred to in paragraph 1 may be required, in accordance with the implementing measures adopted pursuant to Article 28, to:
- i) manage the fatigue of their aircrew by setting flight and duty time limitations and rest requirements;
  - ii) meet specific requirements, when entering into code sharing agreements or lease agreements.
  - iii) meet specific requirements when operating an aircraft which is registered in a third country;
  - iv) establish a Minimum Equipment List (MEL) or equivalent document providing for the operation of the aircraft, under specified conditions, with particular instruments, items of equipment or functions inoperative at the commencement of the flight.
2. [...]

3. Member States shall ensure that the operation of aircraft into, within, or out of the territory to which the Treaties apply by an aircraft operator established, residing or with a principal place of business outside that territory but for which Member States carry out the functions and duties of the state of operator under the Chicago Convention, as well as the personnel and organisations involved in those operations, meet a level of safety which is equivalent to that established by this Regulation.

## *Article 28*

### **Implementing measures for air operations**

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 26, for the operation of aircraft referred to in Article 2(1)(b), the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions concerning:
  - a) the specific conditions for the operation of aircraft in compliance with the essential requirements referred to in Article 26;
  - b) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 27(1)(b) including the conditions for situations in which, such certificates shall be required;
  - c) the conditions and procedures for the declaration by aircraft operators referred to in Article 27(1)(a), including the conditions for situations in which such declarations shall be required;
  - d) the privileges and responsibilities of the holders of the certificates referred to in Article 27(1)(b) and of the aircraft operators making declarations in accordance with Article 27(1)(a);



- da) the conditions and procedures regarding the approval by national competent authorities of individual flight time specification schemes and the issuance of Agency opinions on those schemes in accordance with Article 65(7); *(moved from (fa))*
  - e) the conditions to be met by the aircraft operators referred to in Article 27(1) and their aircrew members with regard to flight and duty time limitations, as well as rest requirements for aircrew members;
  - f) the conditions to be met by the aircraft operators referred to in Article 27(1) where those aircraft operators enter into code sharing agreements or lease agreements or when they operate an aircraft registered in a third country;
  - fa) [...] *(moved to (da))*
  - (fb) the conditions to be met by the aircraft operators referred to in Article 27(1) regarding the establishment of a MEL or an equivalent document, including the conditions for situations in which it shall be required.
  - g) [...] *(moved to Article 28a)*
2. When adopting those implementing acts, the Commission shall take due account of the international standards and recommended practices, in particular those set out in Annex 6 to the Chicago Convention.

#### *Article 28a*

#### **Safeguard measures for air operations**

- 1. [...] <sup>26</sup>
- 2. [...] *(moved to Article 28b)*

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<sup>26</sup> Covered by new Section IX.

*Article 28b*

**Delegated powers for air operations**

[...]

## **SECTION IV**

### **Aerodromes**

#### *Article 29*

#### **Essential requirements**

Aerodromes, safety-related aerodrome equipment, the operation of aerodromes and the provision of ground handling services and apron management services at aerodromes referred to in Article 2(1)(e) shall comply with the essential requirements set out in Annex VII and, if applicable, Annex VIII.

#### *Article 30*

#### **Aerodrome certification**

1. A certificate shall be required in respect of aerodromes. That certificate shall cover the aerodrome and its safety-related equipment, unless that safety-related equipment is covered by a declaration made or certificate issued in accordance with Article 31.
  - 1a. That certificate shall be issued upon application, if the applicant has demonstrated that:
    - a) the aerodrome complies with the implementing measures adopted pursuant to Article 31a and with the aerodrome certification basis set out in paragraph 2; and
    - b) the aerodrome has no feature or characteristic making it unsafe for operation.
  - 1b. The certificate may be amended to include changes to the aerodrome or its safety-related equipment, in accordance with the implementing measures adopted pursuant to Article 31a.

- 1c. The certificate may be limited, suspended or revoked when the aerodrome or its safety-related equipment no longer complies with the conditions for issuing and maintaining such certificate, in accordance with the implementing measures adopted pursuant to Article 31a.
2. The certification basis for an aerodrome shall consist of the following:
  - a) the applicable certification specifications related to the type of aerodromes;
  - b) the provisions for which an equivalent level of safety has been accepted;
  - c) the special detailed technical specifications necessary when the design features of a particular aerodrome or the experience in operation render any of the certification specifications referred to in point (a) inadequate or inappropriate to ensure conformity with the essential requirements referred to in Article 29.

### *Article 31*

#### **Safety-related aerodrome equipment**

1. Taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, the implementing measures adopted pursuant to Article 31a may require organisations involved in the design, production and maintenance of safety related aerodrome equipment used or intended for use at aerodromes subject to this Regulation to:
  - a) declare that such equipment complies with the detailed specifications established in accordance with those implementing measures; or
  - b) hold a certificate in respect of that safety-related aerodrome equipment.

- 1a. That certificate shall be issued upon application, if the applicant has demonstrated that the equipment complies with the detailed specifications established in accordance with the implementing measures adopted pursuant to Article 31a.
- 1b. That certificate shall specify the functionalities of the equipment. That certificate may be amended to reflect the changes to those functionalities, in accordance with the implementing measures adopted pursuant to Article 31a.
- 1c. That certificate may be limited, suspended or revoked, when the equipment no longer complies with the conditions for issuing and maintaining such certificate, in accordance with the implementing measures adopted pursuant to Article 31a.
2. [...]

#### *Article 31a*

#### **Implementing measures for aerodromes and safety-related aerodrome equipment**

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 29, for aerodromes and safety-related aerodrome equipment, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions concerning:
  - a) the conditions for establishing and notifying to an applicant, on the basis of Article 30(2), the certification basis applicable to an aerodrome for the purposes of certification in accordance with Article 30(1);
  - b) the conditions for establishing and notifying to an applicant the detailed specifications applicable to safety-related aerodrome equipment for the purposes of certification in accordance with Article 31(1);

- c) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the aerodrome certificates referred to in Article 30, including operating limitations related to the specific design of the aerodrome;
- d) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the certificates for safety-related aerodrome equipment referred to in Article 31(1), including the conditions for situations in which such certificates shall be required;
- da) the conditions for establishing the detailed specifications applicable to safety-related aerodrome equipment which is subject to a declaration in accordance with Article 31(1);
- e) the conditions and procedures for the declaration, in accordance with Article 31(1), in respect of safety-related aerodrome equipment, including the conditions for situations in which such declarations shall be required;
- f) the privileges and responsibilities of the holders of the certificates referred to in Articles 30 and 31(1), and of the organisations making declarations in accordance with Article 31(1);
- g) the conditions for the acceptance and the conversion of national aerodrome certificates issued on the basis of national laws of the Member States into the aerodromes certificates referred to in Article 30, including measures which are already authorised by the Member State concerned on the basis of notified differences to Annex 14 of the Chicago Convention.

2. When adopting those implementing acts, the Commission shall take due account of the international standards and recommended practices, in particular those set out in Annex 14 to the Chicago Convention.

## *Article 32*

### **Organisations**

1. A certificate shall be required in respect of aerodrome operators.

That certificate shall be issued upon application, if the applicant has demonstrated that it complies with the implementing measures adopted pursuant to Article 32a.

- 1a. The certificate shall specify the privileges granted to the aerodrome operator. The certificate may be amended to add or remove privileges, in accordance with the implementing measures adopted pursuant to Article 32a.
- 1b. The certificate may be limited, suspended or revoked when the holder no longer complies with the conditions for issuing and maintaining such certificate, in accordance with the implementing measures adopted pursuant to Article 32a.
- 1c. The certificate for the aerodrome operator may be either combined with the certificate for an aerodrome referred to in Article 30(1) or issued separately.
2. Taking into account the objectives and principles set out in Articles 1 and 4 and in particular the nature and risk of the activity concerned, the implementing measures adopted pursuant to Article 32a may require organisations responsible for the provision of ground handling services or apron management services at aerodromes subject to this Regulation to declare their capability and the availability of the means to discharge the responsibilities associated with the services provided in compliance with the implementing measures adopted pursuant to Article 32a.

**Implementing measures for organisations**

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 29, for the operation of aerodromes and the provision of ground handling services and apron management services at aerodromes, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions concerning:
  - a) the specific conditions for the operation of aerodromes in compliance with the essential requirements referred to in Article 29;
  - aa) the specific conditions for the provision of ground handling services and apron management services in compliance with the essential requirements referred to in Article 29;
  - b) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the aerodrome operator's certificate referred to in Article 32(1);
  - c) the privileges and responsibilities of the aerodrome operators referred to in Article 32(1);
  - d) the conditions and procedures for the declaration by organisations providing ground handling services and by organisations providing apron management services in accordance with Article 32(2), including the conditions for situations in which such declarations shall be required;
  - e) the privileges and responsibilities of the organisations providing ground handling services and organisations providing apron management services making declarations in accordance with Article 32(2).



2. When adopting those implementing acts, the Commission shall take due account of the international standards and recommended practices, in particular those set out in Annex 14 to the Chicago Convention.

### *Article 33*

#### **Safeguarding of aerodrome surroundings**

1. Member States shall take the necessary measures to ensure that aerodromes located in their territory are safeguarded against activities and developments in their surroundings which may cause unacceptable risks to aircraft using the aerodrome.
2. The organisations referred to in Article 32(1) shall monitor activities and developments which may cause unacceptable safety risks to aviation in the surroundings of the aerodrome for the operation of which they are responsible. They shall take the necessary measures to mitigate those risks in as far as this lies within their control and, where that is not the case, bring those risks to the attention of the competent authorities of the Member State where the aerodrome is located.
3. In order to ensure the uniform application of this Article, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down detailed provisions, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3).

### *Article 33a*

#### **Safeguard measures for aerodromes**

[...] <sup>27</sup>

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<sup>27</sup> Covered by new Section IX.

*Article 34*

**Delegated powers**

[...]

## ***SECTION V***

### **ATM/ANS**

#### *Article 35*

#### **Essential requirements**

1. The provision of ATM/ANS referred to in Article 2(1)(g) shall comply with the essential requirements set out in Annex VIII and, if applicable, Annex VII.
2. All aircraft operating in the Single European Sky airspace, except those engaged in activities referred to in Article 2(3)(a), shall comply with the essential requirements set out in point 1 of Annex VIII.

#### *Article 36*

#### **ATM/ANS providers**

1. Providers of ATM/ANS shall be required to hold a certificate.
  - 1a. That certificate shall be issued upon application, if the applicant has demonstrated that it complies with the implementing measures adopted pursuant to Article 37a.
  - 1b. The certificate shall specify the privileges granted. The certificate may be amended to add or remove privileges, in accordance with the implementing measures adopted pursuant to Article 37a.
  - 1c. The certificate may be limited, suspended or revoked when the holder no longer complies with the conditions for issuing and maintaining such certificate, in accordance with the implementing measures adopted pursuant to Article 37a.

2. By way of derogation from paragraph 1, in accordance with the implementing measures adopted pursuant to Article 37a, Member States may decide that providers of flight information services shall be allowed to declare their capability and the availability of the means to discharge the responsibilities associated with the services provided in compliance with those implementing measures.
- 2a. By way of derogation from paragraph 1, Member States may grant exemptions to providers of ATM/ANS from the requirement to hold a certificate, where all of the following conditions have been met:
- a) the provider has its principal place of business located outside the territories for which Member States are responsible under the Chicago Convention;
  - b) the provision of ATM/ANS by that provider concerns air traffic of small volume in a limited part of the airspace for which the Member State granting the exemption is responsible and where that part of the airspace borders with an airspace under the responsibility of a third country;
  - c) requiring the provider to demonstrate compliance with the rules referred to in paragraph 1 would involve a disproportionate effort from that provider in light of the nature and risk of the particular activity that it carries out within that airspace;
  - d) the Member State concerned has set conditions applicable to the provision of ATM/ANS by the provider which ensure, in accordance with international standards and recommended practices and taking account of the specific circumstances of the case at hand, an acceptable level of safety and compliance with the essential requirements referred to in Article 35, and has established appropriate and effective means and arrangements for oversight and enforcement to ensure compliance with those conditions."
  - e) the scope of the exemption is clearly defined and the exemption remains limited to what is strictly necessary, is subject to regular review at suitable intervals where its duration exceeds five years, and is applied in a non-discriminatory manner.

In case a Member State intends to grant such an exemption, it shall notify the Commission and the Agency of its intention, setting out all relevant information. The Commission shall decide, after having consulted the Agency, whether the conditions of the first subparagraph have been met. The Commission decision, taken by means of an implementing act, shall be adopted in accordance with the procedure referred to in Article 116(2) and shall be published in the *Official Journal of the European Union*. The Agency shall include that decision in the repository referred to in Article 63.

The Member State concerned shall only grant the exemption after a positive Commission decision. It shall withdraw the exemption where it becomes aware, in particular through the regular review referred to in point (e), that the conditions of the first subparagraph are no longer fulfilled. It shall inform the Commission and the Agency without delay of the granting of any exemption and, where applicable, the outcome of those reviews and any withdrawals.

#### *Article 37*

### **Organisations involved in the design, production or maintenance of ATM/ANS systems and constituents**

1. Taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, organisations involved in the design, production or maintenance of ATM/ANS systems and constituents, upon which safety or interoperability is dependent, may be required, in accordance with the implementing measures adopted pursuant to Article 37a, to:
  - a) declare their capability and the availability of the means to discharge the responsibilities associated with the activities performed in compliance with those implementing measures; or
  - b) hold a certificate.

- 1a. That certificate shall be issued upon application, if the applicant has demonstrated that it complies with the rules established by the implementing measures adopted pursuant to Article 37a.
- 1b. The certificate shall specify the privileges granted. The certificate may be amended to add or remove privileges, in accordance with the implementing measures adopted pursuant to Article 37a.
- 1c. The certificate may be limited, suspended or revoked, when the holder no longer complies with the conditions for issuing and maintaining such certificate, in accordance with the implementing measures adopted pursuant to Article 37a.
2. [...]

*Article 37a*

**Implementing measures for ATM/ANS providers and for organisations involved in the design, production or maintenance of ATM/ANS systems and constituents**

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 35, for the provision of ATM/ANS referred to in Article 2(1)(g), the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions concerning:
  - a) the specific conditions for the provision of ATM/ANS in compliance with the essential requirements referred to in Article 35;
  - b) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 36(1);

- c) the conditions and procedures for the declaration by providers of flight information services referred to in Article 36(2), including the conditions for situations in which such declarations shall be permitted;
  - d) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Articles 37(1)(b), including the conditions for situations in which such certificates shall be required;
  - e) the conditions and procedures for the declaration by organisations referred to in Article 37(1)(a), including the conditions for situations in which such declarations shall be required;
  - f) the privileges and responsibilities of the holders of certificates referred to in Articles 36(1) and 37(1)(b) and of organisations making declarations in accordance with Articles 36(2) and 37(1)(a);
  - g) [...]
2. The rules referred to in paragraph 1 shall take due account of the ATM Master Plan.
- a) [...]
  - b) [...]
3. When adopting those implementing acts, the Commission shall take due account of the international standards and recommended practices, in particular those set out in Annex 2-4, 10, 11 and 15 to the Chicago Convention.

## *Article 37b*

### **Implementing measures for the use of airspace**

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 35, for the provision of ATM/ANS referred to in Article 2(1)(g), the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions concerning the operating rules related to the use of airspace, aircraft equipment and ATM/ANS systems and constituents required for the use of airspace.
2. The rules referred to in paragraph 1 shall:
  - a) take due account of the ATM Master Plan;
  - b) [...]
3. When adopting those implementing acts, the Commission shall take due account of the international standards and recommended practices, in particular those set out in Annexes 2, 3, 10, 11 and 15 to the Chicago Convention.

## *Article 38*

### **ATM/ANS systems and constituents**

1. Taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, the providers of ATM/ANS referred to in Article 36 may be required, in accordance with the implementing measures adopted pursuant to Article 38a, to declare that the ATM/ANS systems and constituents upon which safety or interoperability is dependent and which are to be put into operation by those service providers comply with the detailed specifications established by these implementing measures.



2. Taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, the implementing measures adopted pursuant to Article 38a, may require organisations involved in the design, production or maintenance of ATM/ANS systems and constituents, upon which safety or interoperability is dependent to:
  - a) declare that those systems and constituents are suitable for use and comply with the detailed specifications established in accordance with those implementing measures; or
  - b) hold a certificate in respect of those systems and constituents.
- 2a. That certificate shall be issued upon application, if the applicant has demonstrated that the ATM/ANS systems and constituents comply with the detailed specifications established by the implementing measures adopted pursuant to Article 38a.
- 2b. The certificate shall specify the functionalities of the ATM/ANS system or constituent. That certificate may be amended to reflect changes to those functionalities, in accordance with the implementing measures adopted pursuant to Article 38a.
- 2c. The certificate may be limited, suspended or revoked, when the ATM/ANS system or constituent no longer complies with the conditions for issuing and maintaining such certificates, in accordance with the implementing measures adopted pursuant to Article 38a.

#### *Article 38a*

#### **Implementing measures for ATM/ANS systems and constituents**

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 35, for the provision of ATM/ANS referred to in Article 2(1)(g), the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions concerning:

- a) the conditions and procedures for the declaration by ATM/ANS providers, in accordance with Article 38(1), including the conditions for situations in which such declarations shall be required;
- b) the conditions for establishing and notifying to an applicant the detailed specifications applicable to ATM/ANS systems and constituents for the purposes of certification in accordance with Article 38(2)(b);
- c) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 38(2)(b), including the conditions for situations in which such certificates shall be required;
- ca) the conditions for establishing the detailed specifications applicable to ATM/ANS systems and constituents which are subject to a declaration in accordance with Article 38(2)(a);
- cb) the conditions and procedures for the declaration in accordance with Article 38(2)(a) in respect of ATM/ANS systems and constituents, including the conditions for situations in which such declarations shall be required;
- d) the privileges and responsibilities of the holders of certificates referred to in Article 38(2)(b) and of the organisations making declarations in accordance with Articles 38(1) and 38(2)(a).
- e) [...].

2. The rules referred to in paragraph 1 shall:

- a) take due account of the ATM Master Plan.
- b) [...].

3. When adopting those implementing acts, the Commission shall take due account of the international standards and recommended practices, in particular those set out in Annexes 2, 3, 10, 11 and 15 to the Chicago Convention.

*Article 38b*

**Safeguard measures for ATM/ANS**

[...] <sup>28</sup>

*Article 39*

**Delegated powers**

[...]

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<sup>28</sup> Covered by new Section IX.

## ***SECTION VI***

### **AIR TRAFFIC CONTROLLERS**

#### *Article 40*

##### **Essential requirements**

Air traffic controllers involved in the provision of ATM/ANS referred to in Article 2(1)(g), as well as persons, organisations and synthetic training devices involved in the training, testing, checking or medical assessment of those air traffic controllers, shall comply with the essential requirements set out in Annex VIII.

#### *Article 41*

##### **Air traffic controllers**

1. Air traffic controllers shall be required to hold an air traffic controller licence and an air traffic controller medical certificate appropriate for the service to be provided.
2. That air traffic controller licence shall be issued upon application, if the applicant for the licence has demonstrated that he or she complies with the implementing measures adopted pursuant to Article 41a.
3. That air traffic controller medical certificate shall be issued upon application, if the air traffic controller has demonstrated that he or she complies with the implementing measures adopted pursuant to Article 41a.
4. The air traffic controller licence and the air traffic controller medical certificate shall specify the privileges granted to the air traffic controller. The air traffic controller licence and air traffic controller medical certificate may be amended to add or remove privileges, in accordance with the implementing measures adopted pursuant to Article 41a.

- 4a. The air traffic controller licence and the air traffic controller medical certificate may be limited, suspended or revoked when the holder no longer complies with the conditions for issuing and maintaining a licence or a medical certificate, in accordance with the implementing measures adopted pursuant to Article 41a.

*Article 41a*

**Implementing measures for air traffic controllers**

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 40, for air traffic controllers, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions concerning:
  - a) the different categories, ratings and endorsements for the air traffic controller licences referred to in Article 41;
  - b) the privileges and responsibilities of the holders of air traffic controller licences, ratings and endorsements for the licences and medical certificates referred to in Article 41;
  - c) the conditions for issuing, maintaining, amending, limiting, suspending or revoking licences, ratings and endorsements for the air traffic controller licences and medical certificates referred to in Article 41, including:
    - i) the conditions for the conversion of national air traffic controller licences and national medical certificates into the air traffic controller licences and medical certificates referred to in Article 41.
    - ii) [...] <sup>29</sup>

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<sup>29</sup> Covered by general paragraph in Article 57.

2. When adopting those implementing acts, the Commission shall take due account of the international standards and recommended practices, in particular those set out in Annex 1 to the Chicago Convention.

#### *Article 42*

##### **Air traffic controller training organisations and aero-medical centres**

1. An approval shall be required in respect of air traffic controller training organisations and aero-medical centres.
2. That approval shall be issued upon application, if the applicant has demonstrated that it complies with the implementing measures adopted pursuant to Article 43a.
3. The approval shall specify the privileges granted to the organisation. The approval may be amended to add or remove privileges, in accordance with the implementing measures adopted pursuant to Article 43a.
4. The approval may be limited, suspended or revoked when the holder no longer complies with the conditions for issuing and maintaining such approval, in accordance with the implementing measures adopted pursuant to Article 43a.

#### *Article 43*

##### **Instructors, assessors and aero-medical examiners**

1. Persons responsible for providing practical training, for assessing the practical skills of air traffic controllers as well as aero-medical examiners, shall be required to hold a certificate.
2. That certificate shall be issued upon application, if the applicant has demonstrated that he or she complies with the implementing measures adopted pursuant to Article 43a.

3. The certificate shall specify the privileges granted. The certificate may be amended to add or remove privileges, in accordance with the implementing measures adopted pursuant to Article 43a.
- 3a. The certificate may be limited, suspended or revoked when the holder no longer complies with the conditions for issuing and maintaining such certificate, in accordance with the implementing measures adopted pursuant to Article 43a.

#### *Article 43a*

#### **Implementing measures for training, testing, checking and medical assessment**

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 40, for persons and organisations involved in the training, testing, checking and medical assessment of air traffic controllers, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions concerning:
  - a) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the approvals and certificates referred to in Articles 42 and 43;
  - b) the privileges and responsibilities of the holders of the approvals and certificates referred to in Articles 42 and 43.
2. When adopting those implementing acts, the Commission shall take due account of the international standards and recommended practices, in particular those set out in Annex 1 to the Chicago Convention.

*Article 43b*

**Safeguard measures for air traffic controllers**

[...] <sup>30</sup>

*Article 44*

**Delegated powers**

[...]

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<sup>30</sup> Covered by new Section IX.



## ***SECTION VII***

### **Unmanned aircraft**

#### *Article 45*

#### **Essential Requirements for Unmanned Aircraft**

The design, production, maintenance and operation of unmanned aircraft and their engines, propellers, parts, non-installed equipment and equipment to control them remotely, as well as the personnel and organisations involved in these activities, shall comply with the essential requirements set out in Annex IX.

#### *Article 46*

#### **Compliance of Unmanned Aircraft**

1. Taking into account the objectives and the principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, a certificate may be required for the design, production, maintenance and operation of unmanned aircraft as well as for the personnel and organisations involved in these activities, in accordance with the implementing measures adopted pursuant to Article 47.
  - 1a. That certificate shall be issued upon application, if the applicant has demonstrated that it complies with the implementing measures adopted pursuant to Article 47.
  - 1b. The certificate shall specify the safety-related limitations, operating conditions and privileges. The certificate may be amended to add or remove limitations, conditions and privileges, in accordance with the implementing measures adopted pursuant to Article 47.

- 1c. The certificate may be limited, suspended or revoked when the holder no longer complies with the conditions for issuing or maintaining such certificate, in accordance with the implementing measures adopted pursuant to Article 47.
2. Taking into account the objectives and the principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, the implementing measures adopted pursuant to Article 47 may require in respect of the design, production, maintenance and operation of unmanned aircraft as well as of the personnel and organisations involved in these activities, a declaration confirming compliance with those implementing measures.
3. Taking into account the objectives and the principles set out in Articles 1 and 4 and where adequate levels of safety can be achieved without the application of Chapters IV and V of this Regulation, those Chapters shall apply neither to the essential requirements referred to in Article 45 nor to the implementing measures established in accordance with Article 47. In such cases, those essential requirements and those implementing measures shall constitute 'Community harmonisation legislation' within the meaning of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirement for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93, and Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC.

**Implementing measures for unmanned aircraft**

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 45, for the design, production, maintenance and operation of unmanned aircraft and their engines, propellers, parts, non-installed equipment and equipment to control the aircraft remotely, as well as for the personnel and organisations involved in these activities, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions concerning:
  - 0) the specific conditions for the design, production, maintenance and operation of unmanned aircraft and their engines, propellers, parts, non-installed equipment and equipment to control the aircraft remotely, as well as for personnel and organisations involved in these activities, necessary to ensure compliance with the essential requirements referred to in Article 45;
  - a) the conditions and procedures for issuing, maintaining, amending, limiting, suspending, or revoking the certificates, or for making declarations, for the design, production, maintenance and operation of unmanned aircraft, as well as for the personnel and organisations involved in these activities, referred to in Article 46 (1) and (2), including the conditions for situations in which such certificates or declarations shall be required. These certificates and declarations may be the ones issued or made in accordance with Sections I, II, III and VIII of this Chapter;
  - b) [...];

- ba) [...];
  - c) the conditions for situations in which the requirements concerning the design, production and maintenance of unmanned aircraft and their engines, propellers, parts, non-installed equipment and equipment to control them remotely, shall not be subject to Chapters IV and V of this Regulation, for the purpose of Article 46(3);
  - d) the privileges and responsibilities of the holders of certificates and of legal and natural persons making declarations;
  - e) the marking and identification of unmanned aircraft;
  - f) [...];
  - fa) the conditions for the conversion of national certificates into the certificates required under Article 47.
- 1a. When adopting those implementing acts, the Commission shall ensure, in particular, that
- a) operational requirements provide enough flexibility to take into account the various local characteristics of the Member States;
  - b) those implementing acts build on national best practices as developed by the competent authorities with the view to further promoting unmanned aircraft operations at the EU level in line with technological developments. *(moved from Article 4(1)(ha))*

*Article 47a*

**Safeguard measures for unmanned aircraft**

[...]

*Article 47b*

**Delegated powers**

As regards the design, production, maintenance and operation of unmanned aircraft and their engines, propellers, parts, non-installed equipment and equipment to control the aircraft remotely, the Commission is empowered, by means of delegated acts adopted in accordance with Article 117, to amend or supplement Annex IX and, if applicable, Annex III, where necessary for reasons of technical, operational or scientific developments or safety evidence related to air operations, in order and to the extent required to achieve the objectives laid down in Article 1.

## ***SECTION VIII***

### **Aircraft used by a third-country operator into, within or out of the Union**

#### *Article 48*

#### **Applicable rules**

Without prejudice to Article 35(2) and rules adopted in accordance with Article 37b, aircraft referred to in Article 2(1)(c), as well as their aircrew and their operations, shall comply with the applicable ICAO standards. To the extent that there are no such standards, those aircraft as well as their aircrew and their operations shall comply with the essential requirements set out in Annexes II, IV, V and, if applicable, Annex VIII, provided those requirements are not in conflict with the rights of third countries under international conventions.

#### *Article 49*

#### **Compliance**

1. Taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, aircraft operators referred to in Article 2(1)(c) may be required, in accordance with the implementing measures adopted pursuant to Article 50, to:
  - a) declare their capability and the availability of the means to discharge the responsibilities associated with the operation of aircraft in compliance with those implementing measures; or
  - b) hold an authorisation.
- 1a. That authorisation shall be issued upon application, if the applicant has demonstrated that it complies with the implementing measures adopted pursuant to Article 50.

- 1b. The authorisation shall specify the privileges granted to the aircraft operator. The authorisation may be amended to add or remove privileges, in accordance with the implementing measures adopted pursuant to Article 50.
2. The authorisation may be limited, suspended or revoked, when the holder no longer complies with the conditions for issuing and maintaining such authorisation, in accordance with the implementing measures adopted pursuant to Article 50.
3. The authorisations and declarations referred to in paragraph 1 shall only be required in respect of the operation of aircraft into, within or out of the territory to which the Treaties apply, with the exception of the operation of aircraft only overflying that territory.

*Article 49a*

**Safeguard measures for aircraft used by a third-country operator**

[...] <sup>31</sup>

*Article 50*

**Implementing measures for aircraft used by a third-country operator**

1. In order to ensure the uniform implementation of and compliance with the requirements referred to in Article 48, for the aircraft referred to in Article 2(1)(c), as well as their aircrew and their operations, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions concerning:

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<sup>31</sup> Covered by new Section IX.

- a) the authorisation of aircraft, in respect of which there is no standard ICAO certificate of airworthiness, or the authorisation of pilots, who do not hold a standard ICAO licence, to operate into, within or out of the territory to which the Treaties apply;
- b) the specific conditions to operate an aircraft in compliance with the provisions of Article 48;
- c) alternative conditions for cases where compliance with the standards and requirements referred to in Article 48 is not possible or involves a disproportionate effort from the aircraft operator, while ensuring that the objectives of the standards and requirements concerned are met;
- d) the conditions for issuing, maintaining, amending, limiting, suspending or revoking the authorisations referred to in Article 49(1)(b), including the conditions for situations in which such authorisations shall be required. These conditions shall take into account the certificates issued by the state of registry or the state of the operator, and be without prejudice to Regulation (EC) No 2111/2005 and its implementing rules;
- da) the conditions and procedures for the declaration by aircraft operators referred to in Article 49(1)(a), including the conditions for situations in which such declarations shall be required;
- e) the privileges and responsibilities of the holders of the authorisations referred to in Article 49(1)(b) and of the aircraft operators that made declarations in accordance with Article 49(1)(a).
- f) [...]

2. When adopting those implementing acts the Commission shall ensure, in particular, that:

- a) use is made, as appropriate, of ICAO recommended practices and guidance documents;



- b) no requirement exceeds what is required under this Regulation from aircraft referred to in Article 2(1)(b)(i) and from the aircrew and operators of such aircraft;
- c) the process through which the authorisations referred to in Article 49(1)(b) are obtained is simple, proportionate, effective and cost-efficient and allows for demonstrations of compliance which are proportionate to the complexity of the operation and the risk involved in that operation. The Commission shall in particular ensure that account is taken of:
  - i) the results of the ICAO Universal Safety Oversight Audit Programme;
  - ii) information collected under ramp inspection programmes established in accordance with the implementing acts adopted pursuant to Article 51(10);
  - iii) other recognised information on safety aspects with regard to the aircraft operator concerned;
  - iv) certificates issued in accordance with the laws of a third country;
- d) aspects related to ATM/ANS are taken into account.

## ***SECTION IX***

### **Safeguard measures**

#### *Article 50a*

### **Safeguard measures**

1. The activities referred to in this Chapter may be prohibited, limited or be subject to certain conditions in the interest of safety.
2. In order to ensure the uniform application of this Article, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3), detailed provisions with regard to the conditions under which the activities regulated in this Chapter may be prohibited, limited or subject to certain conditions in the interest of safety.
3. The provisions of this Chapter shall be without prejudice to the possibility for Member States to lay down national rules to prohibit, limit, or make subject to certain conditions the activities referred to in this Chapter for reasons falling outside the scope of this Regulation, such as but not limited to security or protection of privacy, personal data or the environment.

## CHAPTER IV

### JOINT CERTIFICATION, OVERSIGHT AND ENFORCEMENT SYSTEM

#### *Article 51*

##### **Certification, oversight and enforcement**

1. The Member States, the Commission and the Agency shall cooperate within a single European aviation safety system to ensure compliance with this Regulation and the implementing acts adopted on the basis thereof.
2. To ensure compliance with the provisions of this Regulation and of the implementing acts adopted on the basis thereof, the Agency and the national competent authorities shall in accordance with this Regulation:
  - a) receive and assess the applications made to them, and, where applicable, issue or renew certificates and receive declarations made to them, in accordance with the provisions of Chapter III;
  - b) perform oversight of holders of certificates, of legal and natural persons that made declarations, and of products, parts, equipment, ATM/ANS systems and constituents upon which safety or interoperability is dependent, flight simulation training devices and aerodromes subject to the provisions of Chapter III;
  - c) conduct the necessary investigations, inspections, audits and other monitoring activities to identify possible infringements of the requirements set out in this Regulation and in the implementing acts adopted on the basis thereof by the persons referred to in point (b);

- d) take all necessary enforcement measures, including amending, limiting, suspending or revoking certificates issued by them, grounding of aircraft and imposing penalties, in order to terminate identified infringements;
  - da) ensure an appropriate level of qualification of their staff involved in certification, oversight and enforcement tasks, including by providing adequate training.
3. The responsibilities for the performance of the tasks related to certification, oversight and enforcement referred to in paragraph 2 shall be determined in accordance with the following provisions.

The Agency shall be responsible where those tasks have been attributed to it pursuant to Articles 66, 67, 67a, 68, 69 and 70 and where those tasks have been allocated to it pursuant to Articles 53 and 54.

However, where a Member State grants an exemption in accordance with Article 36(2a), Article 68(1)(a) shall no longer apply and that Member State shall be responsible for oversight and enforcement in respect of the provider of ATM/ANS concerned as provided for in that exemption.

The national competent authority of the Member State where the aerodrome is located shall be responsible for those tasks with respect to the aerodrome certificate referred to in Article 30(1) and the certificate for an aerodrome operator referred to in Article 32(1). That national competent authority shall also be responsible for the oversight and enforcement tasks with respect to organisations responsible for the provision of ground handling or apron management services at that aerodrome.

In all other cases, the national competent authority of the Member State where the natural or legal person applying for the certificate or making the declaration, has its principal place of business or, where that person has no principal place of business, it has its place of residence or place of establishment, shall be responsible for the performance of those tasks, unless the effective performance of the tasks related to certification, oversight, and enforcement requires a different allocation of the responsibilities for those tasks. The conditions for allocation of these responsibilities between the national competent authorities shall be laid down in implementing acts adopted pursuant to paragraph 10.

The implementing acts adopted pursuant to paragraph 10 may also provide that:

- a) aero-medical examiners, aero-medical centres and general medical practitioners shall be responsible for issuing the pilot medical certificates referred to in Article 20(3) and the air traffic controller medicals certificates referred to in Article 41(1);
  - b) cabin crew training organisations that have been issued an approval in accordance with Article 22 and aircraft operators that have been issued a certificate in accordance with Article 27 shall be responsible for issuing the cabin crew attestations referred to in Article 21.
4. The oversight conducted by the Agency and national competent authorities shall be continuous and based on priorities set in the light of the risks to civil aviation and third parties.
5. The national competent authorities shall conduct ramp inspections. The purpose of these ramp inspections shall be to verify compliance of an aircraft, its operator and its aircrew with the applicable requirements. It shall include the possibility to ground an aircraft when the aircraft, its operator or its aircrew do not comply with those requirements. The Agency, in cooperation with the national competent authorities, may also conduct ramp inspections.

The Agency shall manage and operate the tools and procedures necessary for the collection, exchange and analysis of safety-related information obtained from ramp inspections.

6. In order to facilitate the effective performance of their tasks related to certification, oversight and enforcement, the Commission, the Agency and national competent authorities, shall exchange relevant information, including on possible or identified infringements.
7. The Agency shall promote a common understanding and application of the requirements contained in this Regulation and in the implementing acts adopted on the basis thereof, *inter alia* by developing the guidance material referred to in Article 65(3) in consultation with the national competent authorities.
8. Any legal or natural person subject to this Regulation may bring to the attention of the Agency any alleged differences in the application of the rules between the Member States. Where such differences seriously hamper the activities of those persons, or otherwise lead to substantial difficulties, the Agency and the national competent authorities of the Member States concerned shall cooperate to eliminate those differences without undue delay. Where those differences cannot be eliminated, the Agency shall present the matter to the Commission.
9. The Agency and the national competent authorities shall undertake the necessary actions to increase and promote awareness of civil aviation safety and disseminate safety-related information relevant for the prevention of accidents and incidents.
10. In order or ensure the uniform implementation of and compliance with paragraphs (2)-(6), with regard to the performance by the Agency and the national competent authorities of the tasks related to certification, oversight and enforcement under this Regulation, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, lay down, by means of implementing acts, adopted in accordance with the procedure referred to in Article 116(3), detailed provisions concerning:
  - a) the exchange of relevant information between the Commission, the Agency and the national competent authorities for the effective performance of their tasks related to certification, oversight and enforcement, including information on possible or identified infringements;

- b) the conduct of certification and the conduct of the investigations, inspections, audits and other monitoring activities necessary to ensure effective oversight of the legal and natural persons, products, parts, equipment, ATM/ANS systems, ATM/ANS constituents, flight simulation training devices and aerodromes subject to this Regulation;
- c) the qualifications of Agency and national competent authorities staff involved in certification, oversight and enforcement tasks and of the organisations involved in their training;
- d) the conduct of ramp inspections and the grounding of aircraft when the aircraft, its operator or its aircrew do not comply with the requirements of this Regulation or the implementing acts adopted on the basis thereof;
- e) the administration and management systems of the Agency and of the national competent authorities relating to the performance of the certification, oversight and enforcement tasks;
- f) in respect of paragraph 3, the allocation of responsibilities between the national competent authorities, with a view to ensuring the effective performance of the tasks related to certification, oversight and enforcement;
- g) in respect of paragraph 3, the allocation of responsibilities to aero-medical examiners and aero-medical centres for the purpose of issuing pilot medical certificates and air traffic controller medical certificates, as well as the conditions for situations in which general medical practitioners shall be given such responsibilities, with a view to ensuring effective performance of the tasks related to medical certification of pilots and air traffic controllers;
- h) in respect of paragraph 3, the allocation of responsibilities to cabin crew training organisations and aircraft operators for the purpose of issuing cabin crew attestations, with a view to ensuring effective performance of the tasks related to certification of cabin crew;

- ha) the conditions for issuing and disseminating mandatory information and recommendations by the Agency in accordance with Article 65(6), in order to ensure the safety of the activities regulated by the provisions of Chapter III;
- hb) the conditions for issuing and disseminating mandatory information by the Agency, in accordance with Article 66, to ensure the continuing airworthiness and environmental compatibility of products, parts and non-installed equipment and conditions for approval of alternative means of compliance to that mandatory information.

## *Article 52*

### **European pool of aviation inspectors**

1. The Agency shall establish, in cooperation with the national competent authorities, a mechanism for the voluntary pooling and sharing of inspectors and other experts with expertise relevant for the exercise of the certification and oversight tasks under this Regulation. To that end, the Agency in cooperation with the national competent authorities shall define the required qualification and experience profiles on the basis of which those authorities and the Agency may designate, subject to availability, candidates for participation in the European pool of aviation inspectors.
2. The Agency and each national competent authority may request assistance from the European pool of aviation inspectors in the performance of oversight and certification activities. The Agency shall coordinate the responses to those requests and develop appropriate procedures for that purpose, in consultation with the national competent authorities.
3. The experts from the European pool of aviation inspectors shall perform their oversight and certification activities under the control, instructions and responsibility of the Agency or the national competent authority that requested their assistance.



4. The costs of the assistance provided by the experts from the European pool of aviation inspectors shall be covered by fees to be paid by the authority that requested the assistance. That authority may decide to collect these fees by invoicing, on the basis of the rules established in accordance with paragraph 5(c), the legal or natural person which was subject to the certification and oversight activities performed by those experts. In that case that authority shall transfer the amount collected to the authority that provided the assistance.
5. As regards the mechanism for the pooling and sharing referred to in paragraph 1, the Commission shall be empowered to lay down by means of implementing acts adopted in accordance with the procedure referred to in Article 116(3) detailed rules with regard to:
  - a) the detailed provisions according to which the Agency and the national competent authorities request, receive or provide assistance through that mechanism;
  - b) the authorisations of and the detailed rules applicable to the experts from the European pool of aviation inspectors when they are providing such assistance, including rules applicable to the results of their activities;
  - c) the fixing and collection of the fees referred to in paragraph 4.

**Reallocation of responsibility for the performance of the tasks related to certification, oversight and enforcement**

1. A Member State may request the Agency to carry out the tasks related to certification, oversight and enforcement referred to in Article 51(2) with respect to any or all organisations, aircraft operators, personnel, aircraft, flight simulation training devices, aerodromes, aerodrome operators, safety-related aerodrome equipment and ATM/ANS systems or constituents for which the Member State concerned is responsible under this Regulation and the implementing acts adopted on the basis thereof.

Upon acceptance of such a request, the Agency shall become the competent authority responsible for the performance of the tasks related to certification, oversight and enforcement covered by the request and the Member State concerned shall be relieved of the responsibility for the performance of those tasks under this Regulation and the implementing acts adopted on the basis thereof.

In relation to the exercise of the responsibility for the performance of those tasks by the Agency, the provisions of Chapters IV and V shall apply.

2. A Member State may request another Member State that a national competent authority from that other Member State carries out the tasks related to certification, oversight and enforcement referred to in Article 51(2) with respect to any or all organisations, aircraft operators, personnel, aircraft, flight simulation training devices, aerodromes, aerodrome operators, safety-related aerodrome equipment and ATM/ANS systems or constituents for which the Member State which made the request is responsible under this Regulation and the implementing acts adopted on the basis thereof.

Upon acceptance of such a request, the national competent authority of the Member State which accepted the request shall become the competent authority responsible for the performance of the tasks related to certification, oversight and enforcement covered by the request and the Member State which made the request shall be relieved of the responsibility for the performance of those tasks under this Regulation and the implementing acts adopted on the basis thereof.

In relation to the exercise of the responsibility for the performance of the tasks which have been reallocated in accordance with this paragraph, the provisions of Chapters II and IV and Articles 120 and 121, as well as the applicable provisions of the national law of the Member State which accepted the request, shall apply.

- 2a. As regards enforcement, the responsibility of the Member State which accepted the request, or of the Agency, shall only concern matters related to the procedures leading up to the adoption of decisions by the national competent authority of that Member State, or of the Agency, and pertaining to the certification and oversight tasks reallocated to it in accordance with this Article, as well as to the application of those decisions. For all other matters regarding enforcement, the allocation of responsibilities provided for in this Regulation and the implementing acts adopted on the basis thereof shall remain unaffected.
3. The Agency or a Member State, as applicable, shall only accept the request referred to in paragraph 1 or 2 when the Agency or the national competent authority of the Member State concerned considers that it can effectively exercise the responsibility for the performance of the tasks related to certification, oversight and enforcement concerned in compliance with this Regulation and the implementing acts adopted on the basis thereof.
4. When a Member State intends to make use of the provisions of paragraph 1 or 2, it shall conclude with the Agency or with the other Member State, as applicable, detailed arrangements concerning the reallocation of responsibility for the performance of the tasks related to certification, oversight and enforcement in question. The legal and natural persons concerned by the reallocation and, in case of the reallocation referred to in paragraph 2, the Agency shall be consulted on those detailed arrangements before they are finalised.

Those detailed arrangements shall at least clearly identify the tasks related to certification, oversight and enforcement which are being reallocated, and include the legal, practical and administrative arrangements necessary for ensuring an orderly transfer, the effective and uninterrupted continuation of the performance of the tasks concerned in compliance with this Regulation and the implementing acts adopted on the basis thereof, as well as a seamless continuation of the activities undertaken by the legal and natural persons concerned. The detailed arrangements shall also include provisions on the transfer of relevant technical records and documentation.

The Agency and the Member State or Member States concerned, as applicable, shall ensure that the reallocation of the responsibility for the performance of the tasks related to certification, oversight and enforcement is carried out in accordance with those detailed arrangements.

5. The Agency shall make available, through the repository established under Article 63, a list of Member States that have made use of the provisions of paragraphs 1 and 2 of this Article. That list shall clearly identify the competent authority responsible for the tasks after their reallocation and the affected organisations, aircraft operators, personnel, aircraft, flight simulation training devices, aerodromes, aerodrome operators, safety-related aerodrome equipment, and ATM/ANS systems or constituents, as applicable.

The Agency shall take account of the reallocation of the responsibility for the performance of the tasks related to certification, oversight and enforcement when conducting inspections and other monitoring activities in accordance with Article 73.

6. The reallocations of responsibility under this Article shall be without prejudice to the rights and obligations of the Member States under the Chicago Convention.

When a Member State reallocates, in accordance with this Article, the responsibility for the performance of the tasks related to certification, oversight and enforcement which are attributed to it by the Chicago Convention, it shall notify ICAO about the fact that the Agency or another Member State carries out on its behalf the functions and duties ascribed to it under the Chicago Convention or the Annexes thereto.

- 6a. A Member State which has reallocated the responsibility for the performance of the tasks related to certification, oversight and enforcement to the Agency or another Member State pursuant to paragraph 1 or 2, may at any time decide to revoke the reallocation.

In that case the provisions of paragraphs 3, 4, 5 and the second subparagraph of paragraph 6 shall apply accordingly.

### *Article 53a*

#### **Joint responsibility for the performance of the tasks related to certification, oversight and enforcement with respect to aircraft operators**

1. At most five Member States may decide, on their own initiative or upon request of an aircraft operator, to be jointly responsible for the performance of the tasks related to certification, oversight and enforcement referred to in Article 51(2) with respect to an aircraft operator, in deviation from Article 51(3), where all of the following conditions are met:
  - a) that aircraft operator holds or is eligible to apply for a certificate in accordance with Article 27(1) to the national competent authority of one of those Member States and it has or it intends to have a substantial proportion of facilities and personnel covered by that certificate located in each of those Member States;

- b) the joint responsibility for the performance of those tasks by those Member States presents significant advantages in terms of civil aviation safety or of efficiency for the aircraft operator or for the national competent authorities concerned;
  - c) those Member States are capable to jointly exercise the responsibility for the performance of those tasks in full compliance with this Regulation and the implementing acts adopted on the basis thereof.
2. Member States shall ensure non-discriminatory treatment of aircraft operators when deciding to be jointly responsible in accordance with this Article.
3. The Member States referred to in paragraph 1 shall establish detailed arrangements between them concerning the modalities for the joint exercise of the responsibility for the tasks related to certification, oversight and enforcement. Those detailed arrangements shall at least:
- a) set out in detail which of those tasks are to be exercised by which of the respective national competent authorities of the Member States concerned;
  - b) contain the necessary legal, practical and administrative arrangements to ensure effective and efficient cooperation between those national competent authorities in the exercise of those tasks, in such a manner that the joint responsibility does not in any way negatively affect the exercise of those tasks, including in particular the taking of enforcement measures, in compliance with this Regulation and the implementing acts adopted on the basis thereof;
  - c) specify the possibilities for the aircraft operator concerned to challenge the decisions taken by any of the national competent authorities concerned in the exercise of those tasks which affect that aircraft operator;

d) where those tasks are to be exercised in respect of an aircraft operator which already holds a certificate issued by the national competent authority of one of the Member States concerned, lay down provisions which ensure the effective and uninterrupted continuation of the performance of those tasks during the transition period leading up to the date from which the responsibility is exercised jointly, as well as a seamless continuation of the activities undertaken by the aircraft operator concerned during that period.

4. Where Member States intend to decide to be jointly responsible in accordance with this Article, they shall consult the aircraft operator on their intention and on the draft detailed arrangements referred to in paragraph 3 and take account of the views of that operator.

They shall also notify the Commission and the Agency of their intention. That notification shall set out all relevant information, including the draft detailed arrangements, the views of the aircraft operator concerned and information about the manner in which those views have been taken into account.

The Commission shall decide, after having consulted the Agency, whether the conditions of paragraph 1 have been met and whether the draft detailed arrangements meet the conditions of paragraph 3. The Commission decision, taken by means of an implementing act, shall be adopted in accordance with the procedure referred to in Article 116(2) and shall be published in the *Official Journal of the European Union*. The Agency shall include that decision in the repository referred to in Article 63.

5. Upon a positive Commission decision and the conclusion of the detailed arrangements in accordance with paragraphs 2 and 3, the intended decision of the Member States concerned shall take effect at the date specified in the decision of the Member States. From that date, the national competent authorities of those Member States shall jointly become the competent authority responsible for the performance of the tasks related to certification, oversight and enforcement with respect to the aircraft operator concerned, including the issuance of certificates and the taking of enforcement measures, and the Member State which was responsible pursuant to Article 51(3) shall be relieved of its individual responsibility for the performance of those tasks under this Regulation and its implementing acts.
6. The Agency shall make available, through the repository established under Article 63, a list of Member States which have decided to be jointly responsible in accordance with this Article. That list shall specify the aircraft operators in respect of which Member States jointly exercise responsibility for the tasks related to certification oversight and enforcement, and contain details about the agreed division of those tasks between the national competent authorities of those Member States.

The Agency shall take account of the joint exercise of the responsibility for the performance of the tasks related to certification, oversight and enforcement when conducting inspections and other monitoring activities in accordance with Article 73.

7. Where the Member States which decided to be jointly responsible in accordance with this Article are no longer satisfied that the conditions of paragraph 1 are met, they shall revoke that decision and terminate the detailed arrangements relating to the joint exercise of the responsibility, after consulting the air operator concerned. In that case, upon such revocation of that decision, the Member State which is responsible pursuant to Article 51(3) shall become individually responsible for the performance of those tasks in respect of the aircraft operator concerned and the other Member States concerned shall be relieved of their joint responsibility.



In that case, all Member States concerned shall ensure the effective and uninterrupted continuation of the performance of those tasks during the transition period leading to the date from which the responsibility is exercised individually, as well as a seamless continuation of the activities undertaken by the aircraft operator concerned during that period. They shall inform the Commission and the Agency of the revocation without delay. Upon receipt of that notification the Agency shall update the relevant information in the repository referred to in Article 63.

8. This Article shall be without prejudice to the rights and obligations of the Member States under the Chicago Convention.

When Member States have decided to be jointly responsible in accordance with this Article, or when they have decided to revoke such a decision, they shall notify ICAO accordingly.

#### *Article 54*

##### **Reallocation of responsibility upon request from organisations**

1. An organisation may request the Agency to act as the competent authority responsible for the performance of the tasks related to certification, oversight and enforcement with respect to that organisation, in deviation from Article 51(3), where that organisation holds or is eligible to apply for a certificate in accordance with the provisions of Chapter III to the national competent authority from one Member State, but it has or it intends to have a substantial proportion of facilities and personnel covered by that certificate located in one or more other Member States.

Such a request may also be made by two or more organisations forming part of a single business grouping, each of which has a principal place of business in a different Member State and each of which holds or is eligible to apply for a certificate in accordance with the provisions of Chapter III for the same type of aviation activity.

Before the organisations referred to in the first and second subparagraph make such a request, they shall obtain the consent of the national competent authorities of the Member States in which they have their principal places of business. These consents shall be communicated to the Agency together with the request.

2. Where the Agency considers that it can effectively exercise the responsibility for the performance of the tasks related to certification, oversight and enforcement, as requested, in compliance with this Regulation and the implementing acts adopted on the basis thereof, it shall conclude with the Member State or Member States concerned, as applicable, detailed arrangements concerning the reallocation of the responsibility for the performance of the tasks related to certification, oversight and enforcement concerned. The organisations that requested the Agency to act as their competent authority shall be consulted on those detailed arrangements before they are finalised.

Those detailed arrangements shall at least clearly identify the tasks related to certification, oversight and enforcement that are being reallocated, and include the legal, practical and administrative arrangements necessary for ensuring an orderly transfer, the effective and uninterrupted continuation of the performance of the tasks concerned in compliance with this Regulation and the implementing acts adopted on the basis thereof, as well as a seamless continuation of the activities undertaken by the organisations concerned. The detailed arrangements shall also include provisions on the transfer of relevant technical records and documentation.

The Agency and the Member State or Member States concerned, as applicable, shall ensure that the reallocation of the responsibility for the performance of the tasks related to certification, oversight and enforcement is carried out in accordance with those detailed arrangements.

3. Upon acceptance of the request made pursuant to paragraph 1, the Agency shall become the competent authority responsible for the performance of the tasks related to certification, oversight and enforcement covered by the request and the Member State or Member States concerned shall be relieved of the responsibility for the performance of those tasks under this Regulation and the implementing acts adopted on the basis thereof. In relation to the exercise of the responsibility for the performance of those tasks by the Agency, the provisions of Chapters IV and V shall apply.
4. The provisions of Article 53(2a), (5) and (6) shall apply accordingly to any reallocation of responsibility for the performance of the tasks related to certification, oversight and enforcement pursuant to this Article.
- 4a. Organisations in respect of which the Agency acts as a competent authority pursuant to this Article may request that the Member States where these organisations have their principal places of business resume responsibility for the performance of the tasks related to certification, oversight and enforcement with respect to these organisations. In that case the provisions of Article 53(3) to (6) shall apply accordingly.

#### *Article 55*

### **Oversight support mechanism**

[...]

**Validity of certificates and declarations**

1. Certificates issued and declarations made in accordance with this Regulation and the implementing acts adopted on the basis thereof shall be valid in all Member States, without further requirements or evaluation.
2. If the Commission considers that a legal or a natural person to which a certificate has been issued or which has made a declaration no longer complies with the applicable requirements of this Regulation or of the implementing acts adopted on the basis thereof, the Commission shall, based on a recommendation from the Agency, require the Member State responsible for the oversight of that person to take appropriate corrective action and safeguard measures, including limitation or suspension of the certificate.

That decision shall be taken by means of implementing acts which shall be adopted in accordance with the procedure referred to in Article 116(2). On duly justified imperative grounds of urgency relating to aviation safety, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 116(4).

From the date at which that implementing decision takes effect, the certificate or declaration concerned shall, in deviation from paragraph 1, no longer be valid in all Member States.

3. When the Commission considers that the Member State referred to in paragraph 2 has taken appropriate corrective action and safeguard measures, it shall decide, based on a recommendation from the Agency, that the certificate or declaration concerned shall again be valid in all Member States, in accordance with paragraph 1. That decision shall be taken by means of implementing acts adopted in accordance with the procedure referred to in Article 116(2). On duly justified imperative grounds of urgency relating to aviation safety, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 116(4).
4. This Article shall be without prejudice to Regulation (EC) No 2111/2005.

**Acceptance of third-country certification**

1. The Agency and the national competent authorities may either issue the certificates provided for in this Regulation and its implementing acts on the basis of certificates issued in accordance with the laws of a third country, or accept certificates and other relevant documentation attesting compliance with civil aviation rules which were issued in accordance with the laws of a third country, where those third country certificates or other relevant documentation ensure a level of safety and environmental protection that is equivalent to that resulting from the application of the provisions of this Regulation. Such possibility may be provided for in:
  - a) international agreements concerning the recognition of certificates concluded between the Union and a third country;
  - b) the implementing acts set out in paragraph 2; or
  - ba) in the absence of an international agreement and of a relevant implementing acts as referred to in points (a) and (b) respectively, and without prejudice to Article 126(4), an agreement concerning the recognition of certificates concluded between a Member State and a third country before the entry into force of Regulation (EC) No 1592/2002 and notified to the Commission and the other Member States.
2. The Commission shall be empowered to adopt implementing acts in accordance with the procedure referred to in Article 116(3) in order to lay down detailed rules with regard to acceptance of certificates and other documentation attesting compliance with civil aviation rules issued in accordance with the laws of a third country, including the procedures and conditions for achieving and maintaining the necessary confidence in regulatory systems of third countries.

In order to achieve and maintain such confidence, the Agency shall be authorized to conduct the necessary technical assessments and evaluations of the laws of third countries and of foreign aviation authorities. For the purpose of conducting such assessments and evaluations, the Agency may conclude working arrangements in accordance with Article 77(2).

#### *Article 58*

### **Qualified entities**

1. The Agency and the national competent authorities may allocate their tasks related to certification and oversight under this Regulation to qualified entities that have been accredited as being compliant with the criteria set out in Annex VI. Without prejudice to paragraph 4, the Agency and the national competent authorities which make use of the qualified entities shall establish a system for that accreditation and for the assessment of the compliance of qualified entities with those criteria, both at the moment of accreditation and continuously thereafter.

A qualified entity shall be accredited either individually by the Agency or by a national competent authority, or jointly by two or more national competent authorities or by the Agency and one or more national competent authorities.

2. The Agency or the national competent authority or authorities, as applicable, shall amend, limit, revoke or suspend the accreditation of a qualified entity that they granted, when that entity no longer complies with the criteria set out in Annex VI.
3. The Agency or the competent national authority or authorities accrediting a qualified entity may grant it a privilege to issue, renew, amend, limit, suspend and revoke certificates, or to receive declarations, on behalf of the Agency or the national competent authority. That privilege shall be included in the scope of the accreditation.
4. The Agency and the national competent authorities shall recognise, without further technical requirements or evaluation, accreditations of qualified entities granted by the Agency and by other national competent authorities in accordance with paragraph 1.

However, the Agency and the national competent authorities shall not be obliged to use the full scope of the accreditation granted by another national competent authority or the Agency, nor to use the full scope of the privileges granted to that qualified entity by another national competent authority or the Agency in accordance with paragraph 3.

5. The Agency and the national competent authorities shall exchange information about the accreditations granted, suspended, limited and revoked, including information about the scope of the accreditation and the privileges granted. The Agency shall make that information available through the repository referred to in Article 63.

#### *Article 59*

#### **Safeguard provisions**

1. This Regulation and the implementing acts adopted on the basis thereof shall not prevent a Member State from reacting immediately to a problem relating to civil aviation safety, where all of the following conditions have been met:
  - a) the problem involves a serious risk to aviation safety and immediate action by that Member State is required to address it;
  - b) it is not possible for the Member State to adequately address the problem in compliance with the provisions of this Regulation and the implementing acts adopted on the basis thereof;
  - c) the action taken is proportionate to the severity of the problem.

In such a case, the Member State concerned shall immediately notify the Commission, the Agency and the other Member States, through the repository established under Article 63, of the measures taken, their duration and the reasons for taking them.

2. Where the duration of the measures referred to in paragraph 1 exceeds eight consecutive months or where a Member State has taken the same measures repetitively and their total duration exceeds eight months, the Agency shall assess whether the conditions of paragraph 1 have been met and issue, within three months from the date of the reception of the notification referred to in paragraph 1, a recommendation to the Commission as regards the outcome of that assessment. The Agency shall include that recommendation in the repository established under Article 63.

In that case, the Commission shall assess, taking account of that recommendation, whether those conditions have been met. Where the Commission considers that those conditions have not been met or where it departs from the outcome of the assessment by the Agency, it shall adopt, within three months from the date of the reception of that recommendation, an implementing decision to that effect, which shall be published in the *Official Journal of the European Union* and entered into the repository established under Article 63.

Upon notification of an implementing decision confirming that those conditions have not been met, the Member State concerned shall immediately terminate the measures taken pursuant to paragraph 1.

4. Upon the receipt of the notification referred to in paragraph 1, the Agency shall, without undue delay, also assess whether the problem identified by the Member State can be addressed by the Agency by taking the decisions referred to in the first subparagraph of Article 65(4), so that the measures taken by the Member State are no longer needed.

Where the Agency considers that the problem can be addressed in that manner, it shall take the appropriate decision to that effect. Where it considers that the problem reveals the need for a change to the implementing acts adopted on the basis of this Regulation, it shall issue an opinion in accordance with Article 65(1) to the Commission as regards the amendment of those delegated acts or implementing acts that it considers necessary in light of the application of paragraph 1.



**Flexibility provisions**

1. Member States may grant exemptions to any natural or legal person subject to this Regulation from the requirements applicable to that person pursuant to the provisions of Chapter III, other than the essential requirements laid down in those provisions, or to the implementing acts adopted on basis of those provisions in the event of urgent unforeseeable circumstances affecting those persons or operational needs of those persons, where all of the following conditions have been met:
  - a) it is not possible to adequately address those circumstances or needs in compliance with the applicable requirements;
  - b) an acceptable level of safety and environmental protection and compliance with the applicable essential requirements is ensured, where necessary through the application of mitigation measures;
  - c) the Member State has mitigated any possible distortion of market conditions as a consequence of the granting of the exemption as far as possible; and
  - d) the exemption is limited in scope and duration to the extent strictly necessary and it is applied in a non-discriminatory manner.

In such a case, the Member State concerned shall immediately notify the Commission, the Agency and the other Member States, through the repository established under Article 63, of the exemption granted, its duration, the reason for granting it and, where applicable, the necessary mitigation measures applied.

2. Where the duration of the exemptions referred to in paragraph 1 exceeds eight consecutive months or where a Member State has granted the same exemptions repetitively and their total duration exceeds eight months, the Agency shall assess whether the conditions of paragraph 1 have been met and issue, within three months from the date of the reception of the notification referred to in paragraph 1, a recommendation to the Commission as regards the outcome of that assessment. The Agency shall include that recommendation in the repository established under Article 63.

In that case, the Commission shall, taking account of that recommendation, assess whether those conditions have been met. Where the Commission considers that those conditions have not been met or where it departs from the outcome of the assessment by the Agency, it shall adopt, within 3 months from the date of the reception of that recommendation, an implementing decision to that effect, which shall be published in the *Official Journal of the European Union* and entered into the repository established under Article 63.

Upon notification of an implementing decision confirming that those conditions have not been met, the Member State concerned shall immediately revoke the exemption granted pursuant to paragraph 1.

3. Where a Member State considers that the compliance with the applicable essential requirements set out in the Annexes can be demonstrated by other means than those laid down in the implementing acts adopted on the basis of this Regulation, and that those means present significant advantages in terms of civil aviation safety or of efficiency for the persons subject to this Regulation or for the authorities concerned, it may submit to the Commission and the Agency, through the repository established under Article 63, a reasoned request for amendment of the implementing act concerned so as to allow for the use of those other means.

In that case, the Agency shall, without undue delay, issue a recommendation to the Commission on whether the Member State's request fulfils the conditions of the first subparagraph.

Where necessary in light of the application of this paragraph, the Commission shall, without delay and taking account of that recommendation, consider amending the delegated or implementing act concerned.

#### *Article 61*

### **Information gathering, exchange and analysis**

1. The Commission, the Agency and the national competent authorities shall exchange any information available to them in the context of the application of this Regulation and the implementing acts adopted on the basis thereof, which is relevant to the other parties for the performance of their tasks under this Regulation. The competent authorities of the Member States entrusted with the investigation of civil aviation accidents and incidents, or with the analysis of occurrences, shall also be entitled to access to that information for the performance of their tasks. That information may also be disseminated to interested parties in accordance with the implementing acts referred to in paragraph 4.
2. The Agency shall coordinate at Union level the gathering, exchange and analysis of information on matters falling within the scope of this Regulation. For that purpose, the Agency may enter into arrangements with legal and natural persons subject to this Regulation, or associations of such persons, on information gathering, exchange and analysis.
3. Upon a request by the Commission, the Agency shall analyse urgent or important issues falling within the scope of this Regulation. Where relevant, the national competent authorities shall cooperate with the Agency for the purpose of conducting such analysis.
4. The Commission shall adopt detailed rules on the modalities of the exchange of the information referred to in paragraph 1 between the Commission, the Agency and the national competent authorities and the dissemination of such information to interested parties. Those rules shall be contained in implementing acts which shall be adopted in accordance with the procedure referred to in Article 116(3).

The detailed rules referred to in the first subparagraph shall take account of:

- a) the need to provide legal and natural persons subject to this Regulation with the information they need to ensure compliance with and further the objectives set out in Article 1;
  - b) the need to limit the dissemination and use of information to what is strictly necessary for achieving the objectives set out in Article 1;
  - c) the need to prevent making the information available or prevent the information being used in order to attribute blame or liability, without prejudice to applicable national criminal law.
5. The national competent authorities, in accordance with their national law, the Commission, the Agency, as well as the legal and natural persons and the associations of those persons referred to in paragraph 2, shall take the necessary measures to ensure appropriate confidentiality of the information received by them pursuant to this Article. This provision is without prejudice to any stricter confidentiality requirements provided for in Regulation (EU) No 996/2010, Regulation (EU) No 376/2014, or other Union legislation.
6. In order to inform the general public of the overall level of civil aviation safety in the Union, the Agency shall publish annually a safety review. That review shall contain an analysis of the general safety situation in wording that is simple and easy to understand and it shall indicate whether there are increased safety risks.

**Protection of the source of information**

1. When the information referred to in Article 61(1) and (2) has been provided to a national competent authority, the source of such information shall be protected in accordance with the applicable Union and national legislation on the protection of the source of information relating to civil aviation safety. Where such information is provided by a natural person to the Commission or the Agency, the personal details of that source shall not be recorded together with the information provided.
2. Without prejudice to applicable national criminal law, Member States shall refrain from instituting proceedings in respect of unpremeditated or inadvertent infringements of the law which come to their attention only because the information about those infringements have been provided pursuant to this Regulation and the implementing acts adopted on the basis thereof.

The provisions of the first subparagraph shall not apply in cases of wilful misconduct or in cases where there has been a manifest, severe and serious disregard of an obvious risk and profound failure of professional responsibility to take such care as is evidently required in the circumstances, causing foreseeable damage to a person or property, or which seriously compromises the level of civil aviation safety.

3. Member States may retain or adopt measures to strengthen the protection of sources of information referred to in paragraph 1.

4. Employees and contracted personnel who provide information in application of this Regulation and the implementing acts adopted on the basis thereof shall not be subject to any prejudice by their employer or by the organisation for which they provide services, on the basis of the information provided.

The provisions of the first subparagraph shall not apply in cases of wilful misconduct or in cases where there has been a manifest, severe and serious disregard of an obvious risk and profound failure of professional responsibility to take such care as is evidently required in the circumstances, causing foreseeable damage to a person or property, or which seriously compromises aviation safety.

5. The provisions of this Article shall not prevent the Member States, the Commission and the Agency from taking any action necessary for maintaining or improving civil aviation safety.
6. The provisions of this Article shall be without prejudice to the rules on protection of the source of information set out in Regulation (EC) No 996/2010 and Regulation (EC) No 376/2014.

### *Article 63*

#### **Repository of information**

1. The Agency shall establish, in cooperation with the Commission and the national competent authorities, and manage a repository of information necessary to ensure effective cooperation between the Agency and the national competent authorities concerning the exercise of their tasks relating to certification, oversight and enforcement under this Regulation.

That repository shall include information about:

- a) certificates issued and declarations received by the Agency and by national competent authorities in accordance with the provisions of Chapter III and Articles 53, 54, 66, 67, 68, 69 and 70;
- b) certificates issued and declarations received by qualified entities on behalf of the Agency and national competent authorities in accordance with Article 58(3);
- c) accreditations granted by the Agency and by national competent authorities to qualified entities in accordance with Article 58, including information about the scope of the accreditation and the privileges granted;
- d) the measures taken by Member States pursuant to Article 2(6) and (7), as well as the corresponding Commission decisions;
- e) Commission decisions taken pursuant to Article 2(4);
- f) Member States decisions taken pursuant to Article 36(2);
- g) the reallocation by Member States of the responsibility for the performance of the tasks related to certification, oversight and enforcement to the Agency or to a national competent authority of another Member State in accordance with Articles 53 and 54, including details about the tasks which have been reallocated;
- h) [...]
- i) Commission decisions taken in accordance with Article 56;
- j) notifications by national competent authorities concerning individual flight time specification schemes submitted to the Agency on the basis of the implementing acts adopted in accordance with Article 28(1)(da), and the corresponding Agency opinions issued in accordance with Article 65(7);

- k) notifications by Member States concerning the measures taken to react immediately to a problem relating to civil aviation safety and concerning the granting of exemptions, and the corresponding Agency recommendations and Commission decisions, pursuant to Articles 59(1) and 60(1);
- l) requests by Member States concerning other means of compliance with the essential requirements, and the corresponding Agency recommendations pursuant to Article 60(3);
- m) notifications by the Agency and the corresponding Commission decisions pursuant to Article 65(4);
- ma) information related to the implementation of international standards and recommended practices, as referred to in Article 77(4);
- mb) joint exercise of responsibility for certification, oversight and enforcement tasks by the Member States and the corresponding Commission decisions, pursuant to Article 53a, including information about the tasks which are being exercised jointly;
- mc) exemptions granted by Member States pursuant to Article 36(2a) and the corresponding Commission decisions;
- n) other information that may be necessary for ensuring effective cooperation between the Agency and the national competent authorities concerning the exercise of their tasks related to certification, oversight and enforcement under this Regulation.

2. The national competent authorities, aeromedical examiners and aeromedical centres shall also exchange through the repository information concerning medical fitness of pilots. Any such information which constitutes personal data, including health data, shall be limited to what is strictly necessary for ensuring effective certification and oversight of pilots in accordance with Article 20.



3. Any personal data, including health data, included in the repository shall be stored for no longer than is necessary for the purposes for which the data were collected or for which they are further processed.
4. Member States and the Agency shall ensure that data subjects whose personal data are processed in the repository are informed, *ex ante*, thereof.
5. Member States and the Agency may restrict the scope of the rights of the data subject to access, rectify and erase personal data included in the repository to the extent that it is strictly necessary to safeguard civil aviation safety, in accordance with Article 13 of Directive 95/46/EC and Article 20 of Regulation (EC) 45/2001.
6. Without prejudice to paragraph 7, the Commission, the Agency, national competent authorities and any competent authority of the Member States entrusted with the investigation of civil aviation accidents and incidents shall, for the exercise of their tasks, have on-line, secure access to all information included in the repository.

Where relevant, the Commission and the Agency may disseminate certain information included in the repository, other than information referred to in paragraph 2, to interested parties or make it publicly available.

7. The information included in the repository shall be protected from unauthorised access by appropriate tools and protocols. The access to and disclosure of the information referred to in paragraph 2 shall be restricted to persons who are responsible for the certification and oversight of the medical fitness of pilots, for the purpose of fulfilling their tasks under this Regulation. Limited access to this information may also be granted to other authorised persons for the purpose of ensuring the proper functioning of the repository, in particular for its technical maintenance. Persons authorised to have access to information which contains personal data shall receive prior training on the applicable personal data protection legislation and related safeguards.

8. The Commission shall adopt the necessary rules for the functioning and management of the repository. Those rules shall be contained in implementing acts which shall be adopted in accordance with the procedure referred to in Article 116(3) and lay down detailed requirements with regard to:
- a) the technical aspects of the establishment and maintenance of the repository;
  - b) the classification of the information to be transmitted by the Commission, the Agency and the national competent authorities for inclusion in the repository, including the form and manner of transmitting such information;
  - c) regular and standardised updates of the information included in the repository;
  - d) the modalities for the dissemination and publication of certain information included in the repository in accordance with paragraph 6;
  - e) the classification of information concerning the medical fitness of pilots to be transmitted by the national competent authorities, aero-medical examiners and aeromedical centres, for inclusion in the repository, including the form and manner of transmitting such information;
  - f) the modalities for protecting the information included in the repository from unauthorised access, restricting access to the information and protecting any personal data included in the repository in accordance with the applicable Union law on the protection of personal data, in particular against accidental or unlawful destruction, loss, alteration, or disclosure;
  - g) the maximum storage period allowed with regard to the personal data included in the repository, including the information concerning the medical fitness of pilots which constitutes personal data;
  - h) the detailed conditions under which Member States and the Agency may restrict the rights of the data subject to access, rectify and erase personal data included in the repository, for the purpose of paragraph 5.

## **CHAPTER V**

### **THE EUROPEAN UNION AVIATION SAFETY AGENCY**

#### ***SECTION I***

##### **Tasks**

##### *Article 64*

##### **Establishment and functions of the Agency**

1. A European Union Aviation Safety Agency is hereby established.
2. For the purposes of ensuring the proper functioning and development of civil aviation in the Union in accordance with the objectives set out in Article 1, the Agency shall:
  - a) undertake any task and formulate opinions on all matters covered by this Regulation;
  - b) assist the Commission by preparing measures to be taken under this Regulation. Where those measures comprise technical rules, the Commission may not change their content without prior coordination with the Agency;
  - c) provide the Commission with the necessary technical, scientific and administrative support to carry out its tasks;
  - d) take the necessary measures within the powers conferred on it by this Regulation or other Union legislation;

- e) conduct inspections, other monitoring activities and investigations as necessary to fulfil its tasks under this Regulation, or as requested by the Commission;
- f) within its field of competence, carry out, on behalf of Member States, functions and tasks ascribed to them by applicable international conventions, in particular the Chicago Convention;
- g) assist the national competent authorities in carrying out their tasks, in particular by providing a forum for exchanges of information and expertise;
- h) contribute, upon request, by the Commission, to the establishment, measurement, reporting and analysis of performance indicators, where Union legislation establishes performance schemes relating to civil aviation, for safety and other technical matters where the Agency has the relevant expertise;
- i) cooperate with other Union institutions, bodies, offices and agencies in areas where their activities relate to technical aspects of civil aviation.

#### *Article 65*

#### **Agency measures**

1. The Agency shall, upon request, assist the Commission in the preparation of proposals for amendments to this Regulation and of delegated and implementing acts to be adopted on the basis of this Regulation. The documents that the Agency submits to the Commission for those purposes shall take the form of opinions.
2. The Agency shall issue recommendations addressed to the Commission for the application of Articles 59 and 60.

3. The Agency shall, in accordance with Article 104 and the applicable implementing acts adopted on the basis of this Regulation, issue certification and other detailed specifications, acceptable means of compliance and guidance material for the application of this Regulation and the implementing acts adopted on the basis thereof.
4. The Agency shall take the appropriate decisions for the application of paragraph 6, Articles 66, 67, 67a, 68, 69, 70, 71 and 73 and where tasks have been allocated to it pursuant to Articles 53 and 54.

The Agency may grant exemptions to any legal or natural person to whom it has issued a certificate in the situations and subject to the conditions set out in Article 60(1). In such a case, the Agency shall immediately notify the Commission and the Member States, through the repository established under Article 63, of the exemptions granted, the reasons for granting them and, where applicable, the necessary mitigation measures applied. Where the duration of an exemption exceeds eight consecutive months or where the Agency has granted the same exemption repetitively and their total duration exceeds eight months, the Commission shall assess whether those conditions have been met, and where it considers that this is not the case, it shall adopt an implementing decision to that effect, which shall be published in the *Official Journal of the European Union* and entered into the repository established under Article 63. The Agency shall immediately revoke the exemption upon the notification of that implementing decision.

5. The Agency shall issue reports on the inspections and other monitoring activities conducted pursuant to Article 73.
6. The Agency shall react without undue delay to an urgent safety problem falling within the scope of this Regulation by determining corrective action to be taken by legal and natural persons in respect of which it acts as the competent authority and by disseminating related information to those persons, including directives or recommendations, where this is necessary to safeguard the objectives set out in Article 1.

The Agency shall react without undue delay to an urgent safety problem falling within the scope of this Regulation by determining safety objectives to be achieved and recommending corrective action to be taken by national competent authorities and by disseminating related information to those national competent authorities where this is necessary to safeguard the objectives set out in Article 1.

7. The Agency shall issue opinions on the individual flight time specification schemes proposed by the Member States pursuant to the implementing acts adopted in accordance with Article 28(1)(da) which deviate from the certifications specifications adopted by the Agency.

### *Article 66*

#### **Airworthiness and environmental certification**

1. With regard to the products, parts and non-installed equipment referred to in Article 2(1)(a) and 2(1)(b)(i), the Agency shall, where applicable and as specified in the Chicago Convention or the Annexes thereto, carry out on behalf of Member States the functions and duties of the state of design, manufacture or registry, when those functions and duties are related to design certification and mandatory continuing airworthiness information. To that end, it shall in particular:
  - a) for each design of a product for which a type certificate, a restricted type certificate, a change to a type certificate or a restricted type certificate, including a supplemental type certificate, an approval of repair design, or an approval of operational suitability data has been applied for in accordance with Article 11, establish and notify to the applicant the certification basis;
  - b) [...]
  - c) for each design of a part or non-installed equipment for which a certificate has been applied for in accordance with Articles 12 or 13 respectively, establish and notify to the applicant the certification basis;

- d) for aircraft for which a permit to fly has been applied for in accordance with Article 14(4), issue the approval for associated flight conditions related to the design;
- e) establish and make available the airworthiness and environmental compatibility specifications applicable to the design of products, parts and non-installed equipment which are subject to a declaration in accordance with Article 11(8), 12(7) and 13(1);
- f) be responsible for the performance of the tasks related to certification, oversight and enforcement in accordance with Article 51(2) with respect to the type certificates, restricted type certificates, certificates of changes, including supplemental type certificates, approvals of repair design and approvals of operational suitability data for the design of products in accordance with Article 11;
- g) be responsible for the performance of the tasks related to certification, oversight and enforcement in accordance with Article 51(2) with respect to the certificates for the design of parts and for non-installed equipment in accordance with Articles 12 and 13;
- h) issue the appropriate environmental data sheets on the design of products which it certifies in accordance with Article 11;
- i) ensure the continuing airworthiness functions associated with the design of products, the design of parts and non-installed equipment it has certified and in respect of which it performs oversight, including reacting without undue delay to a safety or security problem and issuing and disseminating the applicable mandatory information.

2. The Agency shall be responsible for the performance of the tasks related to certification, oversight and enforcement in accordance with Article 51(2) with respect to:

- a) the approvals of and the declarations made by the organisations responsible for the design of products, parts and non-installed equipment, in accordance with Article 15(1)(a) and (3d), respectively;

- b) the approvals of and the declarations made by the organisations responsible for the production, maintenance and continuing airworthiness management of products, parts and non-installed equipment and by the organisations involved in the training of personnel, in accordance with Article 15(1) and (3d), where those organisations have their principal place of business outside the territories for which Member States are responsible under the Chicago Convention.
3. The Agency shall be responsible for the performance of the tasks related to oversight and enforcement in accordance with Article 51(2) with respect to the declarations made by organisations in accordance with Article 11(8), 12(7) and 13(1).

#### *Article 67*

#### **Aircrew certification**

1. The Agency shall be responsible for the performance of the tasks related to certification, oversight and enforcement in accordance with Article 51(2) with respect to the approvals of and the declarations made by the pilot training organisations, cabin crew training organisations and the aero-medical centres referred to in Article 22, where those organisations and centres have their principal place of business outside the territories for which Member States are responsible under the Chicago Convention.
2. The Agency shall be responsible for the performance of the tasks related to certification, oversight and enforcement in accordance with Articles 51(2) with respect to the certificates for flight simulation training devices in accordance with Article 23 in each of the following cases:
  - a) the device is operated by an organisation with a principal place of business outside the territories for which Member States are responsible under the Chicago Convention;
  - b) the device is located outside the territories for which Member States are responsible under the Chicago Convention;
  - c) [...]



## *Article 67a*

### **Safety-Related Aerodrome Equipment**

With regard to the safety-related aerodrome equipment referred to in Article 31, the Agency shall:

1. Where the implementing acts adopted pursuant to Article 31a so provide, establish and notify to the applicant the detailed specifications for the safety-related aerodrome equipment which is subject to a certificate or a declaration in accordance with Article 31(1);
2. Where the implementing acts adopted pursuant to Article 31a so provide, be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 51(2) with respect to the certificates for, and the declarations made in respect of the design of safety-related aerodrome equipment in accordance with Article 31(1).

## *Article 68*

### **ATM/ANS**

1. The Agency shall be responsible for the performance of the tasks related to certification, oversight and enforcement in accordance with Article 51(2) with respect to:
  - a) the certificates for the ATM/ANS providers referred to in Article 36, where those providers have their principal place of business located outside the territories for which Member States are responsible under the Chicago Convention and they are responsible for providing ATM/ANS in the airspace above the territory to which the Treaties apply;
  - b) the certificates for the ATM/ANS providers referred to in Article 36, where those providers provide ATM/ANS within most or all Member States and which may also extend beyond the airspace above the territory to which the Treaties apply;

- c) the certificates for, and the declarations made by, the organisations referred to in Article 37, where those organisations are involved in the design, production or maintenance of ATM/ANS systems and constituents used in the provision of the services referred to in point (b);
- d) the declarations made by the ATM/ANS providers to which the Agency has issued a certificate in accordance with points (a) and (b), in respect of ATM/ANS systems and constituents which are put in operation by those providers in accordance with Article 38(1).

2. With regard to systems and constituents referred to in Article 38, the Agency shall:

- a) where the implementing acts adopted pursuant to Article 38a so provide, establish and notify to the applicant the detailed specifications for the ATM/ANS systems and constituents, upon which safety or interoperability is dependent and which are subject to a certificate or a declaration in accordance with Article 38(2);
- b) where the implementing acts adopted pursuant to Article 38a so provide, be responsible for the performance of the tasks related to certification, oversight and enforcement in accordance with Article 51(2) with respect to the certificates for, and the declarations made in respect of, ATM/ANS systems and constituents upon which safety or interoperability is dependent in accordance with Article 38(2).

#### *Article 69*

#### **Air traffic controller training organisations certification**

The Agency shall be responsible for the performance of the tasks related to certification, oversight, and enforcement in accordance with Article 51(2) with respect to the certificates for the air traffic controller training organisations referred to in Article 42, where those organisations have their principal place of business located outside the territories for which Member States are responsible under the Chicago Convention and, where relevant, their personnel.

## *Article 70*

### **Third-country aircraft operators and international safety oversight**

1. The Agency shall be responsible for the performance of the tasks related to certification, oversight and enforcement in accordance with Article 51(2) with respect to the authorisations for and the declarations made by aircraft operators referred to in Article 49(1), unless a Member State carries out the functions and duties of the state of operator in respect of the aircraft operators concerned.
2. The Agency shall be responsible for the performance of the tasks related to certification, oversight and enforcement in accordance with Article 51(2) with respect to the authorisations for aircraft and pilots referred to in Article 50(1)(a).
3. The Agency shall, upon request, assist the Commission in the implementation of Regulation (EC) No 2111/2005 by conducting the necessary assessments, including on-site visits, of third country aircraft operators and authorities responsible for their oversight. It shall provide the results of those assessments, with appropriate recommendations, to the Commission.

## *Article 71*

### **Investigations by the Agency**

1. The Agency shall conduct either itself or through national competent authorities or qualified entities the investigations necessary for the performance of its tasks related to certification, oversight and enforcement in accordance with Article 51(2) .
2. For the purposes of conducting the investigations referred to in paragraph 1, the Agency shall be empowered to:
  - a) require the legal or natural persons to whom it has issued a certificate, or who made a declaration to it, to provide all necessary information;

- b) require those persons to provide oral explanations on any fact, document, object, procedure or other subject matter relevant for determining whether the person complies with the provisions of this Regulation and of the delegated and implementing acts adopted on the basis thereof;
- c) enter relevant premises, land and means of transport of those persons;
- d) examine, copy or make extracts from any document, record or data held by or accessible to those persons, irrespective of the medium on which the information in question is stored.

The Agency shall, where required for determining whether a person to whom it has issued a certificate, or who has made a declaration to it, complies with the provisions of this Regulation and of the implementing acts adopted on the basis thereof, also be empowered to exercise the powers set out in the first subparagraph in relation to any other legal or natural person who can reasonably be expected to possess or have access to information relevant for those purposes.

The powers of this paragraph shall be exercised in compliance with the national law of the Member State or of the third country where the investigation takes place, with due regard for the rights and legitimate interests of persons concerned and in compliance with the principle of proportionality. Where in accordance with the applicable national law prior authorisation from the judicial or administrative authority of the Member State or third country concerned is needed to enter premises, land and means of transport as referred to in point (c) of the first subparagraph, those powers shall be exercised only after having obtained such prior authorisation.

3. The Agency shall ensure that the members of its staff and, where relevant, any other expert participating in the investigation are sufficiently qualified, adequately instructed and duly authorised. Those persons shall exercise their powers upon production of a written authorisation.

4. Officials of the competent authorities of the Member State in whose territory the investigation is to be conducted shall, at the request of the Agency, assist it in carrying out the investigation. Where such assistance is required, the Agency shall, in good time before the investigation, inform the Member State in whose territory the investigation is to be conducted of the investigation and of the assistance required.

## *Article 72*

### **Fines and periodic penalty payments**

1. The Commission may, at the request of the Agency, impose on an legal or natural person to whom the Agency has issued a certificate, or who has made a declaration to it, in accordance with this Regulation, either one or both of the following:
  - a) a fine, where that person infringed, intentionally or negligently, one of the provisions of this Regulation or of the implementing acts adopted on the basis thereof;
  - b) a periodic penalty payment where that person continues to infringe one of those provisions, in order to compel that person to comply with those provisions.
2. The fines and periodic penalty payments referred to in paragraph 1 shall be effective, proportionate and dissuasive. They shall be set taking account of the gravity of the case, and in particular the extent to which safety or protection of the environment has been compromised, and the economic capacity of the legal or natural person concerned.

The amount of the fines shall not exceed 4 % of the annual income or turnover of the legal or natural person referred to in paragraph 1 calculated on the basis of the economic activities associated with the certificate or declaration concerned. The amount of the periodic penalty shall not exceed 2.5 % of the average daily income or turnover of that legal or natural person.
3. The Commission shall only impose fines and periodic penalty payments pursuant to paragraph 1 when other measures provided for in this Regulation and in delegated acts adopted on the basis thereof to address such infringements are inadequate or disproportionate.

4. With regard to the imposition of fines and periodic penalty payments in accordance with the provisions of this Article, the Commission shall, by means of implementing acts in accordance with the procedure referred to in Article 116(3), lay down:
  - a) detailed criteria and a detailed methodology for establishing the amounts of the fines and periodic penalty payments;
  - b) detailed rules for enquiries, associated measures and reporting, as well as decision-making, including provisions on rights of defence, access to file, legal representation, confidentiality and temporal provisions; and
  - c) procedures for the collection of the fines and periodic penalty payments.
5. The Court of Justice of the European Union shall have unlimited jurisdiction to review decisions of the Commission taken pursuant to paragraph 1. It may cancel, reduce or increase the fine or periodic penalty payment imposed.
6. The decisions of the Commission taken pursuant to paragraph 1 shall not be of a criminal law nature.

### *Article 73*

#### **Monitoring of Member States**

1. The Agency shall assist the Commission in monitoring the application by the Member States of the provisions of this Regulation and of the implementing acts adopted on the basis thereof by conducting inspections and other monitoring activities. Those inspections and other monitoring activities shall also aim at assisting the Member States in ensuring the uniform application of those provisions and in sharing best practices.

The Agency shall report to the Commission on the inspections and other monitoring activities conducted pursuant to this paragraph.

2. For the purposes of conducting the inspections and other monitoring activities referred to in paragraph 1, the Agency shall be empowered to:
- a) require any national competent authority and any legal and natural person subject to this Regulation to provide all necessary information;
  - b) require those authorities and persons to provide oral explanations on any fact, document, object, procedure or other subject matter relevant for determining whether a Member State complies with the provisions of this Regulation and of the delegated and implementing acts adopted on the basis thereof;
  - c) enter relevant premises, land and means of transport of those authorities and persons;
  - d) examine, copy or make extracts from any document, record or data held by or accessible to those authorities and persons, irrespective of the medium on which the information in question is stored.

The Agency shall, where required for determining whether a Member State complies with the provisions of this Regulation and of the implementing acts adopted on the basis thereof, also be empowered to exercise the powers set out in the first subparagraph in relation to any other legal or natural person who can reasonably be expected to possess or have access to information relevant for those purposes.

The powers of this paragraph shall be exercised in compliance with the national law of the Member State where the inspection or other monitoring activities take place, with due regard for the rights and legitimate interests of the authorities and persons concerned and in compliance with the principle of proportionality. Where in accordance with the applicable national law prior authorisation from the judicial or the administrative authority of the Member State concerned is needed to enter premises, land and means of transport as referred to in point (c) of the first subparagraph, those powers shall be exercised only after having obtained such prior authorisation.

3. The Agency shall ensure that the members of its staff and, where relevant, any other expert participating in the inspection or the other monitoring activity are sufficiently qualified and adequately instructed. In the case of inspections, those persons shall exercise their powers upon production of a written authorisation.

In good time before the inspection, the Agency shall inform the Member State concerned of the subject matter, the purpose of the activity, the date on which it is to begin and of the identity of the members of its staff and any other expert carrying out that activity.

4. The Member State concerned shall facilitate the inspection or the other monitoring activity. It shall ensure that the authorities and persons concerned cooperate with the Agency.

Where a legal or a natural person does not cooperate with the Agency, the competent authorities of the Member State concerned shall provide the necessary assistance to the Agency to enable it to carry out the inspection or other monitoring activity.

5. When an inspection or another monitoring activity conducted in accordance with this Article entails an inspection or another monitoring activity in respect of a legal or a natural person subject to this Regulation, the provisions of Article 71(2), (3) and (4) shall apply.
6. Upon request of the Member State, reports drawn up by the Agency pursuant to paragraph 1 shall be made available to it in the official Union language or languages of the Member State where the inspection took place.
7. The Agency shall publish a summary of information about the application by each Member State of the provisions of this Regulation and of the implementing acts adopted on the basis thereof. It shall include that information in the annual safety review referred to in Article 61(6).
8. The Agency shall contribute to the assessment of the impact of the implementation of this Regulation and the delegated and implementing acts adopted on the basis thereof, without prejudice to the Commission's assessment under Article 113, having regard to the objectives set out in Article 1.



9. The Commission shall adopt detailed rules on the working methods of the Agency for conducting the tasks under this Article. Those rules shall be contained in implementing acts which shall be adopted in accordance with the procedure referred to in Article 116(3).

#### *Article 74*

### **Research and innovation**

1. The Agency shall assist the Member States and the Commission in identifying key research themes in the field of civil aviation to contribute to ensuring consistency and coordination between publicly funded research and development and policies falling within the scope of this Regulation.
2. The Agency shall support the Commission in the definition and accomplishment of the relevant Union framework programmes for research and innovation activities and of the annual and multi-annual work programmes, including in the conduct of evaluation procedures, in the review of funded projects and in the exploitation of the results of research and innovation projects.
3. The Agency may develop and finance research in so far as is strictly related to the improvement of activities in its field of competence. The Agency's research needs and activities shall be included in its annual work programme.
4. The results of research funded by the Agency shall be published, unless the applicable rules of intellectual property law or the security rules of the Agency referred to in Article 112 preclude such publication.
5. In addition to the tasks set out in paragraphs 1 to 4 and in Article 64, the Agency may also engage in ad hoc research activities, provided that those activities are compatible with the Agency's tasks and the objectives of this Regulation.

### **Environmental protection**

1. The measures taken by the Agency as regards emissions and noise, for the purpose of the certification of the design of products in accordance with Article 11, shall aim at preventing significant harmful effects on the environment and human health caused by the civil aviation products concerned.
2. The Member States, the Commission, the Agency and other Union institutions, bodies, offices and agencies shall, within their respective fields of competence, cooperate on environmental matters, including those addressed in Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>32</sup>, with a view to ensuring that interdependencies between environmental protection, human health and other technical domains of civil aviation are taken into account.
3. The Agency shall, where it has the relevant expertise, assist the Commission with the definition and coordination of civil aviation environmental protection policies and actions, in particular by conducting studies, simulations and providing technical advice.
4. In order to inform interested parties and the general public, the Agency shall, every three years, publish an environmental review, which shall give an objective account of the state of environmental protection relating to civil aviation in the Union. The Agency shall associate the Member States and consult relevant stakeholders and organisations in the development of this review.

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<sup>32</sup> Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

**Interdependencies between civil aviation safety and security<sup>33</sup>**

1. The Member States, the Commission and the Agency shall cooperate on security matters related to civil aviation, including cyber security, where interdependencies between civil aviation safety and security exist.
2. Where interdependencies between civil aviation safety and security exist, the Agency shall, upon request, provide technical assistance to the Commission, where the Agency has the relevant safety expertise, in the implementation of Chapters 3, 4.3, 10 and 11 of Annex I to Regulation (EC) No 300/2008 of the European Parliament and of the Council<sup>34</sup>.
3. To contribute to protecting civil aviation against acts of unlawful interference, the Agency may, where necessary, react without undue delay to an urgent problem which is of common concern to Member States and where interdependencies between civil aviation safety and security exist and which falls within the scope of this Regulation by:
  - a) taking measures under Article 66(1)(i) to address vulnerabilities in aircraft design;
  - b) recommending actions to be taken by national competent authorities or legal and natural persons subject to the provisions of this Regulation, and/or disseminating relevant information to those authorities and persons, when the problem affects aircraft operations, including risks to civil aviation arising from conflict zones.

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<sup>33</sup> DE and EL propose to delete paragraphs 2 and 3.

<sup>34</sup> Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 (OJ L 97, 9.4.2008, p. 72.)

Before taking the measures referred to in points (a) and (b) of the first subparagraph, the Agency shall obtain the agreement of the Commission and consult the Member States. The Agency shall base those measures, where possible, on common Union risk assessments and take into account the need for rapid reaction in emergency cases.

#### *Article 77*

### **International cooperation**

1. The Agency shall, upon request, assist the Commission in its management of relations with third countries and international organisations relating to matters covered by this Regulation. Such assistance shall in particular contribute to the harmonisation of rules and the mutual recognition of certificates.
2. The Agency may cooperate with the competent authorities of third countries and with international organisations competent in matters covered by this Regulation. To this end, the Agency may, subject to prior approval by the Commission, establish working arrangements with those authorities and international organisations.
3. Agency shall assist Member States in exercising their rights and fulfilling their obligations under international agreements relating to matters covered by this Regulation, in particular their obligations under the Chicago Convention.
4. The Agency shall, in cooperation with the Member States and the Commission, include and update where necessary, the following information in the repository referred to in Article 63:
  - a) information on compliance of this Regulation, the implementing acts adopted on the basis thereof and the measures taken by the Agency under this Regulation with the international standards and recommended practices;
  - b) other information related to the implementation of this Regulation, which is common to all Member States and which is relevant for monitoring by ICAO of the compliance of Member States with the Chicago Convention and international standards and recommended practices;

The Member States shall use that information when implementing their obligations under Article 38 of the Chicago Convention and when providing to ICAO information under the Universal Safety Oversight Audit Programme.

5. Without prejudice to the relevant Treaty provisions, the Commission, the Agency and the national competent authorities who are involved in ICAO activities shall collaborate, through a network of experts, on technical matters falling within the scope of this Regulation and related to the work of ICAO.

The Agency shall provide this network with the necessary administrative support, including assistance for the preparation and organisation of its meetings.

6. In addition to the tasks set out in paragraphs 1 to 5 and in Article 64, the Agency may also engage in ad hoc technical cooperation, and research and assistance projects with third countries and international organisations, provided that those activities are compatible with the Agency's tasks and the objectives set out in Article 1.

#### *Article 78*

### **Aviation Crisis Management**

1. The Agency shall, within its field of competence, contribute to a timely response to and mitigation of aviation crises, in coordination, where relevant, with other stakeholders.
2. The Agency shall participate in the European Aviation Crisis Coordination Cell ('EACCC') established in accordance with Article 18 of Commission Regulation (EU) No 677/2011<sup>35</sup>.

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<sup>35</sup> Commission Regulation (EU) No 677/2011 of 7 July 2011 laying down detailed rules for the implementation of air traffic management (ATM) network functions and amending Regulation (EU) No 691/2010 (OJ L 185, 15.7.2011, p. 1.)

## *Article 79*

### **Aviation training**

1. In order to promote best practices and uniformity in the implementation of this Regulation and the measures adopted on the basis thereof, the Agency may approve providers of aviation training after having assessed their compliance with the conditions established by the Agency and published in its official publication.
2. The Agency may provide training, primarily addressed to its and national competent authorities' staff, either through its own training resources or, where necessary, by relying on external training providers.

## *Article 80*

### **Implementation of Single European Sky**

The Agency shall, where it has the relevant expertise and upon request, provide technical assistance to the Commission, in the implementation of the Single European Sky, in particular by:

- a) conducting technical inspections, technical investigations, and studies;
- b) contributing to the implementation of a performance scheme for air navigation services and network functions for safety and other technical matters in cooperation with the Performance Review Board foreseen in Article 11 of Regulation No 549/2004;
- c) contributing to the implementation of the ATM Master Plan, including the development and deployment of the Single European Sky ATM Research (SESAR) programme.

## SECTION II

### INTERNAL STRUCTURE

#### *Article 81*

##### **Legal status, location and local offices**

1. The Agency shall be a body of the Union. It shall have legal personality.
2. In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.
3. The seat of the Agency shall be Cologne, Federal Republic of Germany.
4. The Agency may establish local offices in the Member States or in third countries, in accordance with Article 91(4).
5. The Agency shall be legally represented by its Executive Director.

#### *Article 82*

##### **Staff**

1. The Staff Regulations of Officials of the European Union, the Conditions of Employment of Other Servants of the European Union<sup>36</sup> and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and Conditions of Employment shall apply to the staff employed by the Agency.

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<sup>36</sup> Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

2. The Agency may make use of seconded national experts or other staff not employed by the Agency. The Management Board shall adopt a decision laying down rules on the secondment of national experts to the Agency.

### *Article 83*

## **Privileges and immunities**

The Protocol on the Privileges and Immunities of the European Union shall apply to the Agency and its staff.

### *Article 84*

## **Liability**

1. The contractual liability of the Agency shall be governed by the law applicable to the contract in question.
2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.
3. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or by its staff in the performance of their duties.
4. The Court of Justice of the European Union shall have jurisdiction in disputes over compensation for damages referred to in paragraph 3.
5. The personal liability of its staff towards the Agency shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.



**Functions of the Management Board**

1. The Agency shall have a Management Board.
2. The Management Board shall:
  - a) appoint the Executive Director, and where relevant extend his or her term of office or remove him or her from office, in accordance with Article 92;
  - b) adopt a consolidated annual activity report on the Agency's activities and send it by 1 July each year to the European Parliament, the Council, the Commission, and the Court of Auditors. The consolidated annual activity report shall be made public;
  - c) adopt each year the Agency's programming document by a majority of two-thirds of members entitled to vote and in accordance with Article 106;
  - d) adopt the annual budget of the Agency by a majority of two-thirds of the members entitled to vote and in accordance with Article 109(11);
  - e) establish procedures for making decisions by the Executive Director as referred to in Articles 104 and 105;
  - f) carry out its functions relating to the Agency's budget pursuant to Articles 109, 110 and 114;
  - g) appoint the members of the Board(s) of Appeal pursuant to Article 94;
  - h) exercise disciplinary authority over the Executive Director;

- i) give its opinion on the rules relating to fees and charges as referred to in Article 115(6a);
- j) adopt its Rules of Procedure;
- k) decide on the linguistic arrangements for the Agency;
- l) take decisions on the establishment of the main elements of the internal structures of the Agency and, where necessary, their modifications;
- m) in accordance with paragraph 6, exercise, with respect to the staff of the Agency, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment ("the appointing authority powers");
- n) adopt appropriate implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;
- o) ensure adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-fraud Office ('OLAF');
- p) adopt rules for the prevention and management of conflicts of interest in respect of its members, as well as of the members of the Board(s) of Appeal;
- q) adopt the financial rules applicable to the Agency in accordance with Article 114;
- r) appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of Other Servants, who shall be totally independent in the performance of his or her duties;

- s) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;
  - t) give its opinion on the draft of the European Aviation Safety Programme in accordance with Article 5;
  - u) adopt the European Plan for Aviation Safety in accordance with Article 6;
  - ua) take duly reasoned decisions in relation to waiver of immunity in accordance with Article 17 of Protocol No 7 on the privileges and immunities of the European Union;
  - ub) establish procedures for expedient cooperation of the Agency with national judicial authorities, without prejudice to the provisions of Regulation (EU) No 996/2010 and Regulation (EU) No 376/2014.
3. The Management Board may advise the Executive Director on any matter related to areas covered by this Regulation.
  4. The Management Board shall establish an advisory body representing the full range of interested parties affected by the work of the Agency, which it shall consult prior to making decisions in the fields referred to in paragraph 2(c), (e), (f) and (i). The Management Board may also decide to consult the advisory body on other issues referred to in paragraphs 2 and 3. The Management Board shall not, in any case, be bound by the opinion of the advisory body.
  5. The Management Board may establish working bodies to assist in carrying out its tasks, including the preparation of its decisions and monitoring the implementation thereof.
  6. The Management Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants, delegating relevant appointing authority powers to the Executive Director and defining the conditions under which that delegation of powers can be suspended. The Executive Director shall be authorised to sub-delegate those powers.

Where exceptional circumstances so require, the Management Board may, by way of a decision, temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

#### *Article 86*

### **Composition of the Management Board**

1. The Management Board shall be composed of representatives from Member States and from the Commission, all with voting rights. Each Member State shall appoint one member of the Management Board and two alternates who will represent the member in his or her absence. The Commission shall appoint two representatives and their alternates. The term of office for members and their alternates shall be four years. That term shall be extendable.
2. Members of the Management Board and their alternates shall be appointed in light of their knowledge, recognised experience and commitment in the field of civil aviation, taking into account relevant managerial, administrative and budgetary expertise, which are to be used to further the objectives of this Regulation. The members shall have overall responsibility at least for civil aviation safety policy in their respective Member States.
3. All parties represented in the Management Board shall make efforts to limit turnover of their representatives, in order to ensure continuity of the work of the Management Board. All parties shall aim to achieve a balanced representation between men and women on the Management Board.
4. Where appropriate, the participation of representatives of European third countries in the Management Board with observer status and the conditions of such participation shall be established in the agreements referred to in Article 118.

5. The advisory body referred to in Article 85(4) shall appoint four of its members to participate with observer status in the Management Board. They shall represent, as broadly as possible, the different views represented in the advisory body. The term of office shall be 24 months and shall be extendable.

#### *Article 87*

### **Chairperson of the Management Board**

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from among its members with voting rights. The Deputy Chairperson shall ex officio replace the Chairperson in the event of his or her inability of attending to his or her duties.
2. The term of office of the Chairperson and Deputy Chairperson shall be four years and shall be extendable once for a further four years. If their membership of the Management Board ceases at any time during their term of office, their term of office shall automatically expire on that date.

#### *Article 88*

### **Meetings of the Management Board**

1. Meetings of the Management Board shall be convened by its Chairperson.
2. The Management Board shall hold at least two ordinary meetings a year. In addition it shall meet at the request of the Chairperson, of the Commission or of at least one third of its members.
3. The Executive Director of the Agency shall take part in the deliberations, without the right to vote.
- 3a. The members of the Management Board may, subject to the provisions of its Rules of Procedure, be assisted by their advisers or experts.

4. The Management Board may invite any person whose opinion might be of interest to attend its meetings with observer status.
5. The Agency shall provide the secretariat for the Management Board.

#### *Article 89*

#### **Voting rules of the Management Board**

1. Without prejudice to Articles 85(2)(c) and (d), and 92(7), the Management Board shall take decisions by majority of its members with voting rights. At the request of a member of the Management Board, the decision referred to in Article 85(2)(k) shall be taken by unanimity.
2. Each member appointed pursuant to Article 86(1) shall have one vote. In the absence of a member, his or her alternate shall be entitled to exercise his or her right to vote. Neither observers nor the Executive Director of the Agency shall vote.
3. The Rules of Procedure of the Management Board shall establish more detailed voting arrangements, in particular the conditions under which a member may act on behalf of another member as well as any quorum requirements, where appropriate.
4. Decisions on budgetary or human resources matters, in particular Article 85(2), (d), (f), (h), (m), (n), (p), and (r), require a positive vote from the Commission to be adopted.

#### *Article 90*

#### **Executive Board**

[...]

**Responsibilities of the Executive Director**

1. The Executive Director shall manage the Agency. The Executive Director shall be accountable to the Management Board. Without prejudice to the powers of the Commission, and of the Management Board, the Executive Director shall be independent in the performance of his or her duties and shall neither seek nor take instructions from any government or from any other body.
2. The Executive Director shall report to the European Parliament on the performance of his or her duties when invited to do so. The Council may invite the Executive Director to report on the performance of his or her duties.
3. The Executive Director shall be responsible for the implementation of the tasks assigned to the Agency by this Regulation or other Union acts. In particular, the Executive Director shall be responsible for:
  - a) approving the measures of the Agency as defined in Article 65 within the limits specified by this Regulation and the implementing acts adopted on the basis thereof;
  - b) deciding on investigations, inspections, and other monitoring activities as provided for in Articles 71 and 73;
  - c) deciding on allocation of tasks to qualified entities in accordance with Articles 58(1) and on the conduct of investigations on behalf of the Agency by national competent authorities or qualified entities in accordance with Article 71(1);
  - d) taking the necessary measures concerning the activities of the Agency related to international cooperation in accordance with Article 77;

- e) taking all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the proper functioning of the Agency in accordance with this Regulation;
- f) implementing decisions adopted by the Management Board;
- g) preparing the consolidated annual report on the Agency's activities and submitting it to the Management Board for adoption;
- h) preparing the Agency's draft statement of estimates of revenue and expenditure pursuant to Article 109, and implementing its budget pursuant to Article 110;
- i) delegating his or her powers to other members of the Agency's staff. The Commission shall define the modalities of such delegations which shall be contained in implementing acts which shall be adopted in accordance with the procedure referred to in Article 116(2);
- j) preparing the programming document referred to in Article 106(1), and submitting it to the Management Board for adoption, after having obtained the opinion of the Commission;
- k) implementing the programming document referred to in Article 106(1), and report to the Management Board on its implementation;
- l) preparing an action plan following up conclusions of internal or external audit reports and evaluations, as well as investigations by OLAF, and reporting on progress twice a year to the Commission and regularly to the Management Board;
- m) protecting the financial interests of the Union by applying preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative and financial penalties;



- n) preparing an anti-fraud strategy for the Agency and present it to the Management Board for adoption;
  - o) preparing draft financial rules applicable to the Agency;
  - p) preparing the European Plan for Aviation Safety and its subsequent updates, and submitting them to the Management Board for adoption;
  - q) reporting to the Management Board on the implementation of the European Plan for Aviation Safety;
  - r) responding to requests for assistance from the Commission made in accordance with this Regulation;
  - s) accepting the transfer of responsibilities to the Agency in accordance with Articles 53 and 54;
  - t) the day-to-day administration of the Agency.
4. The Executive Director shall also be responsible for deciding whether it is necessary for the purpose of carrying out the Agency's tasks in an efficient and effective manner to establish one or more local offices in one or more Member States or third countries. That decision requires the prior consent of the Commission, the Management Board and, where applicable the Member State where the local office is to be established.

These decisions shall specify the scope of the activities to be carried out at that local office in a manner that avoids unnecessary costs and duplication of administrative functions of the Agency.

## *Article 92*

### **Executive Director**

1. The Executive Director shall be engaged as a temporary agent of the Agency under Article 2(a) of the Conditions of Employment of Other Servants.
2. The Executive Director shall be appointed by the Management Board on grounds of merit and of documented competence and experience relevant for civil aviation, from a list of candidates proposed by the Commission, following an open and transparent selection procedure.

For the purpose of concluding the contract with the Executive Director, the Agency shall be represented by the Chairperson of the Management Board.

Before appointment, the candidate selected by the Management Board may be invited to make a statement before the competent committee of the European Parliament and to answer questions put by its members.

3. The term of office of the Executive Director shall be five years. By the end of that period, the Commission shall undertake an assessment that takes into account an evaluation of the Executive Director's performance and the Agency's future tasks and challenges.
4. The Management Board, acting on a proposal from the Commission that takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once, for no more than five years. Before extending the term of office of the Executive Director, the Management Board shall inform the European Parliament if it intends to extend the Executive Director's term of office. Within one month before any such extension, the Executive Director may be invited to make a statement before the competent committee of the Parliament and answer questions put by its members.

5. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.
6. The Executive Director may be removed from office only upon a decision of the Management Board acting on a proposal from the Commission.
7. The Management Board shall reach decisions on appointment, extension of the term of office or removal from office of the Executive Director on the basis of a two-thirds majority of its members with voting rights.
8. The Executive Director may be assisted by one or more Directors. If the Executive Director is absent or indisposed, one of the Directors shall take his or her place.

### *Article 93*

#### **Powers of the Board of Appeal**

1. One or more Boards of Appeal shall be established as part of the administrative structure of the Agency. The Commission shall determine the number of Boards of Appeal and the work allocated to it or them through implementing acts which shall be adopted in accordance with the procedure referred to in Article 116(2).
2. The Board or Boards of Appeal shall be responsible for deciding on appeals against the decisions referred to in Article 97. The Board or Boards of Appeal shall be convened as necessary.

### *Article 94*

#### **Composition of the Board of Appeal**

1. A Board of Appeal shall consist of a Chairperson and two other members.
2. The Chairperson and the other members shall have alternates to represent them in their absence.

3. The Chairperson, the other members and their alternates shall be appointed by the Management Board from a list of qualified candidates established by the Commission.
4. Where the Board of Appeal considers that the nature of the appeal so requires, it may request the Management Board to appoint up to two further members and their alternates from the list referred to in paragraph 3.
5. The Commission shall determine the qualifications required for the members of each Board of Appeal, their status and contractual relationship with the Agency, the powers of individual members in the preparatory phase of decisions and the voting conditions. The Commission shall do so through implementing acts which shall be adopted in accordance with the procedure referred to in Article 116(2).

#### *Article 95*

#### **Members of the Board of Appeal**

1. The term of office of the members of a Board of Appeal, including the Chairperson and any alternates, shall be five years and shall be extendable for a further five years.
2. The members of a Board of Appeal shall be independent. In making their decisions they shall neither seek nor take instructions from any government or from any other body.
3. The members of a Board of Appeal shall not perform any other duties within the Agency. The members of a Board of Appeal may work on a part-time basis.
4. The members of a Board of Appeal shall not be removed from office or from the list of qualified candidates during their term of office, unless there are serious grounds for such removal and the Commission, after having received the opinion of the Management Board, takes a decision to that effect.

## *Article 96*

### **Exclusion and objection**

1. The members of a Board of Appeal shall not take part in any appeal proceedings if they have any personal interest therein, if they have previously been involved as representatives of one of the parties to the proceedings or if they participated in the adoption of the decision under appeal.
2. If, for one of the reasons listed in paragraph 1 or for any other reason, a member of a Board of Appeal considers that he or she should not take part in any appeal proceeding, he or she shall inform the Board of Appeal accordingly.
3. Any party to the appeal proceedings may object to any member of a Board of Appeal on any of the grounds given in paragraph 1, or if the member is suspected of partiality. Any such objection shall not be admissible if, while being aware of a reason for objecting, the party to the appeal proceedings has taken a procedural step. No objection may be based on the nationality of members.
4. The Board of Appeal shall decide as to the action to be taken in the cases specified in paragraphs 2 and 3 without the participation of the member concerned. For the purposes of taking this decision, the member concerned shall be replaced on the Board of Appeal by his or her alternate.

## *Article 97*

### **Decisions subject to appeal**

1. An appeal may be brought against decisions of the Agency taken pursuant to Articles 53, 54, 65(6), 66, 67, 67a, 68, 69, 70, 71 or 115.
2. An appeal lodged pursuant to paragraph 1 shall not have suspensory effect. The Executive Director may, however, if it considers that circumstances so permit, suspend the application of the decision appealed against.

3. An appeal against a decision which does not terminate proceedings as regards one of the parties may only be made in conjunction with an appeal against the final decision, unless the decision provides for separate appeal.

#### *Article 98*

#### **Persons entitled to appeal**

Any natural or legal person may appeal against a decision addressed to that person, or against a decision which, although in the form of a decision addressed to another person, is of direct and individual concern to the former. The parties to proceedings may be party to the appeal proceedings.

#### *Article 99*

#### **Time limit and form**

The appeal, together with a substantiated statement of grounds thereof, shall be filed in writing at the Board of Appeal's secretariat within two months of the notification of the measure to the person concerned or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

#### *Article 100*

#### **Interlocutory revision**

1. Before examining the appeal, the Board of Appeal shall give the Agency the opportunity to review its decision. If the Executive Director considers the appeal to be well founded, he or she shall rectify the decision within two months from being notified by the Board of Appeal. That shall not apply where the appellant is opposed to another party to the appeal proceedings.
2. If the decision is not rectified, the Agency shall forthwith decide whether or not to suspend the application of the decision pursuant to Article 97(2).

## *Article 101*

### **Examination of appeals**

1. The Board of Appeal shall assess whether the appeal is admissible and well founded.
2. When examining the appeal pursuant to paragraph 1, the Board of Appeal shall act expeditiously. It shall as often as necessary invite the parties to the appeal proceedings to file, within specified time limits, written observations on notifications issued by itself or on communications from other parties to the appeal proceedings. The Board of Appeal may decide to hold an oral hearing, either of its own motion or at the substantiated request of one of the parties to the appeal.

## *Article 102*

### **Decisions on appeal**

Where the Board of Appeal finds that the appeal is not admissible or that the grounds for appeal are not founded, it shall reject the appeal. Where the Board of Appeal finds that the appeal is admissible and that the grounds for appeal are founded, it shall remit the case to the Agency. The Agency shall take a new reasoned decision taking into account the decision by the Board of Appeal.

## *Article 103*

### **Actions before the Court of Justice of the European Union**

1. Actions may be brought before the Court of Justice of the European Union for the annulment of acts of the Agency intended to produce legal effects vis-à-vis third parties, for failure to act and, in accordance with Article 84, for the non-contractual liability and, pursuant to an arbitration clause, the contractual liability for damages caused by acts of the Agency.

2. Actions for the annulment of decisions of the Agency taken pursuant to Articles 53, 54, 65(6), 66, 67, 67a, 68, 69, 70, 71 or 115 may be brought before the Court of Justice of the European Union only after all appeal procedures within the Agency have been exhausted.
3. Member States and Union institutions may bring actions against decisions of the Agency directly before the Court of Justice of the European Union, without being required to exhaust the appeal procedures within the Agency.
4. The Agency shall take all necessary measures to comply with the judgment of the Court of Justice of the European Union.



## SECTION III

### WORKING METHODS

#### *Article 104*

#### **Procedures for the development of opinions, certification and other detailed specifications, acceptable means of compliance and guidance material**

1. The Management Board shall establish transparent procedures for issuing opinions, certification and other detailed specifications, acceptable means of compliance and guidance material referred to in Article 65(1) and (3).

Those procedures shall:

- a) draw on expertise available in the civil and, where appropriate, military aviation authorities of the Member States;
  - b) whenever necessary, involve experts from relevant interested parties or draw on expertise from the relevant European standardisation bodies or other specialised bodies;
  - c) ensure that the Agency publishes documents and consults widely with interested parties, in accordance with a timetable and a procedure which includes an obligation on the Agency to make a written response to the consultation process.
2. When the Agency, pursuant to Article 65(1) and (3), develops opinions, certification and other detailed specifications, acceptable means of compliance and guidance material, it shall establish a procedure for the prior consultation of the Member States. To that effect, it may create a working group in which each Member State is entitled to designate an expert. When consultation relating to military aspects is required, the Agency shall, in addition to Member States, consult the European Defence Agency. When consultation relating to the possible social impact of those measures of the Agency is required, the Agency shall involve stakeholders, including the EU social partners.

3. The Agency shall publish the opinions, certification and other detailed specifications, acceptable means of compliance and guidance material developed pursuant to Article 65(1) and (3) and the procedures established pursuant to paragraph 1 of this Article in the official publication of the Agency.

#### *Article 105*

#### **Procedures for taking decisions**

1. The Management Board shall establish transparent procedures for taking individual decisions as provided for in Article 65(4).

Those procedures shall in particular:

- a) ensure the hearing of the natural or legal person to be addressed in the decision and of any other party with a direct and individual concern;
  - b) provide for notification of the decision to natural or legal persons and for its publication, subject to the requirements of Articles 112 and 121(2);
  - c) provide for the natural or legal person to whom the decision is addressed, and any other parties to proceedings, to be informed of the legal remedies available to them under this Regulation;
  - d) ensure that the decision contains reasons.
2. The Management Board shall establish procedures specifying the conditions under which decisions are notified to the persons concerned, including information on the available appeal procedures as provided for in this Regulation.

**Annual and multi-annual programming**

1. By 31 December each year, in accordance with Article 85(2)(c), the Management Board shall adopt a programming document containing multi-annual and annual programming, based on a draft put forward by the Executive Director six weeks before its adoption, taking into account the opinion of the Commission. The Management Board shall forward it to the European Parliament, the Council and the Commission.

The programming document shall become definitive after final adoption of the general budget and, if necessary, shall be adjusted accordingly.

2. The annual work programme shall comprise detailed objectives and expected results including performance indicators and shall take into account the objectives of the European Plan for Aviation Safety. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management, indicating which activities are to be financed through the regulatory budget and which activities are to be financed through fees and charges received by the Agency. The annual work programme shall be coherent with the multi-annual work programme referred to in paragraph 4. It shall clearly indicate tasks that have been added, changed or deleted in comparison with the previous financial year. Annual programming shall include the Agency's strategy concerning its activities related to international cooperation in accordance with Article 77 and the Agency's actions linked to that strategy.
3. The Management Board shall amend the adopted annual work programme when a substantial new task is given to the Agency.

Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial annual work programme. The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the Executive Director.

4. The multi-annual work programme shall set out overall strategic programming including objectives, expected results and performance indicators. It shall also set out resource programming including multi-annual budget and staff.

The resource programming shall be updated annually. The strategic programming shall be updated where appropriate, and in particular to address the outcome of the evaluation referred to in Article 113.

#### *Article 107*

#### **Consolidated annual activity report**

1. The consolidated annual activity report shall describe the way in which the Agency has implemented its annual work programme, budget and staff resources. It shall clearly indicate which of the mandates and tasks of the Agency have been added, changed or deleted in comparison with the previous year.
2. The report shall outline the activities carried out by the Agency and evaluate the results thereof with respect to the objectives, performance indicators and timetable set, the risks associated with those activities, the use of resources and the general operations of the Agency, and the efficiency and effectiveness of the internal control systems. It shall also indicate which activities have been financed through the regulatory budget and which activities have been financed through fees and charges received by the Agency.

**Transparency and communication**

1. Regulation (EC) No 1049/2001 shall apply to documents held by the Agency. This shall be without prejudice to the rules on access to data and information set out in Regulation (EU) No 376/2014 and in the implementing acts adopted on the basis of Articles 61(4) and 63(8).
2. The Agency may engage in communication activities on its own initiative within its field of competence. It shall ensure in particular that, in addition to the publication specified in Article 104(3), the general public and any interested party are rapidly given objective, reliable and easily understandable information with regard to its work. The Agency shall ensure that the allocation of its resources to communication activities shall not be detrimental to the effective exercise of the tasks referred to in Article 64.
3. The Agency shall translate safety promotion material into the official languages of the Union, where appropriate.
- 3a. National competent authorities shall assist the Agency by effectively communicating relevant safety information within their respective jurisdictions.
4. Any natural or legal person shall be entitled to address the Agency in writing in any of the official languages of the Union and shall have the right to receive an answer in the same language.
5. The translation services required for the functioning of the Agency shall be provided by the Translation Centre of the Bodies of the European Union.

## **SECTION IV**

### **FINANCIAL REQUIREMENTS**

#### *Article 109*

##### **Budget**

1. Without prejudice to other revenues, the revenues of the Agency shall comprise:
  - a) a contribution from the Union;
  - b) a contribution from any European third country with which the Union has concluded an international agreements as referred to in Article 118;
  - c) the fees paid by applicants for, and holders of, certificates issued by the Agency, and by persons who have registered declarations with the Agency;
  - d) charges for publications, training and any other services provided and for the processing of appeals by the Agency;
  - e) any voluntary financial contribution from Member States, third countries or other entities, provided that such a contribution does not compromise the independence and impartiality of the Agency;

f) [...]

g) grants.

2. The expenditure of the Agency shall include staff, administrative, infrastructure and operational expenditure. In respect of operational expenditure, budgetary commitments for actions which extend over more than one financial year may be broken down over several years into annual instalments, where necessary.
3. Revenue and expenditure shall be in balance.
4. Regulatory budgets, the fees set and collected for certification activities and charges levied by the Agency shall be dealt with separately in the Agency's accounts.
5. The Agency shall adapt its staff planning and management of resources related to activities financed from fees and charges in a manner that enables it to swiftly respond to fluctuations in revenue from fees and charges.
6. Each year, the Executive Director shall draw up a draft statement of estimates of the Agency's revenue and expenditure for the following financial year, including a draft establishment plan, and send it to the Management Board together with explanatory material on the budgetary situation. That draft establishment plan shall, in relation to posts financed from fees and charges, be based on a set of indicators approved by the Commission to measure the Agency's workload and efficiency, and shall set out the resources required to meet demands for certification and other activities of the Agency in an efficient and timely manner, including those resulting from transfers of responsibility in accordance with Articles 53 and 54. The Management Board shall, on the basis of that draft, adopt a provisional draft estimate of revenue and expenditure of the Agency for the following financial year. The provisional draft estimate of the Agency's revenue and expenditure shall be sent to the Commission by 31 January each year.

7. The Management Board shall send the final draft estimate of the revenue and expenditure of the Agency, which shall include the draft establishment plan together with the provisional work programme, by 31 March at the latest to the Commission and to the European third countries with which the Union has concluded international agreements as referred to in Article 118.
8. The Commission shall send the statement of estimates to the budgetary authority together with the draft general budget of the European Union.
9. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the contribution to be charged to the general budget, which it shall place before the budgetary authority in accordance with Articles 313 and 314 of the TFEU.
10. The budgetary authority shall authorise appropriations for the contribution to the Agency and shall adopt the establishment plan of the Agency.
11. The budget shall be adopted by the Management Board. It shall become final following final adoption of the general budget of the Union. Where appropriate, it shall be adjusted accordingly.
12. The Management Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of the budget, in particular any projects relating to property such as the rental or purchase of buildings and it shall inform the Commission thereof. For any building project likely to have significant implications for the budget of the Agency, the provisions of Commission Delegated Regulation (EU) No 1271/2013<sup>37</sup> shall apply.

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<sup>37</sup> Commission Delegated Regulation (EU) No 1271/2013 of 30 September on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and the Council (OJ L 328, 7.12.2013, p.42).



Where a branch of the budgetary authority has notified its intention to deliver an opinion, it shall forward its opinion to the Management Board within a period of six weeks from the date of notification of the project.

#### *Article 110*

#### **Implementation and control of the budget**

1. The Executive Director shall implement the budget of the Agency.
2. By 1 March at the latest following each financial year, the Agency's accounting officer shall communicate the provisional accounts to the Commission's accounting officer and to the Court of Auditors. The Agency's accounting officer shall also send a report on the budgetary and financial management for that financial year to the Commission's accounting officer by 1 March following each financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 147 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>38</sup>.
3. By 31 March at the latest following each financial year, the Executive Director shall forward the report on the budgetary and financial management for that financial year to the Commission, the Court of Auditors, the European Parliament and the Council.
4. Pursuant to Article 148 of Regulation (EU, Euratom) No 966/2012, on receipt of the Court of Auditors' observations on the Agency's provisional accounts, the accounting officer shall draw up the Agency's final accounts under his or her own responsibility and the Executive Director shall submit them to the Management Board for an opinion.
5. The Management Board shall deliver an opinion on the Agency's final accounts.

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<sup>38</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union (OJ L 298, 26.10.2012, p.1).

6. The accounting officer shall, by 1 July at the latest following each financial year, forward the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board's opinion.
7. The final accounts shall be published in the *Official Journal of the European Union* by 15 November of the following year.
8. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He or she shall also send that reply to the Management Board and the Commission.
9. The Executive Director shall submit to the European Parliament, at the latter's request, any information necessary for the smooth application of the discharge procedure for the financial year in question, as provided for by Article 165(3) of Regulation (EU, Euratom) No 966/2012.
10. The European Parliament, on a recommendation from the Council acting by a qualified majority, shall, before 15 May of year N + 2, give a discharge to the Executive Director in respect of the implementation of the budget for year N.

### *Article III*

#### **Combating fraud**

1. In order to combat fraud, corruption and other unlawful activities, the provisions of Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>39</sup> shall apply without restriction.

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<sup>39</sup> Regulation (EC, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

2. The Agency shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-fraud Office (OLAF)<sup>40</sup> within six months from *[OP please insert the exact date, as referred to in Art. 127]* and shall adopt the appropriate provisions applicable to its staff using the template set out in the Annex to that Agreement.
3. The European Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds from the Agency.
4. OLAF may carry out investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the Agency, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/96<sup>41</sup>.
5. Without prejudice to paragraphs 1, 2, 3, and 4, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions of the Agency shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

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<sup>40</sup> OJ L 136, 31.5.1999, p. 15.

<sup>41</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

## Article 112

### **Security rules on the protection of classified and sensitive non-classified information**

The Agency shall adopt own security rules equivalent to the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, as set out in the Commission Decisions (EU, Euratom) 2015/443<sup>42</sup> and 2015/444<sup>43</sup>. The security rules of the Agency shall cover, inter alia, provisions for the exchange, processing and storage of such information.

## Article 113

### **Evaluation**

1. Not later than [*five years after the date referred to in Article 127 – OP please insert the exact date*], and every five years thereafter, the Commission shall perform an evaluation in compliance with the Commission guidelines to assess the Agency's performance in relation to its objectives, mandate and tasks. The evaluation shall assess the impact of this Regulation, the Agency and its working practices in establishing a high level of civil aviation safety. The evaluation shall also address the possible need to modify the mandate of the Agency, and the financial implications of any such modification. The evaluation shall take into account the views of the Management Board and of stakeholders at both European and national level.
2. Where the Commission considers that the continuation of the Agency is no longer justified with regard to its assigned objectives, mandate and tasks, it may propose that this Regulation be amended accordingly or repealed.

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<sup>42</sup> Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

<sup>43</sup> Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

3. The Commission shall forward the evaluation findings together with its conclusions, to the European Parliament, the Council and the Management Board. An action plan with a timetable shall be included, if appropriate. The findings of the evaluation shall be made public.

#### *Article 114*

##### **Financial rules**

The financial rules applicable to the Agency shall be adopted by the Management Board after consultation of the Commission. They shall not depart from Delegated Regulation (EU) No 1271/2013, unless such departure is specifically required for the Agency's operation and the Commission has given its prior consent.

#### *Article 115*

##### **Fees and charges**

1. [...]
2. [...]
3. [...] *(transformed into implementing acts in new paragraph 6a)*
4. Fees and charges shall be levied for:
  - a) the issuing and renewal of certificates and the registration of declarations by the Agency pursuant to this Regulation, as well as its oversight activities concerning the activities to which those certificates and declarations relate;
  - b) publications, training and the provision of any other service by the Agency, which shall reflect the actual cost of each individual service provided;
  - c) the processing of appeals.

All fees and charges shall be expressed, and payable, in euro.

5. The amount of the fees and charges shall be fixed at such a level as to ensure that the revenue in respect thereof covers the full cost of the activities related to the services delivered, and to avoid a significant accumulation of surplus. All expenditure of the Agency attributed to staff involved in activities referred to in paragraph 3, in particular the employer's pro-rata contribution to the pension scheme, shall be reflected in that cost. The fees and charges shall be assigned revenues for the Agency for activities related to services for which fees and charges are due.
6. Budgetary surpluses generated through fees and charges shall fund future activities related to fees and charges or offset losses. Where a significant positive or negative budget result becomes recurrent, the level of fees and charges shall be revised.
- 6a. The Commission shall adopt detailed rules relating to fees and charges levied by the Agency. They shall specify in particular the matters for which fees and charges pursuant to Article 109(1)(c) and (d) are due, the amount of the fees and charges and the way in which they are paid. Those rules shall be contained in implementing acts which shall be adopted in accordance with the procedure referred to in Article 116(3). The Agency shall be consulted before adoption of the implementing measures, pursuant to Article 85(2)(i).

## **CHAPTER VI**

### **Final Provisions**

#### *Article 116*

#### **Committee procedure**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 4 thereof, shall apply.

#### *Article 117*

#### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 47b shall be conferred on the Commission for a period of 5 years from the ... [*date of entry into force of this Regulation*].
- 2a. The power to adopt delegated acts referred to in Article 18 shall be conferred on the Commission for an indeterminate period of time.
3. The delegation of power referred to in Articles 18 and 47b may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
- 3a. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Articles 18 and 47b shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

#### *Article 118*

### **Participation of European third countries**

The Agency shall be open to the participation of European third countries which are contracting parties to the Chicago Convention and which have entered into international agreements with the Union pursuant to which they adopted and apply Union law in the fields covered by this Regulation.



Those international agreements may include provisions specifying, in particular, the nature and extent of the participation by the European third country concerned in the work of the Agency, including provisions on financial contributions and staff. The Agency may, in accordance with Article 77(2), establish working arrangements with the competent authority of the European third country concerned in order to give effect to those provisions.

#### *Article 119*

### **Headquarters Agreement and operating conditions**

1. The necessary arrangements concerning the accommodation to be provided for the Agency in the host Member State and the facilities to be made available by that Member State together with the specific rules applicable in the host Member State to the Executive Director, members of the Management Board, Agency staff and members of their families shall be laid down in a Headquarters Agreement between the Agency and Member State where the seat is located, concluded after obtaining the approval of the Management Board and no later than *[OP Please insert the exact date - two years after entry into force of this Regulation]*.
2. The Agency's host Member State shall provide the necessary conditions to ensure the smooth functioning of the Agency, including multilingual, adequate schooling and appropriate transport connections.

#### *Article 120*

### **Penalties**

Member States shall lay down penalties for infringement of this Regulation and implementing acts adopted on the basis thereof. The penalties shall be effective, proportionate and dissuasive.

## *Article 121*

### **Processing of personal data**

1. With regard to the processing of personal data within the framework of this Regulation, Member States shall carry out their tasks under this Regulation in accordance with the national laws, regulations or administrative provisions transposing Directive 95/46/EC.
2. With regard to the processing of personal data within the framework of this Regulation, the Commission and the Agency shall carry out their tasks under this Regulation in accordance with Regulation (EC) No 45/2001.

## *Article 122*

### **Repeal**

Regulation (EC) No 216/2008 is repealed.

Regulation (EC) 552/2004 is repealed except for:

- a) Articles 5, 6 and 6a and Annexes III and IV of that Regulation, which shall continue to apply for the purposes of declarations until the entry into force of the relevant implementing measures referred to in Articles 37a, 37b and 38a of this Regulation;
- b) Articles 4 and 7 of that Regulation, which shall continue to apply until the entry into force of the relevant implementing measures referred to in Articles 37a, 37b and 38a of this Regulation.

Regulation (EEC) No 3922/91 is repealed with effect from 1 April 2019.

References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex X.

## *Article 123*

### **Amendments to Regulation (EC) No 1008/2008**

Regulation (EC) No 1008/2008 is amended as follows:

1. in Article 4, point (b) is replaced by the following:

"b) it holds a valid AOC issued in accordance with Regulation (EU) No [XXX/XXX *reference to this Regulation to be inserted*] either by a national authority of a Member State, by several of those authorities jointly, or by the European Union Aviation Safety Agency."

2. Article 6 is replaced by the following:

"Article 6

#### **Air operator certificate**

1. The granting and validity of an operating licence shall be dependent upon the possession of a valid AOC specifying the activities covered by that operating licence.
2. Any modification to the AOC of a Community air carrier shall be reflected, where appropriate, in its operating licence.

The authority competent for the AOC shall inform the competent licensing authority as soon as possible of any relevant proposed changes to the AOC.

3. The authority competent for the AOC and the competent licensing authority shall agree measures to proactively exchange information relevant for the assessment and retention of the AOC and operating licence. This may include, but not be limited to, information relating to the financial, ownership or organisational arrangements of the Community air carrier which may affect the safety or solvency of its operations or which may assist the authority competent for the AOC in performing its oversight activities related to safety. Where information is provided in confidence, measures shall be put in place to ensure that information is appropriately protected.;
- 3a. Where it is likely that enforcement action will be necessary, the authority competent for the AOC and the competent licensing authority shall consult each other as soon as possible prior to the intention to take such action, and work together in seeking to resolve the issues before action is taken. Where action is taken, the authority competent for the AOC and the competent licensing authority shall notify each other as soon as possible that action has been taken."
4. in Article 12, paragraph 1 is replaced by the following:
  - "1. Aircraft used by a Community air carrier shall be registered, at the option of the Member State whose competent authority issues the operating licence, either in its national register or within the Union. When used under a dry lease or a wet lease agreement, such aircraft shall be registered either in one of the Member States or in a third country, subject to the conditions laid down in Article 13. ";

5. Article 13 is amended as follows:

a) paragraph 2 is replaced by the following:

"2. A dry lease or a wet lease agreement to which a Community air carrier is a party shall comply with the conditions on safety laid down in Regulation (EU) no XXX (reference to this Regulation to be inserted] and the implementing acts adopted on the basis thereof, and shall be subject to prior approval if required by those implementing acts.";

b) [...]"

#### *Article 124*

### **Amendments to Regulation (EU) No 996/2010**

Article 5 of Regulation (EU) No 996/2010 is amended as follows:

- "1. Every accident or serious incident involving aircraft to which Regulation (EU) YYYY/N [ref. to new regulation] of the European Parliament and of the Council applies shall be the subject of a safety investigation in the Member State in which the accident or serious incident occurred.
2. Where an aircraft to which Regulation (EU) YYYY/N-[ref. to new regulation] applies and which is registered in a Member State is involved in an accident or a serious incident the location of which cannot be definitely established as being in the territory of any State, a safety investigation shall be conducted by the safety investigation authority of the Member State of registration.
3. The extent of safety investigations referred to in paragraphs 1, 2 and 4 and the procedure to be followed in conducting such safety investigations shall be determined by the safety investigation authority, taking into account the consequences of the accident or serious incident and the lessons it expects to draw from such investigations for the improvement of aviation safety.

4. Safety investigation authorities may decide to investigate incidents other than those referred to in paragraphs 1 and 2, as well as accidents or serious incidents to other types of aircraft, in accordance with the national legislation of the Member States, when they expect to draw safety lessons from them.
5. By way of derogation from paragraphs 1 and 2, the responsible safety investigation authority may decide, taking into account the expected lessons to be drawn for the improvement of aviation safety, not to initiate a safety investigation when an accident or serious incident concerns an unmanned aircraft for which a certificate is not required pursuant to Article 46(1) of Regulation (EU) YYYY/N-[ref. to new regulation], or concerns a manned aircraft with a maximum take-off mass less than or equal to 2 250 kg, and where no person has been fatally or seriously injured.
6. Safety investigations referred to in paragraphs 1, 2 and 4 shall in no case be concerned with apportioning blame or liability. They shall be independent of, separate from and without prejudice to any judicial or administrative proceedings to apportion blame or liability.'

#### *Article 125*

#### **Amendments to Regulation (EU) No 376/2014**

Paragraph 2 of Article 3 of Regulation (EU) No 376/2014 is amended as follows:

- '2. This Regulation applies to occurrences and other safety-related information involving civil aircraft to which Regulation [add ref. to the new regulation] applies.

However, this Regulation shall not apply to occurrences and other safety-related information involving unmanned aircraft for which a certificate is not required pursuant to Article 46(1) of Regulation (EU) YYYY/N [ref. to new regulation], unless the occurrence or other safety-related information involving such unmanned aircraft resulted in a fatal or serious injury to a person or it involved aircraft other than unmanned aircraft.

Member States may decide to apply this Regulation also to occurrences and other safety-related information involving the aircraft to which Regulation *[add ref. to the new regulation]* does not apply."

#### *Article 125a*

### **Amendment to Regulation (EC) No 2111/2005**

Paragraphs 1 to 3 of Article 15 are replaced by the following:

- '1. The Commission shall be assisted by a committee ('EU Air Safety Committee'). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.'

#### *Article 126*

### **Transitional provisions**

1. The certificates and specific airworthiness specifications issued or recognised and the declarations made or recognised in accordance with Regulation (EC) No 216/2008 and its implementing rules shall continue to be valid and shall be considered to have been issued, made and recognised pursuant to the corresponding provisions of this Regulation, including for the purposes of applying Article 56.

2. Not later than [*five years after the date referred to in Article 127 – OP please insert the exact date*] the implementing rules adopted on the basis of Regulation (EC) No 216/2008 and Regulation (EC) No 552/2004 shall be adapted to the provisions of this Regulation. Until adaptation, any references in those implementing rules to:
- a) 'commercial operation' shall be understood as a reference to Article 3(i) of Regulation (EC) No 216/2008;
  - b) 'complex motor-powered aircraft' shall be understood as a reference to Article 3(j) of Regulation (EC) No 216/2008;
  - c) 'appliances' shall be understood as a reference to Article 3(28) of this Regulation;
  - d) 'leisure pilot licence' shall be understood as a reference to the licence referred to in Article 7(7) of Regulation (EC) No 216/2008;
  - e) [...]
- 2a. The Agency shall at the latest two years after the entry into force of this Regulation issue, in accordance with Article 65(1), proposals for amendments to the implementing rules adopted on the basis of Regulation (EC) No 216/2008, in order to adapt those implementing rules, as regards aircraft intended primarily for sports and recreational use, to the provisions of this Regulation.
3. By way of derogation from Articles 45, 46, 47a and 47b, the relevant provisions of Regulation (EC) 216/2008 shall continue to apply until the implementing acts adopted pursuant to Article 47 enter into force.
4. Member States shall terminate or update existing bilateral agreements that they concluded with third countries, for those fields covered by this Regulation as soon as possible following the entry into force of this Regulation and in any event before [*three years after the date referred to in Article 127 – OP please insert the exact date*].



*Article 127*

**Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 125a shall apply from 1 April 2019.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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