



Council of the
European Union

**Brussels, 12 September 2023
(OR. en)**

12906/23

AVIATION 155

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	12 September 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 524 final
Subject:	REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the evaluation of the European Union Aviation Safety Agency and Regulation (EU) 2018/1139 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency

Delegations will find attached document COM(2023) 524 final.

Encl.: COM(2023) 524 final



EUROPEAN
COMMISSION

Brussels, 12.9.2023
COM(2023) 524 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**on the evaluation of the European Union Aviation Safety Agency and Regulation (EU)
2018/1139 on common rules in the field of civil aviation and establishing a European
Union Aviation Safety Agency**

EXECUTIVE SUMMARY

The European Commission conducted an evaluation of the European Union Aviation Safety Agency ('EASA') and of Regulation (EU) 2018/1139 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency ⁽¹⁾. The evaluation assessed the Regulation's effectiveness in reaching its objectives, efficiency, relevance in responding to the stakeholders' needs, coherence with other EU legislation and policy actions, and its overall EU added value. The evaluation also assessed EASA's performance in relation to its objectives, mandate, and tasks. The present report is submitted to the Parliament and the Council on the basis of art 124 of Regulation (EU) 2018/1139 . It presents the findings of this evaluation, highlighting the achievements of both EASA and the Regulation towards the overall objective of establishing and maintaining high uniform level of civil aviation safety in the Union. The report also identifies areas where future improvements is needed, such as an appropriate financing of EASA's activities. The findings presented in this report are further developed in a dedicated Commission Staff Working Document ⁽²⁾ and they are supported by data gathered in a study contracted by the Commission to evaluate both EASA and the Regulation ⁽³⁾.

1. INTRODUCTION

Regulation (EU) 2018/1139 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency is applicable as of 1 September 2018. With safety being the pre-requisite for a competitive aviation sector, the principal **objective of the Regulation is to establish and maintain a high uniform level of civil aviation safety in the Union**. The Regulation also aims at, among others, 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, contributing to a high, uniform level of environmental protection, as well as 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.

⁽¹⁾ Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91, OJ L 212, 22.8.2018, p. 1.

⁽²⁾ SWD(2023) 298

⁽³⁾ Study supporting the evaluation of the European Union Aviation Safety Agency's (EASA) performance in relation to its objectives, mandate and tasks as set out in Regulation (EU) 2018/1139 – Final Report, 2023

The objectives of the Regulation are achieved through, among others, the preparation, adoption and uniform application of requirements covering all key areas of civil aviation, including airworthiness, air operations, aircrew, aerodromes, and air navigation services. The Regulation also covers new technologies, in particular drones (unmanned aircraft systems).

The objectives of the Regulation are mainly achieved with a help of the European Union Aviation Safety Agency ('EASA') who is tasked with a broad range of responsibilities.

In terms of its geographical scope, the Regulation is binding in its entirety and is directly applicable in all EU Member States. It is also applicable in Switzerland, Norway, Iceland, and Liechtenstein, which are members of EASA by virtue of the Union agreements signed with those countries ⁽⁴⁾.

EASA was initially established in 2002 and became operational in 2003⁵. Since then, Regulation (EC) No 216/2008 and Regulation (EC) No 1108/2009 ⁽⁶⁾ enlarged the scope of Union competence and EASA's responsibilities. EASA has its seat in Cologne, with offices in Brussels, Washington, Beijing, Singapore and Panama City.

The Regulation replaces Regulation (EC) No 216/2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency ⁽⁷⁾. In its 2015 Impact Assessment ⁽⁸⁾ supporting the revision of Regulation (EC) No 216/2008, the Commission identified the following **main problems of the legal framework existing at that time**:

- the existing regulatory system might not have been sufficiently able to identify and mitigate safety risks in the mid to long-term;
- the existing regulatory system was not proportionate as it created excessive burdens, especially for smaller operators;
- the existing regulatory system was not sufficiently responsive to market developments; and
- there were differences in resources across Member States creating potential safety risks and contributing to mistrust among the Member States.

⁽⁴⁾ The European Economic Area – EEA - agreement and the bilateral agreement with Switzerland.

⁽⁵⁾ 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, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32002R1592>.

⁽⁶⁾ Regulation (EC) No 1108/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services and repealing Directive 2006/23/EC, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32009R1108>.

⁽⁷⁾ 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, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC, OJ L 79, 19.3.2008, p. 1.

⁽⁸⁾ SWD(2015) 262 final, 7.12.2015.

Consequently, to address those problems, the 2015 Impact Assessment identified the following **specific objectives of the revised Regulation**:

- to eliminate unnecessary requirements and ensure that the regulatory framework is proportionate to the risks associated with different types of aviation activities;
- to ensure that new technologies and market developments are efficiently integrated and effectively overseen;
- to establish a cooperative safety management process between the Union and its Member States to jointly identify and mitigate risks to civil aviation;
- to close the gaps in the regulatory system and ensure its consistency, e.g., with environmental policies; and
- to create an effectively working system of pooling and sharing of resources between the Member States and the Agency.

The Regulation requires that no later than 12 September 2023 the Commission carries out the evaluation of the Regulation as well as of the Agency's performance in relation to its objectives, mandates, and tasks. The Regulation also requires the Commission to forward to the European Parliament and the Council the findings of that evaluation. Consequently, this report first presents the methodology used by the Commission to conduct the evaluation and then it presents the main evaluation findings and conclusions.

2. EVALUATION METHODOLOGY

The Commission conducted the **evaluation in line with the Commission's Better Regulation Guidelines**. The evaluation assessed the Regulation's **effectiveness** to reach its objectives, **efficiency**, **relevance** in responding to the stakeholders' needs, **coherence** with other EU legislation and policy actions, and its overall **EU added value**. The evaluation also assessed **EASA's performance in relation to its objectives, mandate and tasks**. The evaluation covers the period between August 2018 and December 2022. However, often complete data was available only for the period until the end of 2021. The evaluation was supported by an external support study ⁽⁹⁾.

The evaluation is **based on qualitative and quantitative evidence** gathered via an extensive desk research. Further evidence was gathered via interviews and questionnaires disseminated among the various relevant stakeholder groups (airlines, airports, manufacturers of aeronautical products, NAAs, EU-level institutions and agencies). Furthermore, there were two dedicated workshops organised with industry and national aviation authorities aimed at gathering stakeholder views.

⁽⁹⁾ The external support study undertaken by Ramboll et al, in 2022-2023 will be published alongside this evaluation.

Despite all efforts made to gather sufficient evidence necessary to evaluate the Regulation not all aspects could have been evaluated due to the lack of sufficient data. This was partly because the Regulation requires that the Commission adopts further detailed rules in some new areas covered by it. While in some instances, e.g., in the area of drones, such work is fairly advanced, in other areas, e.g., in the ground handling or certification of ATM/ANS ground equipment, the work has only just begun. It was therefore impossible to evaluate whether the Regulation met all its stated objectives.

In addition, the Regulation introduced rather limited changes compared to its predecessor and therefore stakeholders had difficulties to decouple the compliance costs related to the Regulation from the compliance costs stemming from the pre-existing requirements. Consequently, the efficiency analysis used imperfect estimates of such compliance costs.

Furthermore, the evaluation period was largely atypical due to the impact of the COVID-19 pandemic on aviation, both during the pandemic itself as well as afterwards during the ongoing recovery period. Due to the COVID-19 pandemic passenger revenues in 2020 and 2021 declined significantly. Airports reported significant losses in 2020 and airport debt increased. The drop in air traffic was coupled with the limited ability of air navigation service providers (ANSPs) to reduce their expenditure levels. ANSPs had to manage the gap in revenues using either their own resources, or loans or injection of equity by their owners (which to a large extent are the Member States). Employment rates in aviation industry also dropped due to the COVID-19 pandemic.

Furthermore, the COVID-19 pandemic directly affected the Agency's capability to implement the Regulation, in particular its new provisions. Thus, the COVID-19 pandemic created significant challenges for this evaluation, including but not limited to the availability of data and difficulties related to their interpretation.

To ensure better availability of data for the future evaluations, the Commission reviewed and proposed revisions to the monitoring and evaluation system contained in the 2015 Impact Assessment. The revised system takes into account recent developments and additional types of data, which has become available since the publication of the 2015 Impact Assessment. The respective data points will be collected annually by EASA, should facilitate the effectiveness and efficiency of the next evaluation.

Given the complexity of the Union's overall legal framework in the area of aviation safety (which is mainly contained in the numerous implementing and delegated acts adopted on the basis of the Regulation), this evaluation focuses on the role and the impact of the Regulation itself. This evaluation therefore does not enter into a detailed assessment of the rules in the different technical areas covered by implementing and delegated acts.

3. EVALUATION FINDINGS

With regard to the rulemaking activities, EASA aims to ensure a performance-based approach when proposing requirements and procedures. However, the ‘inclusive’ nature of the rulemaking process (i.e. balancing the needs and the preferred approaches of the industry and those of the NCAs) leads **in some cases to the development of prescriptive rules**. Further efforts should be made to reach a balance between the legal requirements and non – binding and more flexible measures such as acceptable means of compliance and guidance material.

Certain EASA’s tasks related to the identification and mitigation of aviation risks are contained in the Commission’s legislative proposal on SES2+ ⁽¹⁰⁾. Such important safety related enhancements include improving performance monitoring by creating a more robust mutual reliance between the SES performance review body and EASA, the growing role of the network manager (creating incentives to reduce environmental impact) and the new rules on the provision of a common information service for unmanned aviation operations. Unfortunately, the legislative process on the SES2+ is still ongoing.

When it comes to the safety performance of EASA, the positive results are mostly due to the long-standing effectiveness of EASA’s activities in the areas of rulemaking, certification and standardisation rather than the specific impact of the Regulation.

Within the reporting period, the aviation sector faced three major crises (the COVID-19 pandemic, the withdrawal of the United Kingdom from the EU and Russia’s war of aggression against Ukraine) to which EASA was able to respond effectively and efficiently.

Overall, **EASA’s performance on rulemaking, certification and standardisation activities is widely positive**. However, the COVID-19 pandemic impacted EASA’s activities, forcing it to concentrate on those new challenges and diverting it from its usual work.

It is perceived that the Regulation increased costs for stakeholders (primarily due to new requirements and implementing and delegated regulations). Despite this, stakeholders identified benefits in terms of an increased safety. The stakeholders diverged in their views on the proportionality of costs and Regulation’s benefits.

EASA’s Advisory Bodies consultations became more effective. **A better cooperative approach led to significant improvements in the functioning of EASA’s advisory structure** and the relationship between EASA and national competent authorities.

The Regulation has been **overall effective in achieving its objectives**. Despite the limitations of the findings of this evaluation, there are strong indications that EASA and the Regulation contributed to the European integration in the area of air transport resulting in significant benefits for safety, efficiency, environment and an enhanced level playing field for the aviation industry.

Despite some identified areas for improvement (e.g. a need for a consistent harmonisation of rules across all domains of aviation safety), Union aviation stakeholders consider the overall quality of Union aviation safety very high . EASA delivered on its core tasks defined by the

⁽¹⁰⁾ https://transport.ec.europa.eu/transport-modes/air/single-european-sky/single-european-sky-ii_en

Regulation: i.e. product certification, rulemaking and standardisation activities are overall perceived as effective with some minor caveats (e.g., too long rulemaking process compared to a fast pace of technological developments). Furthermore, EASA remained effective despite lasting resource constraints since 2018, partly because it could hire staff with advanced expertise at high grades early on, bringing knowledge and efficiency.

Moreover, EASA's effectiveness is demonstrated by the role it played in response to the external shocks and political pressures: a widely positive feedback was reported in relation to EASA's role during the withdrawal of the United Kingdom from the Union, in ensuring safe flight operations during the COVID-19 pandemic and in the period post-pandemic, or in its reaction to Russia's war of aggression against Ukraine.

While the Regulation assigns EASA a very broad role in implementation support, the existing resource constraints limit EASA's ability to fulfil that tasks entirely. Therefore, EASA's future workload should be carefully assessed in the light of its limited resources. **The Regulation does not provide a prioritisation for the different activities of EASA and makes no direct link with its resources.** For instance, the Agency's tasks in innovation and research require a balance between managing the current, core tasks of EASA and the need to work on future areas.

EASA and the Regulation have proven to provide a harmonised regulatory framework which contributes to a high level of safety and ensures that all operators adhere to the same standards. EASA has also contributed to the standardisation of regulations in the Union, leading to greater cooperation and coordination between national competent authorities.

Nonetheless, to maintain EASA's capability of reacting effectively to external shocks and to remain fully involved in wider EU policy objectives (e.g., environmental objectives), **it is essential for the Agency to have an adequate level of resources, both staff and finances,** to use its limited resources wisely, and to adapt its tasks according to priorities.

The performance-based approach applied by EASA is essential to meet the objectives of the Regulation. However, the need for a better balance between legal certainty and flexibility of requirements, already identified in the 2015 Impact Assessment as one of the problems of the pre-existing framework, has not yet been fully achieved.

Although there is a wide consensus across stakeholders (and within EASA itself) on the need to pursue a performance-based and less prescriptive approach, there is still some resistance to this approach. Whereas stakeholders from the aviation industry prefer performance-based/non-prescriptive rules, the authorities tend to value more prescriptive rules as they provide for more legal certainty.

Introducing more flexibility in the rulemaking process would increase the rulemaking effectiveness of EASA. In this regard it should be noted that the guidance materials developed by EASA helps to ensure harmonised implementation of regulations.

The **effectiveness of stakeholder consultations within EASA's Advisory Bodies is largely positive** and EASA plays a pivotal role in respecting the due process when consulting all relevant stakeholders without ad hoc changes in procedures.

Stakeholders' feedback highlighted that **the relationships within EASA's Advisory Bodies have significantly improved over the years**, shifting from a competitive to a cooperative approach. To further improve the effectiveness of stakeholder consultation activities, EASA launched a review of the Advisory Bodies activities in 2022 which resulted in the setting up of additional groups focusing on specific topics.

The value of stakeholder involvement at an early stage (i.e., through rulemaking groups and other topic-dedicated groups) is generally recognised by EASA, national competent authorities and aviation industry stakeholders. Nonetheless, **more targeted consultations of stakeholders outside the Advisory Bodies might further improve the effectiveness of EASA's consultation mechanism.**

In terms of **efficiency**, EASA was overall successful in implementing the financial resources made available to it. On the other hand, the scope of EASA's tasks expanded (and continues to expand) while the resources have not always increased accordingly. This resulted in a challenge for EASA to fulfil its missions in the longer term.

EASA was able to maintain high budget implementation rates, making use of the available annual financial resources throughout the years. The COVID-19 pandemic significantly impacted EASA's activities and its revenue from fees and charges. Russia's war of aggression against Ukraine and the withdrawal of the United Kingdom from the Union also impacted the EASA's operational resources, requiring EASA to reorganise itself according to these new priorities and to adapt/train its staff to new aviation challenges.

Irrespective of the COVID-19 pandemic, **EASA faced a steady decline in terms of human resources** (full-time equivalents - FTEs) resulting in a challenge for EASA to fulfil its tasks. Indeed, while the 2015 Impact Assessment estimated that the introduction of the Regulation would require additional FTEs, **the actual number of FTEs within EASA in fact decreased during the evaluation period.** This decrease is particularly notable considering the expansion of EASA's tasks.

The Union subsidy to EASA does not reflect unforeseen emerging needs. **It remains to be assessed whether the Union contribution is still sufficient to fund EASA's tasks.** This requires EASA to seek funding for those activities elsewhere (e.g., through other EU funding programmes such as the Connecting Europe Facility). The new emerging tasks of EASA will require a deep analysis of its capacity to deliver on them in an efficient manner. It is also **necessary for EASA to prepare for unexpected events that may impact its operations and revenue streams.**

Although EASA demonstrated its ability to efficiently use its annual budget and generate revenue through its activities, EASA's growing number of tasks requires an assessment as regards the availability of the necessary resources. This raises the **question of whether the Union would not be better served with an Agency that is fully financed from users' fees.**

The discussion about EASA's long term financial needs is closely linked to **the ongoing discussion about EASA's budget for the years 2025-2027** where EASA is confronted with important challenges to balance its budget, stemming *inter alia* from inflation-induced cost increases and the need to update EASA's IT infrastructure. Given those short-term budgetary constraints stemming from the limitations under the current 2021-2027 Multiannual Financial Framework (MFF), EASA will have to consider reorganising and restructuring its current working methods.

Besides the issue of the Union contribution, another important element in this context is the **degree of flexibility in EASA's establishment plan** for posts that are funded through users' fees and charges. Currently, the establishment plan, which defines the number of EASA posts across the organisation irrespective of the funding source, hinders EASA to generate sustainable fee revenues from new applications, involvement in fee-financed EU programmes or other services (e.g. in the areas such as third-country operators or organisation of events) as EASA is not allowed to recruit more staff for these tasks. A more flexible establishment plan could also facilitate the recruitment of specialists needed for tasks such as certification, research and innovation projects or specific tasks attributed to EASA under the upcoming Refuel Aviation regulation (e.g. as regards fuel standards, environmental labelling or reporting tasks on sustainable fuels).

EASA's establishment plan should therefore **provide for a necessary financial flexibility**.

The **Regulation is perceived as leading to the increased costs for a majority of stakeholders**, primarily due to the increase in new requirements and implementing and delegated regulations. On the other hand, **stakeholders also identified benefits in terms of an increased safety**. While EASA's oversight costs were perceived to be largely justified, stakeholders raised concerns about the difficulty of complying with some of the implementation requirements, especially for smaller countries and operators. The simplification and burden reduction foreseen in the 2015 Impact Assessment has not yet taken place, however a better use of the tools offered by the Regulation should reduce the compliance and operational costs for stakeholders in a mid- to long-term.

To further increase the efficiency of the existing framework, **more effort should be made to develop a less prescriptive and more performance based regulatory framework**. Furthermore, more **attention should be given to assessing the cost impact of new requirements** developed within the Regulation's framework vis-à-vis the stakeholders (particularly focusing on small entities).

The Regulation is overall internally and externally coherent. Only in few specific areas, the Regulation is not fully coherent with the SES regulatory framework, and with some international standards, notably the standards and recommended practices developed by the International Civil Aviation Organization. Therefore, continued efforts are needed to ensure coherence of Union aviation legislation and a better alignment with standards adopted at international level.

Stakeholders' feedback on the internal coherence of the Regulation was overall positive. Some stakeholders noted however some diverging interpretations of the implementing rules and incoherencies between Member States.

When it comes to **the EU added value**, EASA fulfils its role in ensuring the application of common rules and standards for aviation safety and cooperation on environmental protection, research and innovation as well as its role in international cooperation.

The Regulation achieved benefits that could not have been achieved at the national level or through other international bodies. Having the Regulation is preferable to a more fragmented system with different set of rules at different levels. A key benefit of an Union-wide regulatory framework consists in the provision of common requirements across Union.

The Regulation also has an added value compared to the pre-existing legal framework, mainly due to its expanded scope covering important new areas such as unmanned aircraft, certification of ATM ground equipment and environmental protection.

Nonetheless, **needs and requirements of the civil aviation sector are continuously developing and EASA must continue to adapt** to those needs. Some of the new requirements of the Regulation still need to be delivered through additional implementing rules (e.g., on ground handling), and some other new areas will need to be addressed in the near future (e.g., Higher Airspace Operations ⁽¹¹⁾ or technology developments in ATM).

EASA continues to play an important and preponderant role in harmonising rules, ensuring a level playing field across the Union, and supporting all actors in European aviation and the public at large.

EASA has also been successful in establishing relationships with international aviation partners, including at ICAO, resulting in the mutual recognition of certification and oversight activities between the Union and third countries. This has facilitated the international acceptance of Union aviation products and services. EASA is at the forefront of the development and implementation of innovative technologies, such as unmanned aircraft systems and electric aircraft, among others. It also demonstrates the Union's ability to maintain its international competitiveness.

In its effort to harmonise rules and enhance cooperation with international aviation partners, EASA has to consistently adapt to a very complex and rapidly changing environment.

The Regulation and EASA are both perceived to be relevant for the current and future needs of the aviation sector. The Regulation is relevant in addressing key emerging needs that impact aviation safety such new technologies, digitalisation and artificial intelligence.

⁽¹¹⁾ HAO are operations carried out in higher airspace where the volume of airspace is typically above altitudes where the majority of air services are provided today (typically flight level 550). <https://www.easa.europa.eu/en/newsroom-and-events/news/roadmap-higher-airspace-operations-hao-proposed-easa> .

There are, however, **concerns about the Agency's capacity to deliver on those new tasks without creating negative repercussions on its core aviation safety tasks**. It is important to assess whether EASA has sufficient resources to deliver on its increasing number of tasks.

Innovation and technological developments impact the already complex environment in which EASA fulfils its missions. The use of machine learning and artificial intelligence are at the core of many new tools. Such developments have also possible implications on the aviation safety and thus they need to be carefully addressed by EASA. **EASA should have the necessary technical expertise, train its staff and keep being involved in the relevant research projects and innovation programmes.**

EASA should pursue its efforts to prepare for key technology changes in aviation, such as emerging risks or trends, new business models or disruptive technologies and ensure that its staff skills and competencies as well as its systems and processes correspond to those new technological and innovation needs.

EASA should continue exploring new ways to keep up to date with recent technology innovations and to properly assess their impact on aviation. **Continuous cooperation with other Union agencies and organisations involved in research and innovation programmes should be further exploited** to enrich the knowledge and data on novel products, technologies, new types of operation and new business models.

Research projects on emerging technologies should be fostered to ensure that skills and competences in EASA as well as in the national competent authorities are up to date and that EASA is able to contribute to a safe and swift entry of those new technologies into the market. **The testing of innovative solutions in a safe environment (sandboxes) could benefit from additional regulatory flexibility.**

4. CONCLUSIONS

The Regulation was overall successful and contributed to a safe and efficient level playing field for the Union aviation industry and to addressing environmental aspects of aviation. This is mostly thanks to EASA's rulemaking and certification activities, as well as thanks to a timely and effective response to external shocks. The effectiveness of stakeholder consultations between EASA, the aviation industry and national competent authorities (NCAs) has increased over the years. EASA was also largely efficient in adequately using its available annual budget.

Overall, **both EASA and the Regulation have contributed to European integration in the area of air transport** with overall benefits for safety, environmental protection, efficiency and the creation of a level playing field for the aviation industry.