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REPORT

From : COREPER
To: Council
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Subject: ***AVIATION***

Proposal for a Regulation of the European Parliament and of the Council amending 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**

- *General approach*

Introduction

1. The Commission's proposal was presented to the TTE Council on 5 December 2005. It aims to bring new responsibilities within the remit of the European Aviation Safety Agency (EASA), which was established under Regulation (EC) No 1592/2002¹.

¹ 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.

2. It is recalled that under Regulation 1592/2002, EASA had been given certification and rulemaking responsibilities with respect to airworthiness. In that same Regulation, responsibilities for flight crew licensing, air operations and the oversight of third country aircraft in the Community were mentioned as possible new tasks for the Agency. The Commission proposal now intends to give these new responsibilities to EASA.
3. The Commission drafted its proposal on the basis of the Opinion 3/2004 of EASA, which, under Regulation 1592/2002, is responsible for drafting essential requirements related to aviation safety. To be noted that the Commission's proposal has been drafted as a "modifying Regulation", whereas the work in the Council has been carried out on the basis of a "consolidated version" provided by the Council General Secretariat. At a later stage it will be decided in which of the two forms the Regulation will finally be adopted.

Work carried out by the bodies of the Council

4. The Council bodies discussed the Commission's proposal at several occasions². In this context, the bodies took account of the impact study carried out by the Commission³. In addition, the Executive Director of EASA, Mr. Patrick Goudou, gave a presentation to delegations in Brussels in May, and in June the transport Attachés visited EASA in Cologne in order to get a better understanding of the work of the Agency.
5. From the outset, Member States showed broad support for the objectives of the proposal. It was also agreed that the time was ripe for enlargement of the competences of EASA. Following the presentation by the Presidency of an overall compromise-suggestion, agreement was also reached on the broad lines of the text of the draft Regulation.
6. During its discussions, which were often of a very technical nature, the following main modifications to the Commission proposal were agreed upon:

² The proposal was discussed by the Working Party on Aviation on the following dates: 3, 6 and 28 April, 10/11 and 24/25 July, 15 and 25 September, 2 and 27 October, 13, 16 and 24 November 2006. COREPER discussed this file on 28 November 2006.

³ Point 4 of the explanatory memorandum to the proposal.

A: Essential requirements for licensing, operations and third country aircraft

Changes have been made to the operative part of the Regulation and to recitals 4, 8 and 9 in order to assuage concerns from Member States about the safety impact of the proposed essential requirements with regard in particular to the proposed leisure pilot licence; the content of rules to be applied to non-commercial operations in the Community by third country operators; and the circumstances under which general practitioners may act as aero-medical examiners in accordance with national regulations.

B: Assessment bodies

In the Commission proposal, assessment bodies were to be granted privileges for the issuing of various Community-recognised approvals, particularly in the area of licensing. After much discussion, this provision has been deleted from the proposal, on the understanding that this deletion does not prevent those Member States who so wish to grant these privileges to bodies based within their jurisdiction.

C: New certification tasks for EASA

The Working Party has reduced the number of new certification tasks accorded to the Agency in Articles 15a and 15b, compared to the Commission's proposal. Whilst accepting that the nature of airworthiness certification means that the benefits of EASA certification are obvious, there was no such agreement on the desirability of giving new certification tasks in the field of operations and licensing to the Agency. Therefore the new certification tasks are limited largely to the certification of third country operators flying to and from the Community and to approvals of organisations based outside the territory of the Member States.

D: Rulemaking

The Agency's rulemaking tasks are extended to cover the new competences in the field of air operations, licensing and third country aircraft covered by the Commission's proposal. With respect to the scope of the rulemaking for third country operators, a new Article 6c has been inserted in order to clarify the requirements that shall be imposed upon third country operators using Community airports.

E: Governance

The Commission proposed a number of changes to the governance arrangements for EASA, notably the composition of the Management Board, where it was proposed to increase the weighting of votes to be given to the Commission and to give to the Council the power to designate the Member States' representatives. In addition, an Executive Board was proposed which was to act as a preparatory group for the Management Board proper. The Working Party rejected these changes on the grounds that they would interfere with the proper system of accountability in the Community agencies. However, the Working Party has maintained the Commission's proposal to include interested parties as observers in the Management Board and has provided for special Management Board working bodies to assist the Board proper in carrying out its functions.

F: Annexes

The annexes to the proposal, which set out the essential requirements to be applied in the area of air operations and licensing, have been refined. However, the Working Party agreed with the broad outlines of the essential requirements, and the technical proposal as contained in the Agency's Opinion has been fully respected.

Statements

7. The following statements were presented for the minutes of the Council session at which the Regulation will be finally adopted:

Unilateral statement by the Commission

Re: Articles 7.3 – 16.2 – 46.1, "Inspections by EASA"

1. *The Commission confirms that the text of Articles 7.3, 16.2 and 46.1 does not change the current role of Member States both as regards their primary oversight role over undertakings under their responsibility, and as regards ramp inspections including decisions on grounding of aircraft.*
2. *These provisions simply add the possibility for the Agency to carry out inspections of aircraft for the purpose of:*
 - a) *Certification procedures carried out by the Agency within the realm of tasks assigned to it by this Regulation;*
 - b) *Standardisation inspections as provided under 16.1;*
 - c) *Inspections of any undertaking to check compliance with relevant Community law in potentially unsafe situations, in cooperation with Member States.*
3. *Article 7 explicitly limits the possibility to ground aircraft to Member States only. Under no circumstance can the Agency ground an aircraft.*

The Agency's role – when a safety deficiency is found – is to inform the Member States concerned and the Commission of such a deficiency.

The Agency's power to act is limited to the withdrawal/suspension of certificates/authorisations it has issued.

Joint statement by the Council and the Commission

Re: Article 58(2), "Entry into force"

'The Council and the Commission agree that they will endeavour to have the implementing rules referred to in Article 58 (2) developed and adopted as soon as possible, and as far in advance of the deadline set out in that Article as is feasible, given the technical complexity of such implementing rules.'

Outstanding issues

8. At COREPER, delegations reached almost perfect agreement on the text. However, a number of issues remain outstanding, which are indicated in the text by footnotes nrs 18 (page 21), 19 (page 33) and 26 (page 95).

The Council is invited to solve these issues and reach a general approach on the text, awaiting the outcome of the opinion of the European Parliament at first reading⁴.

⁴ The Parliament intends to adopt its opinion, containing amendments to the Commission proposal, in February 2007.

**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 (Text with EEA relevance) ^{5 6}**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission ⁷,

Having regard to the Opinion of the Economic and Social Committee ⁸,

Having consulted the Committee of the Regions ⁹,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ,

Whereas : ¹⁰

⁵ The text of the draft Regulation needs to be adjusted in order to take account of the new rules on "comitology". This exercise, in which also other matters relating to comitology may be addressed, will be carried out after reaching the general approach, in the light also of the amendments to be presented by the European Parliament at first reading.

⁶ Three delegations (DK, FR, UK) still have a Parliamentary scrutiny reserve, which they are not able to lift before or at the Council session.

⁷ OJ ...

⁸ OJ ...

⁹ Letter of ...

¹⁰ After reaching the general approach, the recitals need to be finalised. This will also require modification depending on the final form of the text ("modifying Regulation" or "consolidated Regulation").

- [(1) A high and uniform level of protection of the European citizen should at all times be ensured in civil aviation, by the adoption of common safety rules and by measures ensuring that products, persons and organisations in the Community comply with such rules and those adopted to protect the environment. This will contribute to facilitating the free movement of goods, persons and organisations in the internal market.
- (2) As a consequence, aeronautical products should be subject to certification to verify that they meet essential airworthiness and environmental protection requirements relating to civil aviation. Appropriate essential requirements should be developed within one year after the entry into force of this Regulation to cover operations of aircraft and flight crew licensing and application of the Regulation to third-country aircraft and, thereafter, other areas in the field of civil aviation safety.
- (3) In order to respond to increasing concerns over the health and welfare of passengers during flights, it is necessary to develop aircraft designs which better protect the safety and health of passengers.
- (4) Results of air accident investigations should be acted upon as a matter of urgency, in particular when they relate to defective aircraft design and/or operational matters, in order to ensure consumer confidence in air transport.
- (5) The Convention on International Civil Aviation, signed in Chicago on 7 December 1944 ("Chicago Convention"), to which all Member States are parties, already provides for minimum standards to ensure the safety of civil aviation and environmental protection relating thereto. Community essential requirements and rules adopted for their implementation should ensure that Member States fulfil the obligations created by the Chicago Convention, including those vis-à-vis third countries.

- (6) Aeronautical products, parts and appliances should be certified once they have been found in compliance with essential airworthiness and environmental protection requirements laid down by the Community in line with standards set by the Chicago Convention. The Commission should be empowered to develop the necessary implementing rules.
- (7) In order to achieve Community objectives as regards the freedom of movement of goods, persons and services, as well as those of the common transport policy, Member States should, without further requirements or evaluation, accept products, parts and appliances, organisations or persons certified in accordance with this Regulation and its implementing rules.
- (8) Enough flexibility should be provided for addressing special circumstances such as urgent safety measures, unforeseen or limited operational needs and provisions should also be made for reaching an equivalent safety level by other means. Member States should be entitled to grant exemptions from the requirements of this Regulation and its implementing rules, provided that they are strictly limited in scope and subject to appropriate Community control.
- (9) The fulfilment of the objectives of this Regulation may be efficiently achieved through cooperation with third countries. In such a case, the provisions of this Regulation and its implementing rules may be adapted through agreements concluded by the Community with these countries. In the absence of such agreements, Member States should nevertheless be allowed, subject to appropriate Community control, to recognise the approvals granted to foreign products, parts and appliances, organisations and personnel by a third country.

- (10) It is necessary to establish appropriate measures to ensure both the necessary protection of sensitive safety data and 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 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ¹¹ and relevant national legislation.
- (11) There is a need for better arrangements in all the fields covered by this Regulation, so that certain tasks currently performed at Community or national level should be carried out by a single specialised expert body. There is, therefore, a need within the Community's existing institutional structure and balance of powers to establish a European Aviation Safety Agency which is independent in relation to technical matters and has legal, administrative and financial autonomy. To that end, it is necessary and appropriate that it should be a Community body having legal personality and exercising the implementing powers which are conferred on it by this Regulation.
- (12) In order to properly assist the Community, the Agency should be allowed to develop its expertise in all aspects of civil aviation safety and environmental protection covered by this Regulation. It should assist the Commission in the preparation of the necessary legislation and assist the Member States and the industry in its implementation. It should be able to issue certification specifications and guidance material and to make technical findings and issue certificates as required and it should assist the Commission in monitoring the application of this Regulation and of its implementing rules and should be given the necessary authority to fulfil its tasks.

¹¹ OJ

- (13) The Commission and the Member States should be represented within a Management Board in order to control effectively the functions of the Agency. This Board should be entrusted with the necessary powers to establish the budget, verify its execution, adopt the appropriate financial rules, establish transparent working procedures for decision making by the Agency and appoint the Executive Director. It is also appropriate that the Agency be allowed to conduct research and to organise appropriate coordination with the Commission and the Member States. It is desirable that the Agency assist the Community and its Member States in the field of international relations, including the harmonisation of rules, recognition of approvals and technical cooperation, and be entitled to establish the appropriate relations with the aeronautical authorities of third countries and international organisations competent in matters covered by this Regulation.
- (14) Public interest requires the Agency to base its safety-related action solely on independent expertise, strictly applying this Regulation and the rules adopted by the Commission for its implementation. To that end, all safety-related Agency decisions should be made by its Executive Director, who should be left with a high degree of flexibility to obtain advice and to organise the internal functioning of the Agency. When, however, the Agency has to develop draft rules of a general nature to be implemented by national authorities, Member States should be involved in the decision-shaping process.
- (15) 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. An appropriate appeal mechanism should be set up so that decisions of the Executive Director can be subject to appeal to a specialised Board of Appeal, whose decisions are, in turn, open to action before the Court of Justice.

- (16) In order to guarantee the full autonomy and independence of the Agency, it should be granted an autonomous budget whose revenue comes essentially from a contribution from the Community and from fees paid by the users of the system. The Community budgetary procedure should be applicable as far as the Community contribution and any other subsidies chargeable to the general budget of the European Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors.
- (17) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ¹².
- (18) Since the objectives of the proposed action, namely the establishment and uniform application of common rules in the field of civil aviation safety and environmental protection, cannot be sufficiently achieved by the Member States and can therefore, by reason of the Europe-wide scope of this Regulation, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty. 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.
- (19) Before any local offices of the Agency are set up, general rules should be established to clarify what requirements need to be met and what contribution the Member State concerned must provide.
- (20) It has been recognised that the involvement of European countries not Members of the European Union should be pursued, so as to ensure a proper pan-European dimension in order to facilitate the improvement of civil aviation safety throughout Europe. European countries that have concluded agreements with the Community to adopt and apply the Community acquis in the field covered by this Regulation should be associated with its work according to conditions to be agreed in the framework of these agreements.

¹² OJ

- (21) It is a general objective that the transfer of functions and tasks from the Member States, including those resulting from their cooperation through the Joint Aviation Authorities, to the Agency should be effected efficiently, without any reduction in the current high levels of safety, and without any negative impact on certification schedules. Appropriate measures need to be adopted to provide for the necessary transition.
- (22) This Regulation establishes an appropriate and comprehensive framework for the environmental certification of aeronautical products as well as for the definition and implementation of common technical requirements and administrative procedures in the field of civil aviation. Council Directive 80/51/EEC of 20 December 1979 on the limitation of noise emissions from subsonic aircraft⁽⁶⁾ and Annex II to Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation¹³ should therefore be repealed in due time, without prejudice to the certification of products, persons and organisations already performed in accordance with these legislative acts.
- (23) This Regulation will apply to any other area related to civil aviation safety on the basis of a future proposal in accordance with the Treaty,]

Whereas:

- (1) The recital (2) of Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency¹⁴ specifies, inter alia, that appropriate essential requirements should be developed to cover operations of aircraft and flight crew licensing, and application of that Regulation to third country aircraft. Article 7 of that Regulation requires the Commission to submit as soon as possible proposals to the European Parliament and to the Council with regard to the basic principles, applicability and essential requirements regarding personnel and organisation involved in the operation of aircraft.**

¹³ OJ

¹⁴ OJ L 240, 7.9.2002, p. 1.

- (2) **The Community should lay down, in line with standards set by the Convention on Civil Aviation, signed in Chicago on 7 December 1944 (“the Chicago Convention”), essential requirements applicable to persons and organisations involved in the operation of aircraft, as well as to persons and product involved for the training and medical examination of pilots. The Commission should be empowered to develop the necessary implementing rules.**
- (3) **European citizens should enjoy at all times a high and uniform level of protection. Consequently, third country aircraft operated into, within or out of the territory where the Treaty applies, should be subject to an appropriate oversight at Community level within the limits set by the Chicago Convention.**
- (4) **It would not be appropriate to subject all aircraft to common rules, in particular aircraft that are of simple design or operate mainly on a local basis, and those that are home-built or particularly rare or only exist in a small number; such aircraft should therefore remain under the regulatory control of Member States, without any obligation under this Regulation on other Member States to recognize these national arrangements. However, proportionate measures should be taken to generally increase the level of safety of recreational aviation. Consideration should notably be given to aeroplanes and helicopters with a low maximum take-off mass and whose performance is increasing, can circulate all over the Community and are produced in an industrial manner, which therefore might be better regulated at Community level to provide for the necessary uniform level of safety and environmental protection.**
- (5) **(inserted into 4)**
- (6) **The scope of Community action should be clearly defined so that persons, organisations and products subject to this Regulation and its implementing rules can be identified without ambiguity. Such scope should be clearly defined by referring to a list of aircraft to which are exempted from the application of this Regulation.**

- (7) **Aeronautical products, parts and appliances, operators involved in commercial air transport, as well as pilots 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 essential requirements to be laid down by the Community in line with standards set by the Chicago Convention. The Commission should be empowered to develop the necessary implementing rules for establishing the conditions for the issue of the certificate or the conditions for its replacement by a declaration of capability, taking into account the risks associated with the different types of operations, such as certain types of aerial work and local flights with small aircraft.**
- (8) **For non-commercial operations, the operational and licensing rules should be tailored to the complexity of the aircraft and a related definition should be set out.**
- (8a) **The privileges associated with the leisure pilot licence should be limited by the training received to obtain the related ratings, in accordance with the implementing rules.**
- (9) **Under the Community institutional system implementation of Community law is primarily the responsibility of the Member States. Certification tasks required by this Regulation and its implementing rules are therefore to be executed at national level. In certain clearly-defined cases, however, the European Aviation Safety Agency (“the Agency”) should also be empowered to conduct certification tasks as specified in this Regulation.** The Agency should, for the same reason, be allowed to take the necessary measures related to the operation of aircraft, the qualification of crew or the safety of third country aircraft when this is the best means to ensure uniformity and facilitate the functioning of the internal market.
- (10) **The effective functioning of a Community civil-aviation safety scheme in the fields covered by this Regulation requires strengthened co-operation between the Commission, the Member States and the Agency to detect unsafe conditions and take remedial measures as appropriate.**

- (11) The promotion of a safety culture and the proper functioning of a regulatory system in the fields covered by this Regulation require that incidents and occurrences are spontaneously reported by their witnesses. Such reporting would be facilitated by the establishment of a non-punitive environment, and appropriate measures should be taken by Member States to provide for the protection of such information and of its reporters.
- (12) In the interests of transparency, observers of interested parties should be represented within the Management Board of the Agency. To ensure the proper governance of the Agency, an Executive Board should also be established to adopt strategic guidelines and to monitor the implementation of the decisions of the Management Board.
- (13) This Regulation establishes an appropriate and comprehensive framework for the definition and implementation of common technical requirements and administrative procedures in the field of civil aviation. Annex III to Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation ¹⁵ and Council Directive 91/670/EEC of 16 December 1991 on mutual acceptance of personnel licences for the exercise of functions in civil aviation ¹⁶, in its entirety, should therefore be repealed in duecourse, without prejudice to the certification or licensing of products, persons and organisations already effected in accordance with those legislative acts.

(13a) Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may give rise to the lodging of a complaint to the Ombudsman or may form the subject of an action before the Court of Justice, under Articles 195 and 230 of the EC Treaty respectively.

¹⁵ OJ L 373, 31.12.1991, p. 4.

¹⁶ OJ L 373, 31.12.1991, p. 21.

(14) The measures provided by this Regulation are based on the opinion issued by the European Aviation Safety Agency¹⁷ in accordance with point (b) of Article 12(2) of Regulation (EC) No 1592/2002 and with Article 14(1) thereof.

(15) Regulation (EC) No 1592/2002 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

¹⁷ Opinion of the European Aviation Safety Agency No 3/2004.

CHAPTER I

PRINCIPLES

Article 1

Scope

1. This Regulation shall apply to:
 - (a) the design, production, maintenance and operation of aeronautical products, parts and appliances, as well as personnel and organisations involved in the design, production and maintenance of such products, parts and appliances;
 - (b) personnel and organisations involved in the operation of aircraft.
2. This Regulation shall not apply when products, parts, appliances, personnel and organisations referred to in paragraph 1 are engaged in military, customs, police, or similar services. The Member States shall undertake to ensure that such services have due regard as far as practicable to the objectives of this Regulation.

Article 2

Objectives

1. The principal objective of this Regulation is to establish and maintain a high uniform level of civil aviation safety in Europe.
2. Additional objectives are, in the fields covered by this Regulation, as follows:
 - (a) to ensure a high uniform level of environmental protection;
 - (b) to facilitate the free movement of goods, persons and services;

- (c) to promote cost-efficiency in the regulatory and certification processes and to avoid duplication at national and European level;
- (d) to assist Member States in fulfilling their obligations under the Chicago Convention, by providing a basis for a common interpretation and uniform implementation of its provisions, and by ensuring that its provisions are duly taken into account in this Regulation and in the rules drawn up for its implementation;
- (e) to promote Community views regarding civil aviation safety standards and rules throughout the world by establishing appropriate cooperation with third countries and international organisations;
- (f) to provide a level playing field for all actors in the internal aviation market.**

3. The means of achieving the objectives set out in paragraphs 1 and 2 shall be:

- (a) the preparation, adoption and uniform application of all necessary acts;
- (b) the recognition, without additional requirements, of certificates, licences, approvals or other documents granted to products, personnel and organisations in accordance with this Regulation and its implementing rules;
- (c) the establishment of an independent European Aviation Safety Agency;
- (d) the uniform implementation of all necessary acts by the national aviation authorities and the Agency within their respective areas of responsibility.

Article 3

Definitions

For the purpose of this Regulation:

- (a) "continuing oversight" means the tasks to be conducted to verify that the conditions under which a certificate has been granted continue to be fulfilled at any time during its period of validity, as well as the taking of any safeguard measure;
- (b) "Chicago Convention" means the Convention on International Civil Aviation and its Annexes, signed in Chicago on 7 December 1944;
- (c) "product" shall mean an aircraft, engine or propeller;
- (d) "parts and appliances" shall mean any instrument, equipment, mechanism, part, apparatus, appurtenance or accessory, including communications equipment, that is used or intended to be used in operating or controlling an aircraft in flight and is installed in or attached to the aircraft. It includes parts of an airframe, engine or propeller;
- (e) "certification" means any form of recognition that a product, part or appliance, organisation or person complies with the applicable requirements including the provisions of this Regulation and its implementing rules, as well as the issuance of the relevant certificate attesting such compliance;
- (f) "qualified entity" means a body which may **be allocated a specific certification task by, and** under the control and the responsibility of, the Agency **or a national aviation authority**;
- (g) "certificate" means any approval, licence or other document issued as the result of certification;

- (h) **"operator" means any legal or natural person, operating or proposing to operate one or more aircraft;**
- (i) **"commercial operation" means any operation of an aircraft, against remuneration or other valuable consideration, which is available to the public or, when not made available to the public, which is performed under a contract between an operator and a customer, where the latter has no control over the operator;**
- (j) **"complex motor-powered aircraft" means:**¹⁸
- (i) **an aeroplane:**
- **with a maximum certificated take-off mass exceeding 5 700 kg or;**
 - **with a maximum approved passenger seating configuration of more than 9 or;**
 - **certificated for operation with a minimum crew of at least 2 pilots or;**
 - **equipped with (a) turbojet engine(s) or more than one turboprop engine;**
or
- (ii) **a helicopter:**
- **with a maximum certificated take-off mass exceeding 3 175 kg or;**
 - **with a maximum approved passenger seating configuration of more than 5 or;**
 - **certificated for operation with a minimum crew of at least 2 pilots; or**
- (iii) **a tilt rotor aircraft;**

¹⁸ AT suggests inserting the additional criterion "*with two engines*" with respect to aeroplanes and helicopters.

- (k) (deleted);
- (l) (deleted);
- (m) "flight simulation training device" means any type of device in which flight conditions are simulated on the ground; they include flight simulators, flight training devices, flight navigation and procedures trainers and basic instrument training devices;
- (n) "rating" means a statement entered on a licence, setting forth special conditions, privileges or limitations pertaining to such licence.

CHAPTER II
SUBSTANTIVE REQUIREMENTS

Article 4

Basic principles and applicability

1. Aircraft, including any installed product, part and appliance, which are:
 - (a) designed or manufactured by an organisation for which the Agency or a Member State ensures safety oversight; or
 - (b) registered in a Member State, **unless their regulatory safety oversight has been delegated to a third country and they are not used by a Community operator;**
or
 - (c) registered in a third country and used by an operator for which any Member State ensures oversight of operations **or used into, within or out of the Community by an operator established or residing in the Community; or**
 - (d) **registered in a third country, or registered in a Member State which has delegated their regulatory safety oversight to a third country, and used by a third country operator into, within or out of the Community;**

shall comply with this Regulation.

- 1a. **Personnel involved in the operations of aircraft referred to in paragraph 1(b), (c) or (d) shall comply with this Regulation.**
- 1b. **Operations of aircraft referred to in paragraph 1 (b), (c) or (d) shall comply with this Regulation.**

2. Paragraph 1 shall not apply to aircraft referred to in Annex II.

2a Paragraph 1a and 1b shall not apply to aircraft referred to in Annex II, with the exception of aircraft referred to in Annex II paragraphs (a)(ii), (d) and (h) when used for commercial air transportation.

3. This Regulation shall not affect the rights of third countries as specified in international conventions, in particular the Chicago Convention.

Article 5

Airworthiness

1. Aircraft referred to in Article 4(1)**(a), 4(1)(b) and 4(1)(c)** shall comply with the essential requirements for airworthiness laid down in Annex I.
2. Compliance of aircraft **referred to in Article 4(1)(b)**, and of products, parts and appliances mounted thereon shall be established in accordance with the following.
 - (a) Products shall have a type-certificate. The type-certificate, and certification of changes to that type-certificate, including supplemental type-certificates, shall be issued when the applicant has shown that the product complies with a type-certification basis as specified in Article 15, established to ensure compliance with the essential requirements referred to in paragraph 1, and when it has no feature or characteristic making it unsafe for operation. The type-certificate shall cover the product, including all parts and appliances fitted thereon.

- (b) Parts and appliances may be issued with specific certificates when they are shown to comply with detailed airworthiness specifications established to ensure compliance with the essential requirements referred to in paragraph 1.
- (c) Each aircraft shall be issued with an individual certificate of airworthiness when it is shown that it conforms with the type design approved in its type-certificate and that relevant documentation, inspections and tests demonstrate that the aircraft is in condition for safe operation. This certificate of airworthiness shall remain valid as long as it is not suspended, revoked or terminated and as long as the aircraft is maintained in accordance with the essential requirements related to continuing airworthiness set out in point 1.d of Annex I and the implementing rules referred to in paragraph 4.
- (d) Organisations responsible for the maintenance of products, parts and appliances shall demonstrate their capability and means to discharge the responsibilities associated with their privileges. Unless otherwise accepted these capabilities and means shall be recognised through the issuance of an organisation approval. The privileges granted to the approved organisation and the scope of the approval shall be specified in the terms of approval.
- (dd) Organisations responsible for the design and manufacture of products, parts and appliances shall demonstrate their capability and means to discharge the responsibilities associated with their privileges. Unless otherwise accepted these capabilities and means shall be recognised through the issuance of an organisation approval. The privileges granted to the approved organisation and the scope of the approval shall be specified in the terms of approval.**

In addition:

- (e) personnel responsible for the release of a product, part or appliance after maintenance may be required to hold an appropriate certificate ("personnel certificate");

(f) the capability of maintenance training organisations to discharge the responsibilities associated with their privileges in relation to the issuance of the certificates referred to in point (e) may be recognised by the issuance of an approval.

2a. Aircraft referred to in Article 4(1)(a) and products, parts and appliances mounted thereon shall comply with paragraph 2(a), (b) and (dd).

3. By way of derogation from paragraphs 1 and 2:

(a) a permit to fly may be issued when it is shown that the aircraft is capable of performing safely a basic flight. It shall be issued with appropriate limitations, in particular to protect third parties' safety;

(b) a restricted certificate of airworthiness may be issued to aircraft for which a type certificate has not been issued according to paragraph 2(a). In this case, the aircraft shall be shown to comply with specific airworthiness specifications and deviations from the essential requirements referred to in paragraph 1 shall nevertheless ensure adequate safety with regard to the purpose. Aircraft eligible for these restricted certificates, and limitations for use of these aircraft, shall be defined according to the implementing rules referred to in paragraph 4;

(c) when the number of aircraft of the same type eligible for a restricted certificate of airworthiness so justifies, a restricted type certificate may be issued and an appropriate type certification basis shall be established.

4. The Commission shall adopt, in accordance with the procedure laid down in Article 54(3), the rules for the implementation of this Article, specifying in particular:

(a) conditions to establish and notify to an applicant the type-certification basis applicable to a product;

- (b) conditions to establish and notify to an applicant the detailed airworthiness specifications applicable to parts and appliances;
- (c) conditions to establish and notify to an applicant the specific airworthiness specifications applicable to aircraft eligible for a restricted certificate of airworthiness;
- (d) conditions to issue and disseminate mandatory information in order to ensure the continuing airworthiness of products;
- (e) conditions to issue, maintain, amend, suspend or revoke type-certificates, restricted type-certificates, approval of changes to type-certificates, individual certificates of airworthiness, restricted certificates of airworthiness, permits to fly and certificates for products, parts or appliances, including:
 - (i) conditions on the duration of these certificates, and conditions to renew certificates when a limited duration is fixed;
 - (ii) restrictions applicable to the issue of permits to fly. These restrictions should in particular concern the following:
 - purpose of the flight,
 - airspace used for the flight,
 - qualification of flight crew,
 - carriage of persons other than flight crew;

- (iii) aircraft eligible for restricted certificates of airworthiness, and associated restrictions;
 - (iv) **the minimum syllabus of maintenance certifying staff type rating training to ensure compliance with paragraph (2)(e);**
 - (v) **the minimum syllabus of pilot type rating and qualification of associated simulators to ensure compliance with Article 6a;**
 - (vi) **the master minimum equipment list as appropriate and additional airworthiness specifications for a given type of operation to ensure compliance with Article 6b.**
- (f) conditions to issue, maintain, amend, suspend or revoke organisation approvals required in accordance with **paragraph 2(d), (dd)** and (f) and conditions under which such approvals need not be requested;
 - (g) conditions to issue, maintain, amend, suspend or revoke personnel certificates required in accordance with paragraph 2(e);
 - (h) responsibilities of the holders of certificates;
 - (i) how aircraft referred to in paragraph 1 which are not covered by paragraph 2 or 3 are to show compliance with the essential requirements;
 - (j) **how aircraft referred to in Article 4(1)(c) are to show compliance with the essential requirements.**

5. When establishing the implementing rules referred to in paragraph 4, the Commission **shall** take specific care that they:
- (a) reflect the state of the art and the best practices in the field of airworthiness;
 - (b) take into account worldwide aircraft experience in service, and scientific and technical progress;
 - (c) allow for immediate reaction to established causes of accidents and serious incidents;
 - (d) **do not impose on aircraft referred to in Article 4(1)(c) requirements which would be incompatible with the ICAO obligations of Member States.**

Article 6

Essential requirements for environmental protection

1. Products, parts and appliances shall comply with the environmental protection requirements contained in Annex 16 to the Chicago Convention as issued in March 2002 for Volume I and November 1999 for Volume II, except for the Appendices to Annex 16.**
2. In accordance with the procedure referred to in Article 54(3), paragraph 1 of this Article may be adapted, in order to bring it in line with subsequent amendments to the Chicago Convention and its Annexes, which enter into force after the 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.
3. The Commission shall prescribe the rules for the implementation of paragraph 1, using as necessary the content of the Appendices mentioned in paragraph 1, in accordance with the procedure laid down in Article 54(3).

Pilots

1. **Pilots involved in the operation of aircraft referred to in Article 4(1)(b) and (c), as well as flight simulation training devices, persons and organisations involved in the training, testing, checking or medical assessment of these pilots, shall comply with the relevant "essential requirements" laid down in Annex III.**
2. **Except when under training, a person may only act as a pilot if he or she holds a licence and a medical certificate appropriate to the operation performed.**

A person pilot shall only be issued a licence when he or she complies with the rules established to ensure compliance with the essential requirements on theoretical knowledge, practical skill, language proficiency and experience as set out in Annex III.

A person shall only be issued a medical certificate when he or she complies with the rules established to ensure compliance with the essential requirements on medical fitness as set out in Annex III. This medical certificate may be issued by aero medical examiners or by aero medical centres.

Notwithstanding the third subparagraph, in the case of a leisure pilot licence a general medical practitioner, who has sufficient detailed knowledge of the applicant's medical background, may, if permitted under national law, act as an aero medical examiner, in accordance with detailed implementing rules adopted pursuant to the procedure referred to in Article 54(3); these implementing rules shall ensure that the level of safety is maintained.

The privileges granted to the pilot and the scope of the licence and the medical certificate shall be specified therein.

The requirements of the second and third subparagraphs may be satisfied by the acceptance of licences and medical certificates issued by or on behalf of a third country as far as pilots involved in the operation of aircraft referred to in Article 4(1)(c) are concerned.

3. The capability of pilot training organisations and of aero medical centres to discharge the responsibilities associated with their privileges in relation to the issuance of licenses and medical certificates shall be recognised by the issuance of an approval.

Pilot training organisations or aero medical centres shall be issued an approval when they comply with the rules established to ensure compliance with the relevant essential requirements as laid down in Annex III.

The privileges granted by the approvals shall be specified thereon.

4. A flight simulation training device used for the training of pilots shall be the subject of a certificate. This certificate shall be issued when it is shown that the device complies with the rules established to ensure compliance with the relevant essential requirements as laid down in Annex III.
5. A person responsible for providing flight training or flight simulation training or for assessing pilot's skill, or an aero medical examiner shall hold an appropriate certificate. Such certificate shall be issued when it is shown that the person concerned complies with the rules established to ensure compliance with the relevant essential requirements as laid down in Annex III.

The privileges granted by the certificate shall be specified therein.

6. The Commission shall adopt, in accordance with the procedure laid down in Article 54(3), the rules for the implementation of this Article. In doing so, it shall specify in particular:
- (a) the different ratings for pilot's licences and the medical certificates adequate for the different types of activities performed;
 - (b) the conditions for issuing, maintaining, amending, limiting, suspending or revoking licences, ratings for licences, medical certificates, approvals and certificates referred to in paragraphs 2, 3, 4 and 5, and the conditions under which such certificates and approvals need not be requested;
 - (c) the privileges and responsibilities of the holders of licences, ratings for licences, medical certificates, approvals and certificates referred to in paragraphs 2, 3, 4 and 5;
 - (d) the conditions for the conversion of existing national pilot's licences and of national flight engineers' licences into pilot's licences as well as the conditions for the conversion of national medical certificates into commonly recognised medical certificates;
 - (e) without prejudice to the provisions of bilateral agreements concluded in accordance with Article 9, the conditions for the acceptance of third country licences;
 - (f) how pilots of aircraft referred to in Annex II paragraphs (a)(ii), (d) and (f), when used for commercial air transportation, comply with the relevant essential requirements of Annex III.

7. When establishing the implementing rules referred to in paragraph 6, the Commission shall take specific care that they reflect the state of the art and the best practices in the field of pilots training.

Such implementing rules shall also include provisions for the issuance of all types of pilot licences and ratings required under the Chicago Convention, and of a leisure pilot licence covering non-commercial activities involving aircraft with a maximum certificated take off mass of 2000 kg or less and which do not meet any of the criteria referred to Article 3(j).¹⁹

Article 6b

Air operations

1. The operation of aircraft referred to in Article 4(1)(b) and (c) shall comply with the essential requirements laid down in Annex IV.
2. **Unless otherwise determined in the implementing rules,** operators engaged in commercial operations shall demonstrate their capability and means to discharge the responsibilities associated with their privileges. These capabilities and means shall be recognised through the issuance of a certificate. The privileges granted to the operator and the scope of the operations shall be specified in the certificate.

¹⁹ PT and AT retain scrutiny reserves on this subparagraph. PT explained that it prefers to add a criterion for rotorcraft and insert a reference to "uncontrolled airspace". All other delegations can accept the text as it stands, given that further specification can be provided in the implementing rules and having regard to the text of the new recital 8a. CION indicated that it is willing to present a statement addressing the problem by PT, and suggested the following text:

"The Commission confirms that, when drawing up implementing rules for Article 6a relating to leisure pilot licences, priority will as always be given to safety. In particular, the implementing rules will limit the privileges associated with these licences depending on the level of training of the pilots concerned. Besides, recital 8a and Article 6a(6)(c) make this necessity an obligation."

3. **Unless otherwise determined in the implementing rules, operators engaged in the non-commercial operation of complex motor-powered aircraft shall declare their capability and means to discharge the responsibilities associated with the operation of the aircraft.**

4. **Cabin crew involved in the operation of aircraft referred to in Article 4(1)(b) and (c) shall comply with the essential requirements laid down in Annex IV. Those involved in commercial operations shall hold an attestation as initially described in OPS 1.1005 under (d) of Regulation No XXXX/2006 of the European Parliament and of the Council on the harmonisation of technical requirements and administrative procedures in the field of civil aviation (EU OPS); at the discretion of the relevant Member State, such attestation may be issued by approved operators or training organisations.**

5. **The Commission shall adopt, in accordance with the procedure laid down in Article 54(3), the rules for the implementation of this Article. In doing so, it shall specify in particular:**
 - (a) **the conditions to operate an aircraft in compliance with the essential requirements laid down in Annex IV;**

 - (b) **the conditions for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in paragraph 2 and the conditions under which a certificate shall be replaced by a declaration of the capability and means of the operator to discharge the responsibilities associated with the operation of the aircraft;**

 - (c) **the privileges and responsibilities of the holders of certificates;**

- (d) **the conditions and procedures for the declaration by, and for the oversight of, operators referred to in paragraph 3 and the conditions under which a declaration shall be replaced by a demonstration of capability and means to discharge the responsibilities associated with the privileges of the operator recognised by the issuance of a certificate;**
- (e) (deleted)
- (f) **the conditions under which operations shall be prohibited, limited or subject to certain conditions in the interest of safety.**
- (g) **how operations of aircraft referred to in Annex II paragraphs (a)(ii), (d) and (h) when used for commercial air transportation comply with the relevant essential requirements of Annex IV.**

6. The implementing rules referred to in paragraph 5 shall:

- **reflect the state of the art and the best practices in the field of air operations;**
- **define different types of operations and allow for related requirements and compliance demonstrations proportionate to the complexity of operations and the risk involved;**
- **take into account worldwide aircraft experience in service, and scientific and technical progress;**
- **with regard to commercial transportation by aeroplane, and without prejudice to the previous subparagraph, be developed initially on the basis of the common technical requirements and administrative procedures specified in Annex III to Regulation (EC) No 3922/1991;**

- allow for immediate reaction to established causes of accidents and serious incidents;
- not impose on aircraft referred to in Article 4(1)(c) requirements which would be incompatible with the ICAO obligations of Member States.

Article 6c

Aircraft used by a third country operator into, within or out of the Community

1. Aircraft referred to in Article 4(1)(d), as well as their crew and their operations, shall comply with applicable ICAO Standards. To the extent that there are no such standards, these aircraft and their operations shall comply with the requirements laid down in Annexes I, III and IV to this Regulation, provided these requirements are not in conflict with the rights of third countries under international conventions.
2. Operators engaged in commercial operations using aircraft referred to in paragraph 1 shall demonstrate their capability and means to comply with the requirements specified in paragraph 1.

This requirement may be satisfied by acceptance of certificates issued by or on behalf of a third country.

These capabilities and means shall be recognised through the issuance of an authorisation. The privileges granted to the operator and the scope of the operations shall be specified in the authorisation.

3. Operators engaged in non-commercial operations of complex motor-powered aircraft using aircraft referred to in paragraph 1 may be required to declare their capability and means to discharge the responsibilities associated with the operation of the aircraft.

4. **The Commission shall adopt, in accordance with the procedure laid down in Article 54(3), the rules for the implementation of this Article. In doing so, it shall specify in particular:**
- (a) **how aircraft referred to in Article 4(1)(d), or crew, which do not hold a standard ICAO certificate of airworthiness or licence, may be authorised to operate into, within or out of the Community;**
 - (b) **the conditions to operate an aircraft in compliance with the provisions of paragraph 1;**
 - (c) **the conditions for issuing, maintaining, amending, limiting, suspending or revoking the operator's authorisation referred to in paragraph 2, taking into account the certificates issued by the state of registry or the state of the operator, without prejudice to Regulation (EC) 2111/05 and its implementing rules;**
 - (d) **the privileges and responsibilities of the holders of authorisations;**
 - (e) **the conditions and procedures for the declaration by, and for the oversight of, operators referred to in paragraph 3;**
 - (f) **the conditions under which operations shall be prohibited, limited or subject to certain conditions in the interest of safety in accordance with Article 15b(2).**
5. **When establishing the implementing rules referred to in paragraph 4, the Commission shall take specific care that:**
- (a) **use is made, as appropriate, of ICAO recommended practices and guidance documents;**

- (b) no requirement exceeds what is required from aircraft referred to in Article 4(1)(b), and from the operators of such aircraft;
- (c) use is made, where appropriate, of implementing rules issued in accordance with Articles 5(4) and 6b(5);
- (d) the process by which authorisations are obtained is simple, proportionate, cost-effective and efficient in all cases, allowing for requirements and compliance demonstrations proportionate to the complexity of operations and the risk involved. The process shall in particular take into account:
 - i. results of the ICAO Universal Safety Oversight Audit Programme;
 - ii. information from ramp inspections and SAFA records; and
 - iii. other recognised information on safety aspects with regard to the operator concerned.

Article 7

Oversight and enforcement

1. The Member States, the Commission and the Agency shall cooperate with the aim to ensure that any product, person or organisation subject to this Regulation complies with its provisions and with its implementing rules.
2. For the implementation of paragraph 1, Member States shall, in addition to their oversight of certificates that they have issued, conduct investigations, including ramp inspections, and shall take any measure, including grounding of aircraft, to prevent the continuation of an infringement.
3. For the implementation of paragraph 1, the Agency shall conduct investigations in accordance with Article 16(2) and Article 46.

4. In order to facilitate for competent authorities to take appropriate enforcement action, the Member States, the Commission and the Agency shall exchange information on identified infringements.

5. The Commission shall adopt, in accordance with the procedure laid down in Article 54(3), the rules for the implementation of this Article, specifying in particular:

(a) the conditions for the collection, exchange and dissemination of information;

(b) the conditions for conducting ramp inspections, including systematic ones;

(c) the conditions for the grounding of aircraft that do not comply with the requirements of this Regulation or its implementing rules.

Article 8

Recognition of certificates

1. Member States shall, without further technical requirements or evaluation, recognise the certificates issued in accordance with this Regulation. When the original recognition is for a particular purpose, or purposes, any subsequent recognition shall cover only the same purpose(s).

1a The Commission, on its own initiative or at the request of a Member State or of the Agency, may initiate the procedure referred to in Article 54(4) to decide whether a certificate issued in accordance with this Regulation effectively complies with the latter and its implementing rules.

In case of non compliance or non-effective compliance, the Commission shall require the issuer of the certificate to take appropriate corrective action and safeguard measures, such as through limitation or suspension of this certificate. Moreover, the provisions of paragraph 1 shall cease to apply to this certificate as from the date of the notification of the Commission's decision to the Member States.

1b When the Commission has sufficient evidence that appropriate corrective action has been taken by the issuer referred to in paragraph 1a to address the case of non compliance or non-effective compliance and that the safeguard measures are no longer necessary, it shall decide that the provisions of paragraph 1 apply again to this certificate. These provisions shall apply as from the date of the notification of this decision to the Member States.

2. Pending adoption of the implementing rules referred to in Article 5(4), **6a(6) and 6c(4)**, and without prejudice to Article **57(4) of this Regulation**, certificates which cannot be issued in accordance with this Regulation may be issued on the basis of the applicable national regulations.
3. Pending adoption of the implementing rules referred to in Article 6b(5), **and without prejudice to Article 57(4) of this Regulation**, certificates which cannot be issued in accordance with this Regulation may be issued on the basis of the applicable national regulations or, when applicable, on the basis of the relevant requirements of Regulation (EEC) No 3922/1991.
4. **The provisions of this Article shall be without prejudice to Regulation (EC) 2111/05 and its implementing rules.**

Article 9

Acceptance of third-country certification

1. By way of derogation from the provisions of this Regulation and the rules adopted for its implementation, the Agency **or the aviation authorities in the Member State may** issue certificates on the basis of certificates issued by aeronautical authorities of a third country, as provided for in recognition agreements between the Community and that third country.

2. (a) In the absence of an agreement concluded by the Community, a Member State or the Agency may issue certificates on the basis of certifications issued by the competent authorities of a third country in application of an agreement concluded by that Member State with the third country in question before the entry into force of the related provisions of this Regulation and notified to the Commission and the other Member States. The Agency may also issue such certificates on behalf of any Member State in application of an agreement concluded by one of the Member States with the third country in question.

(b) If the Commission considers that:

- the provisions of an agreement between a Member State and a third country would not provide for a level of safety equivalent to that specified by this Regulation and its implementing rules, and/or
- such agreement would discriminate among Member States without compelling safety reasons or is contrary to Community foreign policy vis-à-vis a third country,

it may, in accordance with the procedure laid down in Article 54(2) require the Member State concerned to modify the agreement or to suspend its application or to renounce it, in conformity with Article 307 of the Treaty.

(c) Member States shall take the necessary measures to renounce agreements as soon as possible after the entry into force of an agreement between the Community and the third country in question, for those domains covered by that latter agreement.

Article 9a

Qualified entities

When allocating tasks to a qualified entity, the Agency or the national aviation authorities shall ensure that such qualified entity complies with the criteria laid down in Annex V.

Article 10

Flexibility provisions

1. The provisions of this Regulation and of rules adopted for its implementation shall not prevent a Member State from reacting immediately to a safety problem which involves a product, person or organisation subject to the provisions of this Regulation.

The Member State shall immediately notify to the Agency, the Commission and the other Member States the measures taken and the reasons therefor.

2. (a) **The Agency shall assess whether the safety problem can be addressed within the powers conferred to it in accordance with Article 13(c). In this case it shall, within one month of being notified pursuant to paragraph 1, take the appropriate decisions.**
- (b) **If the Agency concludes that the safety problem cannot be addressed as referred to in subparagraph a), it shall, within the period referred to in that subparagraph, issue a recommendation in accordance with Article 13(a2), whether this Regulation or its implementing rules should be amended and whether the notified measures should be withdrawn or maintained.**

- 2a. **The Commission shall decide, in accordance with the procedure referred to in Article 54(3), whether an inadequate level of safety or a shortcoming in this Regulation or its implementing rules justify initiating their amendment and whether the measures adopted pursuant to paragraph 1 may be continued; in such a case the measures shall be implemented as appropriate by all Member States and the provisions of Article 8 shall apply to such measures. If the measures are found not to be justified, they shall be revoked by the Member State concerned.**
3. Member States may grant exemptions from the substantive requirements laid down in this Regulation and its implementing rules in the event of unforeseen urgent operational circumstances or operational needs of a limited duration, provided the level of safety is not adversely affected thereby. The Agency, the Commission and the other Member States shall be notified of any such exemptions as soon as they become repetitive or where they are granted for periods of more than two months.
4. **The Agency shall assess whether the exemptions notified by a Member State are less restrictive than the applicable Community provisions and, within one month of being notified, issue a recommendation in accordance with Article 13(a2) on whether these exemptions comply with the general safety objective of this Regulation or any other rule of Community law.**
- If an exemption does not comply with the general safety objectives of this Regulation or any other rule of Community law, the Commission shall take a decision not to allow the exemption in accordance with the procedure referred to in Article 54(4). In such a case, the Member State concerned shall revoke the exemption.**
5. Where an equivalent level of protection to that attained by the application of the rules implementing this Regulation can be achieved by other means, Member States may, without discrimination on grounds of nationality, grant approval derogating from those implementing rules.

In such cases, the Member State concerned shall notify the Agency and the Commission that it intends to grant such approval and shall give reasons demonstrating the need to derogate from the rule concerned, as well as the conditions laid down to ensure that an equivalent level of protection is achieved.

6. Within two months of being notified in accordance with paragraph 5, the Agency shall issue a recommendation in accordance with Article 13(a2) on whether an approval proposed in accordance with paragraph 5 fulfils the conditions laid down in that paragraph.

Within one month of receiving the Agency's recommendation, the Commission shall initiate the procedure referred to in Article 54(3), in order to decide whether the proposed approval may be granted. In such a case, it shall notify its decision to all Member States, which shall also be entitled to apply that measure. The provisions of Article 8 shall apply to the measure in question.

Article 11

Information network

1. The Commission, the Agency and the national aviation authorities shall exchange any information available to them in the context of the application of this Regulation and its implementing rules. Entities entrusted with the investigation of civil aviation accidents and incidents, or with the analysis of occurrences, are entitled to access to that information.
2. Without prejudice to the public's right of access to the Commission's documents as laid down in Regulation (EC) No 1049/2001, the Commission shall adopt, in accordance with the procedure referred to in Article 54(3), measures for the dissemination to interested parties on the Commission's own initiative of the information referred to in paragraph 1 of this Article. These measures, which may be generic or individual, shall be based on the need:

- (a) to provide persons and organisations with the information they need to improve aviation safety;
 - (b) to limit the dissemination of information to what is strictly required for the purpose of its users, in order to ensure appropriate confidentiality of that information.
3. The national aviation authorities shall, according to their national legislation, take necessary measures to ensure appropriate confidentiality of the information received by them in application of paragraph 1.
4. In order to inform the public of the general safety level, a safety review shall be published annually by the Agency. **From the entry into force of the implementing rules referred to in Article 7(5), this safety review shall contain an analysis of all information received in accordance with Article 7. This analysis shall be simple and easy to understand and shall indicate whether there are increased safety risks. In this analysis, the sources of information shall not be revealed.**

Article 11a

Protection of the source of information

1. **When information referred to in Article 11(1) has been provided by a natural person on a voluntary basis to the Commission or the Agency, the source of such information shall not be revealed. When the information has been provided to a national authority, the source of such information shall be protected in accordance with national legislation.**
2. **Without prejudice to the applicable rules of penal 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 they have been reported in pursuance of this Regulation and its implementing rules.**

This rule shall not apply in cases of gross negligence.

3. **Without prejudice to the applicable rules of penal law, and in accordance with the procedures defined in their national laws and practices, Member States shall ensure that employees who provide information in application of this Regulation and its implementing rules are not subjected to any prejudice by their employer.**

This rule shall not apply in cases of gross negligence.

4. **This Article shall apply without prejudice to national rules relating to access to information by judicial authorities.**

CHAPTER III
THE EUROPEAN AVIATION SAFETY AGENCY
SECTION I
TASKS

Article 12

Establishment and functions of the Agency

1. For the purpose of the implementation of this Regulation, a European Aviation Safety Agency, hereinafter referred to as "the Agency", shall be established.
2. For the purposes of ensuring the proper functioning and development of civil aviation safety, the Agency shall:
 - (a) undertake any task and formulate opinions on all matters covered by Article 1(1);
 - (b) assist the Commission by preparing measures to be taken for the implementation of this Regulation. Where these comprise technical rules and in particular rules relating to construction and design and operational aspects, the Commission may not change their content without prior coordination with the Agency. The Agency shall also provide the Commission with the necessary technical, scientific and administrative support to carry out its tasks;
 - (c) take the necessary measures within the powers conferred on it by this Regulation or other Community legislation;
 - (d) conduct inspections and investigations as necessary to fulfil its tasks;
 - (e) in its fields of competence, carry out, on behalf of Member States, functions and tasks ascribed to them by applicable international Conventions, in particular the Chicago Convention.

Article 13

Agency measures

The Agency shall, where appropriate:

(a) issue opinions addressed to the Commission;

(a2) issue recommendations addressed to the Commission for the application of Article 10;

(b) issue certification specifications, including airworthiness codes and acceptable means of compliance, as well as any guidance material for the application of this Regulation and its implementing rules;

(c) take the appropriate decisions for the application of Articles 15, **15a, 15b, 15c, 45** and 46;

(d) issue the reports following standardisation inspections carried out pursuant to Articles 16(1) and 45.

Article 14

Opinions, certification specifications and guidance material

1. In order to assist the Commission in the preparation of proposals for basic principles, applicability and essential requirements to be presented to the European Parliament and to the Council and the adoption of the implementing rules, the Agency shall prepare drafts thereof. These drafts shall be submitted by the Agency as opinions to the Commission.
2. The Agency shall, in accordance with Article 43 and the implementing rules adopted by the Commission, develop:

- (a) certification specifications, **including airworthiness codes** and acceptable means of compliance; and
- (b) guidance material;

to be used in the certification process.

These documents shall reflect the state of the art and the best practices in the fields concerned and be updated taking into account world wide aircraft experience in service, and scientific and technical progress.

Article 15

Airworthiness and Environmental Certification

1. With regard to products, parts and appliances referred to in Article 4(1) **(a) and (b)**, the Agency shall, where applicable and as specified in the Chicago Convention or its Annexes, carry out on behalf of Member States the functions and tasks of the State of design, manufacture or registry when related to design approval. To that end, it shall in particular:
 - (a) for each product for which a type-certificate or a change to a type-certificate is requested, establish and notify the type-certification basis. That certification basis consists of the applicable airworthiness code, the provisions for which an equivalent level of safety has been accepted and the special detailed technical specifications necessary when the design features of a particular product or the experience in operation render any of the airworthiness code provisions inadequate or inappropriate to ensure conformity with essential requirements;
 - (b) for each product for which a restricted certificate of airworthiness is requested, establish and notify the specific airworthiness specifications;
 - (c) for each part or appliance for which a certificate is requested, establish and notify the detailed airworthiness specifications;

- (d) for each product for which environmental certification is required in accordance with Article 6, establish and notify the appropriate environmental requirements;
- (e) conduct, itself or through national aviation authorities or qualified entities, **investigations** associated with products, parts and appliances certification;
- (f) issue the appropriate type-certificates or associated changes;
- (g) issue certificates for parts and appliances;
- (h) issue the appropriate environmental certificates;
- (i) amend, suspend or revoke the relevant certificate when the conditions according to which it was issued are no longer fulfilled or if the legal or natural person holding the certificate fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules;
- (j) ensure the continuing airworthiness functions associated with the products, parts and appliances **which are under its oversight**, including reacting without undue delay to a safety problem and issuing and disseminating the applicable mandatory information;
- (k) **for aircraft for which a permit to fly is to be issued, establish airworthiness standards and procedures to comply with Article 5(3)(a);**
- (l) **issue permits to fly to aircraft for the purpose of certification under the control of the Agency, in agreement with the Member State in which the aircraft is registered or is to be registered.**

2. With regard to organisations, the Agency shall:
- (a) conduct, itself or through national aviation authorities or qualified entities, inspections and audits of the organisations it certifies;
 - (b) issue and renew the certificates of:
 - (i) design organisations; or
 - (ii) production organisations located within the territory of the Member States, if requested by the Member State concerned; or
 - (iii) production and maintenance organisations located outside the territory of the Member States;
 - (c) amend, suspend or revoke the relevant organisation certificate when the conditions according to which it was issued are no longer fulfilled, or if the organisation concerned fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules.

Article 15a

Pilot certification

1. **With regard to personnel and organisations referred to in Article 6a(1), the Agency shall:**
- (a) **conduct, itself or through national aviation authorities or qualified entities, investigations and audits of the organisations it certifies and, where relevant, their personnel;**
 - (b) **issue and renew the certificates of pilot training organisations and aero-medical centres located outside the territory of the Member States and, where relevant, their personnel;**

(c) amend, limit, suspend or revoke the relevant certificate when the conditions according to which it was issued by the Agency are no longer fulfilled, or if the legal or natural person holding the certificate fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules.

2. With regard to flight simulation training devices referred to in Article 6a(1), the Agency shall:

(a) conduct, itself or through national aviation authorities or qualified entities, technical inspections of the devices it certifies;

(b) issue and renew the certificates of;

(i) flight simulation training devices used by training organisations certified by the Agency; or

(ii) flight simulation training devices located within the territory of the Member States, if requested by the Member State concerned;

(iii) flight simulation training devices located outside the territory of the Member States;

(c) amend, limit, suspend or revoke the relevant certificate when the conditions according to which it was issued are no longer fulfilled, or if the legal or natural person holding the certificate fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules.

Air Operation Certification

1. **The Agency shall react without undue delay to a problem affecting the safety of air operations by determining the ~~mandatory~~ corrective actions and by disseminating the related information, including to the Member States.**

2. **With regard to flight time limitation:**
 - (a) **the Agency shall issue the applicable certification specifications to ensure compliance with the essential requirements and, as appropriate, the related implementing rules;**

 - (b) **a Member State may approve individual flight time specification schemes which deviate from the above certification specifications. In this case the Member State shall without delay notify such an individual scheme to the Agency and inform the other Member States thereof;**

 - (c) **upon notification the Agency shall assess the individual scheme on the basis of a scientific and medical evaluation. When necessary, the Agency shall discuss this scheme with the Member State concerned and, where appropriate, shall propose changes thereto;**

 - (d) **should a Member State disagree with the Agency's conclusions concerning an individual scheme, the Agency shall refer the issue to the Commission to decide whether the individual scheme complies with the safety objectives of this Regulation, in accordance with the procedure referred to in Article 54(3);**

 - (e) **the contents of individual schemes which are acceptable to the Agency, or on which the Commission has taken a positive decision in accordance with the previous sub-paragraph, shall be published.**

Article 15c (new)

(containing former paragraphs 1 and 1a of Article 15b)

Third country operators

- 1. With regard to operators of aircraft referred to in Article 4(1)(d) engaged in commercial operations, the Agency shall**
 - (a) conduct, itself or through national aviation authorities or qualified entities, investigations and audits;**
 - (b) issue and renew the authorisations referred to in Article 6c(2), unless a Member State carries out the functions and tasks of the State of operator for these operators;**
 - (c) amend, limit, suspend or revoke the relevant authorisation when the conditions according to which it was issued by the Agency are no longer fulfilled, or if the organisation concerned fails to fulfil the obligations imposed on it by this Regulation or by its implementing rules.**

- 2. With regard to operators of aircraft referred to in Article 4(1)(d) not engaged in commercial operations, the Agency shall:**
 - (a) receive the declarations referred to in Article 6c(3); and**
 - (b) conduct, itself or through national aviation authorities or qualified entities, the oversight of operators from which it has received a declaration.**

- 3. With regard to aircraft referred to in Article 4(1)(d), the Agency shall issue authorisations in accordance with Article 6c(4a).**

Article 16

Monitoring the application of rules

1. The Agency shall conduct standardisation inspections in the fields covered by Article 1(1), in order to monitor the application by national **competent** authorities of this Regulation and of its implementing rules, and shall report to the Commission.
2. The Agency shall conduct investigations **of undertakings** to monitor the application of this Regulation and its implementing rules.

2a The Agency shall assess the impact of the implementation of this Regulation and its implementing rules, having regard to the objectives set out in Article 2.

3. The Agency shall be consulted on, and **issue recommendations** to the Commission for the application of Article 10.
4. The working methods of the Agency for conducting the tasks referred to in paragraphs 1, 2a and 3 **shall** be subject to requirements to be adopted in accordance with the procedure referred to in Article 54(2), and taking into account the principles laid down in Articles 43 and 44.

Article 17

Research

1. The Agency may develop and finance research in so far as it strictly relates to the improvement of activities in its field of competence, without prejudice to Community law.
2. The Agency shall coordinate its research and development activities with those of the Commission and the Member States so as to ensure that policies and actions are mutually consistent.

3. The results of research funded by the Agency shall be published, provided it does not classify them as confidential.

Article 18

International relations

1. The Agency shall assist the Community and its Member States in their relations with third countries in accordance with the relevant Community law. It shall, in particular, assist in the harmonising of rules and mutual recognition regarding approvals attesting the satisfactory application of rules.
2. The Agency may cooperate with the aeronautical authorities of third countries and the international organisations competent in matters covered by this Regulation in the framework of working arrangements concluded with those bodies, in accordance with the relevant provisions of the Treaty. **Such arrangements shall have received the Commission's prior approval.**
3. The Agency shall assist Member States to respect their international obligations, in particular those under the Chicago Convention.

SECTION II

INTERNAL STRUCTURE

Article 19

Legal status, location, local offices

1. The Agency shall be a body of the Community. 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 Agency may establish its own local offices in the Member States subject to their consent.
4. The Agency shall be represented by its Executive Director.

Article 20

Staff

1. The Staff Regulations of officials of the European Communities, the Conditions of employment of other servants of the European Communities and the rules adopted jointly by the institutions of the European Communities for purposes of the application of those Staff Regulations and Conditions of employment shall apply to the staff of the Agency, without prejudice to the application of Article 33 of this Regulation to the members of the Board of Appeal.
2. Without prejudice to Article 30, the powers conferred on the appointing authority by the Staff Regulations, and by the Conditions of employment of other servants, shall be exercised by the Agency in respect of its own staff.

3. The Agency's staff shall consist of a strictly limited number of officials assigned or seconded by the Commission or Member States to carry out management duties. The remaining staff shall consist of other employees recruited by the Agency as necessary to carry out its tasks.

Article 21

Privileges and immunities

The Protocol on the Privileges and Immunities of the European Communities shall apply to the Agency.

Article 22

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 Communities shall have jurisdiction to give judgement 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 its departments or by its servants in the performance of their duties.
4. The Court of Justice shall have jurisdiction in disputes relating to compensation for the damage referred to in paragraph 3.
5. The personal liability of its servants towards the Agency shall be governed by the provisions laid down in the Staff Regulations or Conditions of employment applicable to them.

Article 23

Publication of documents

1. Without prejudice to decisions taken on the basis of Article 290 of the Treaty, the following documents shall be produced in all official languages of the Community:
 - (a) the safety review referred to in Article 11(4);
 - (b) opinions addressed to the Commission pursuant to Article 14(1);
 - (c) the annual general report and programme of work referred to in Article 24(2)(b) and (c) respectively.
2. The translation services required for the functioning of the Agency shall be provided by the Translation Centre for bodies of the European Union.

Article 24

Powers of the Management Board

1. The Agency shall have a Management Board.
2. The Management Board shall:
 - (a) appoint the Executive Director, and the Directors on a proposal from the Executive Director in accordance with Article 30;
 - (b) **adopt the annual general report on the Agency's activities and forward it by 15 June at the latest to the European Parliament, the Council, the Commission, the Court of Auditors and the Member States; acting on behalf of the Agency, it shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures;**

- (c) before 30 September each year, and after receiving the opinion of the Commission, adopt the Agency's programme of work for the coming year and forward it to the European Parliament, the Council, the Commission and the Member States; this programme of work shall be adopted without prejudice to the annual Community budgetary procedure and the Community legislative programme in relevant areas of aviation safety; **the opinion of the Commission shall be attached to the adopted Agency's programme of work;**
- (d) adopt guidelines for the allocation of certification tasks to national aviation authorities **and** qualified entities in agreement with the Commission;
- (e) establish procedures for making decisions by the Executive Director as referred to in Articles 43 and 44;
- (f) carry out its functions relating to the Agency's budget pursuant to Articles 48, 49 and 52;
- (g) appoint the members of the Board of Appeal pursuant to Article 32;
- (h) exercise disciplinary authority over the Executive Director and over the Directors, in agreement with the Executive Director;
- (i) give its opinion on the fees and charges regulation as referred to in Article 53(1);
- (j) establish its Rules of Procedure;
- (k) decide on the linguistic arrangements for the Agency;
- (l) complement, where appropriate, the list of documents mentioned in Article 23(1);
- (m) establish the organisational structure of the Agency and adopt the Agency's staffing policy.

3. The Management Board may advise the Executive Director on any matter strictly related to strategic development of aviation safety, including research as defined in Article 17.
4. The Management Board shall establish an advisory body of interested parties, 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 be bound by the opinion of the advisory body.
5. **The Management Board may establish working bodies to assist in carrying out its functions, including the preparation of its decisions and monitoring the implementation thereof.**

Article 25

Composition of the Management Board

1. The Management Board shall be composed of one representative of each Member State and one representative of the Commission. To this effect **each Member State and the Commission shall appoint a member of the Management Board** as well as an alternate who will represent the member in his/her absence. The duration of the terms of office shall be five years. This term of office shall be renewable.
2. Where appropriate, the participation of representatives of European third countries and the conditions thereof shall be established in the arrangements referred to in Article 55.
3. **The advisory body referred to in Article 24(4) shall appoint four of its members to participate as observers in the Management Board. They shall represent, as broadly as possible, the different views represented in this advisory body. The duration of their term of office shall be thirty months, renewable once.**

Article 26

Chairmanship of the Management Board

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from among its members. The Deputy Chairperson shall ex-officio replace the Chairperson in the event of his/her being prevented from attending to his/her duties.
2. The term of office of the Chairperson and Deputy Chairperson shall expire when their respective membership of the Management Board ceases. Subject to this provision, the duration of the terms of office of the Chairperson or Deputy Chairperson shall be three years. These terms of office shall be renewable **once**.

Article 27

Meetings

1. Meetings of the Management Board shall be convened by its Chairperson.
2. The Executive Director of the Agency shall take part in the deliberations.
3. The Management Board shall hold at least two ordinary meetings a year. In addition it shall meet at the instance of the Chairperson or at the request of at least one third of its members.
4. The Management Board may invite any person whose opinion can be of interest to attend its meetings as an observer.
5. The members of the Management Board may, subject to the provisions of its Rules of Procedure, be assisted by advisers or experts.
6. The secretariat for the Management Board shall be provided by the Agency.

Article 28

Voting

1. Without prejudice to Article 30(1), the Management Board shall take its decisions by a two-thirds majority of its members. At the request of a member of the Management Board, the decision referred to in Article 24(2)(k) shall be taken by unanimity.
2. Each member 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 the observers nor the Executive Director of the Agency shall vote.
3. The rules of procedure shall establish the more detailed voting arrangements, in particular, the conditions for a member to act on behalf of another member as well as any quorum requirements, where appropriate.

Article 28a

Powers of the Executive Board

[deleted]

Article 28b

Composition of the Executive Board

[deleted]

Article 28c

Meetings of the Executive Board

[deleted]

Article 29

Functions and powers of the Executive Director

1. The Agency shall be managed by its Executive Director, who shall be completely independent in the performance of his/her duties. Without prejudice to the respective competencies of the Commission and the Management Board, the Executive Director shall neither seek nor take instructions from any government or from any other body.
2. The European Parliament or the Council may invite the Executive Director of the Agency to report on the carrying out of his/her tasks.
3. The Executive Director shall have the following functions and powers:
 - (a) to approve the measures of the Agency as defined in Articles 13 within the limits specified by this Regulation, its implementing rules and any applicable law;
 - (b) to decide on inspections and investigations as provided for in Articles 45 and 46;
 - (c) to allocate certification tasks to National Aviation Authorities or qualified entities according to guidelines set by the Management Board;
 - (d) to undertake any international functions and technical cooperation with third countries pursuant to Article 18;

- (e) to take all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the functioning of the Agency in accordance with the provisions of this Regulation;
- (f) to prepare each year a draft general report and submit it to the Management Board;
- (g) to exercise in respect of the staff the powers laid down in Article 20(2);
- (h) to draw up estimates of the revenues and expenditure of the Agency pursuant to Article 48, and implement the budget pursuant to Article 49;
- (i) to delegate his/her powers to other members of the Agency's staff subject to rules to be adopted in accordance with the procedure referred to in Article 54(2);
- (j) with the consent of the Management Board, to take a decision regarding the establishment of local offices in the Member States in accordance with Article 19(3);
- (k) to prepare and to implement the annual programme of work;**
- (l) to respond to requests for assistance from the Commission.**

Article 30

Appointment of senior officials

1. The Executive Director of the Agency shall be appointed on grounds of merit and documented competence and experience relevant for civil aviation, or dismissed by the Management Board on the proposal of the Commission. The Management Board shall take its decision by a three-quarters majority of its members. **Before being appointed, the candidate selected by the Management Board may be asked to make a declaration before the competent committee or committees of the European Parliament and answer questions from its, or their, members.**
2. 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/her place.
3. The Directors of the Agency shall be appointed, on the grounds of professional competence relevant for civil aviation, or dismissed by the Management Board on the proposal of the Executive Director.
4. The term of office of the Executive Director and of the Directors shall be five years. **This term of office shall be renewable. The term of office of the Executive Director shall, however, be renewable only once.**

Article 31

Powers of the Boards of Appeal

1. Within the Agency, there shall be one or more Boards of Appeal.
2. The Board or Boards of Appeal shall be responsible for deciding on appeals against the decisions referred to in Article 35.
3. The Board or Boards of Appeal shall be convened as necessary. The number of Boards of Appeal and the work allocation shall be determined by the Commission according to the procedure referred to in Article 54(3).

Article 32

Composition of the Boards of Appeal

1. A Board of Appeal shall consist of a Chairperson and two other members.
2. The Chairperson and the two members shall have alternates who will represent them in their absence.
3. The Chairperson, the other members and their respective alternates shall be appointed by the Management Board from a list of qualified candidates adopted by the Commission.
4. Where the Board of Appeal considers that the nature of the appeal so requires, it may call up to two further members from the aforesaid list for that case.
5. The qualifications required for the members of each Board of Appeal, the powers of individual members in the preparatory phase of the decisions and the voting conditions shall be determined by the Commission according to the procedure referred to in Article 54(3).

Article 33

Members of the Boards of Appeal

1. The term of office of the members of the Boards of Appeal, including their Chairperson and their respective alternates, shall be five years. This term shall be renewable.
2. The members of the Boards of Appeal shall be independent. In making their decisions they shall not be bound by any instructions.
3. The members of the Boards of Appeal may not perform any other duties in the Agency. The function of the members of the Boards of Appeal may be a part-time function.
4. The members of the Boards of Appeal may not be removed either from office or from the list during their respective terms, unless there are serious grounds for such removal and the Commission, after obtaining the opinion of the Management Board, takes a decision to this effect.

Article 34

Exclusion and objection

1. Members of the Boards of Appeal may not take part in any appeal proceedings if they have any personal interest therein, or if they have previously been involved as representatives of one of the parties to the proceedings, or if they participated in the decision under appeal.
2. If, for one of the reasons mentioned in paragraph 1 or for any other reason, a member of a Board of Appeal considers that he/she should not take part in any appeal proceedings, he/she shall inform the Board of Appeal accordingly.
3. Members of the Boards of Appeal may be objected to by any party to the appeal proceedings on any of the grounds mentioned in paragraph 1, or if suspected of partiality. An 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 Boards 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/her alternate.

Article 35

Decisions subject to appeal

1. An appeal may be brought against decisions of the Agency which have been taken pursuant to Articles 15, **15a**, **15b**, **15c**, 46 or 53.
2. An appeal lodged pursuant to paragraph 1 above shall not have suspensory effect. The Agency may, however, if it considers that circumstances so permit, suspend the application of the contested decision.
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 36

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 37

Time limit and form

The appeal, together with the statement of grounds thereof, shall be filed in writing at the Agency 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 38

Interlocutory revision

1. If the Executive Director considers the appeal to be admissible and well founded, he/she shall rectify the decision. This shall not apply where the appellant is opposed to another party to the appeal proceedings.
2. If the decision is not rectified within one month after receipt of the statement of grounds for the appeal, the Agency shall forthwith decide whether or not to suspend the application of the decision pursuant to the second sentence of Article 35(2), and shall remit the appeal to the Board of Appeal.

Article 39

Examination of appeals

1. If the appeal is admissible, the Board of Appeal shall examine whether the appeal is well founded.
2. When examining the appeal, the Board of Appeal shall act expeditiously. It shall as often as necessary invite the parties to the appeal proceedings to file observations on notifications issued by itself or on communications from the other parties to the appeal proceedings, within specified time limits. Parties to the appeal proceedings shall be entitled to make oral presentations.

Article 40

Decisions on appeal

The Board of Appeal may exercise any power which lies within the competence of the Agency, or it may remit the case to the competent body of the Agency. The latter shall be bound by the decision of the Board of Appeal.

Article 41

Actions before the Court of Justice

- 1. Actions may be brought before the Court of Justice for the annulment of acts carried out by the Agency which are legally binding on third parties, for failure to act and for damages caused by the Agency in the course of its activities.**
- 2. Actions for the annulment of decisions of the Agency which have been taken pursuant to Articles 15, 15a, 15b, 15c, 46 or 53 may be brought before the Court of Justice only after all the appeal procedures within the Agency have been exhausted.**
3. The Agency shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

Article 42

Direct appeal

Member States and the Community institutions may lodge a direct appeal before the Court of Justice against decisions of the Agency.

SECTION III
WORKING METHODS

Article 43

Procedures for the development of opinions, certification specifications and guidance material

1. As soon as possible after the entry into force of this Regulation, the Management Board shall establish transparent procedures for issuing opinions, certification specifications and guidance material referred to in Article 13(a) and (b).

Those procedures shall:

- (a) draw on expertise available in the aviation regulatory authorities of Member States;
 - (b) whenever necessary, involve appropriate experts from relevant interested parties;
 - (c) ensure that the Agency publishes documents and consults widely interested parties, according to 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 14, develops opinions, certification specifications and guidance material to be applied by Member States, it shall establish a procedure for consulting the Member States. To this effect, it may create a working group in which each Member State is entitled to designate an expert.
3. Measures referred to in Article 13(a) and (b) and the procedures established pursuant to paragraph 1 of this Article shall be published in an official publication of the Agency.
4. Special procedures shall be established to address immediate action to be taken by the Agency to react to a safety problem and to inform the relevant interested parties of the action they are to take.

Procedures for taking decisions

1. The Management Board shall establish transparent procedures for taking individual decisions as provided for in Article 13(c).

Those procedures shall:

- (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 a decision to a natural or legal person and its publication;
 - (c) provide for information to the natural or legal person to whom a decision is addressed, and any other parties to proceedings, of the legal remedies available to that person under this Regulation;
 - (d) ensure that the decision contains reasons.
2. The Management Board shall also establish procedures specifying the conditions under which decisions are notified while taking due account of the appeal procedure.
 3. Special procedures shall be established to address immediate action to be taken by the Agency to react to a safety problem and to inform the relevant interested parties of the action they are to take.

Inspections of Member States

1. Without prejudice to the enforcement powers conferred by the Treaty on the Commission, the Agency shall assist the Commission in monitoring the application of this Regulation and its implementing rules, by conducting standardisation inspections of Member States competent authorities as specified in Article 16(1). The officials authorised under this Regulation, **and those seconded by the national authorities participating in such inspections**, are thus empowered, in compliance with the legal provisions of the Member State concerned:
 - (a) to examine the relevant records, data, procedures and any other material relevant to the achievement of aviation safety levels in accordance with this Regulation;
 - (b) to take copies of or extracts from such records, data, procedures and other material;
 - (c) to ask for an oral explanation on the spot;
 - (d) to enter any relevant premises, land or means of transport.
2. The officials of the Agency authorised for the purpose of these inspections shall exercise their powers upon production of an authorisation in writing specifying the subject matter, the purpose of the inspection and the date on which it is to begin. In good time before the inspection, the Agency shall inform the Member State concerned of the inspection and of the identity of the authorised officials.
3. The Member State concerned shall submit to such inspections and shall ensure that bodies or persons concerned also submit to inspections.

4. When an inspection under the terms of this Article entails an inspection of an undertaking or an association of undertakings the provisions of Article 46 shall apply. Where an undertaking opposes such inspection, the Member State concerned shall afford the necessary assistance to officials authorised by the Agency to enable them to make their inspection.
5. Reports drawn up in application of this Article shall be made available in the official language(s) of the Member State where the inspection took place.

Article 46

Investigation of undertakings

1. The Agency may itself conduct or allocate to national aviation authorities or qualified entities all necessary investigations **of undertakings in application of Articles 7, 15, 15a, 15b, 15c and 16(2)** and these shall be carried out in compliance with the legal provisions of the Member States in which they are to be undertaken. To that end, the persons authorised under this Regulation are empowered:

 - (a) to examine the relevant records, data, procedures and any other material relevant to the execution of the tasks of the Agency;
 - (b) to take copies of or extracts from such records, data, procedures and other material;
 - (c) to ask for an oral explanation on site;
 - (d) to enter relevant premises, lands or means of transport of undertakings;
 - (e) to conduct inspections of aircraft in cooperation with Member States.**

2. The persons authorised for the purpose of these investigations shall exercise their powers upon production of an authorisation in writing specifying the subject matter and purpose of the investigation.

3. In good time before the investigation, the Agency shall inform the Member State concerned in whose territory the investigation is to be made, of the investigation and of the identity of the authorised persons. Officials of the Member State concerned shall, at the request of the Agency, assist the authorised persons in carrying out their duties.

Article 46a

Annual programme of work

The annual programme of work shall aim to promote the continuous improvement of European aviation safety and comply with the objectives, mandates and tasks of the Agency, as defined in this Regulation.

The presentation of the annual programme of work shall be based on the methodology used developed by the Commission as part of Activity-Based Management.

Article 46b

Annual general report

The annual general report shall describe the way in which the Agency has implemented its annual programme of work.

The report shall outline the activities conducted by the Agency and evaluate the results with respect to the objectives and timetable set, the risks associated with the activities carried out, the use of resources and the general operations of the Agency.

Transparency and communication

1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding access to European Parliament, Council and Commission documents ²⁰ shall apply to documents held by the Agency.
2. The Agency may communicate on its own initiative in the fields within its mission. It shall ensure in particular that, in addition to the publication specified in Article 43(3), the public and any interested party are rapidly given objective, reliable and easily understandable information with regard to its work.
3. The Management Board shall adopt the arrangements for implementing Regulation (EC) No 1049/2001 within six months after the entry into force of Regulation (EC) No 1643/2003 of the European Parliament and of the Council of 22 July 2003 amending Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency ²¹.
4. Any natural or legal person shall be entitled to address himself/herself in writing to the Agency in any of the languages referred to in Article 314 of the Treaty. He/she has the right to receive an answer in the same language.
5. [replaced as recital 13a]
6. **The information gathered by the Agency in accordance with this Regulation shall be subject to Regulation (EC) No 45/2001 of the European Parliament and of the Council as regards the protection of personal data ²².**

²⁰ OJ L 145, 31.5.2001, p.43.

²¹ OJ L 245, 29.9.2003, p. 7.

²² OJ L 8, 12.1.2001, p. 1.

SECTION IV
FINANCIAL REQUIREMENTS

Article 48

Budget

1. The revenues of the Agency shall consist of:
 - (a) a contribution from the Community;
 - (b) **a contribution** from any European third country with which the Community has concluded agreements referred to in Article 55;
 - (c) the fees paid by applicants for, and holders of, certificates and approvals issued by the Agency; and
 - (d) charges for publications, training and any other services provided by the Agency; **and**
 - (e) **any voluntary financial contribution from Member States, third countries or other entities, provided such a contribution does not compromise the independence and impartiality of the Agency.**
2. The expenditure of the Agency shall include the staff, administrative, infrastructure and operational expenses.
3. Revenue and expenditure shall be in balance.
4. Each year the Management Board, on the basis of a draft statement of estimates of revenue and expenditure, shall produce a statement of estimates of revenue and expenditure of the Agency for the following financial year.

5. This statement of estimates, which shall include a draft establishment plan together with the provisional work programme, shall by 31 March at the latest be forwarded by the Management Board to the Commission and to the States with which the Community has concluded agreements in accordance with Article 55.
6. The statement of estimates shall be forwarded by the Commission to the European Parliament and the Council (hereinafter referred to as the budgetary authority) together with the preliminary draft general budget of the European Union.
7. On the basis of the statement of estimates, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 272 of the Treaty.
8. The budgetary authority shall authorise the appropriations for the subsidy to the Agency. The budgetary authority shall adopt the establishment plan for the Agency.
9. The budget shall be adopted by the Management Board. It shall become final following final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.
10. 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. It shall inform the Commission thereof.

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.

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 together with a report on the budgetary and financial management for that financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 128 of the general Financial Regulation.
3. By 31 March at the latest following each financial year, the Commission's accounting officer shall forward the Agency's provisional accounts to the Court of Auditors, together with a report on the budgetary and financial management for that financial year. The report on the budgetary and financial management for the financial year shall also be forwarded to the European Parliament and the Council.
4. On receipt of the Court of Auditors' observations on the Agency's provisional accounts, under Article 129 of the general Financial Regulation, the Executive Director shall draw up the Agency's final accounts under his own responsibility and submit them to the Management Board for an opinion.
5. The Management Board shall deliver an opinion on the Agency's final accounts.
6. The Executive Director 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.

8. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He shall also send this reply to the Management Board.
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 laid down in Article 146(3) of the general Financial Regulation.
10. The European Parliament, on a recommendation from the Council acting by a qualified majority, shall, before 30 April of year N + 2, give a discharge to the Executive Director in respect of the implementation of the budget for year N.

Article 50

Combating fraud

1. In order to combat fraud, corruption and other unlawful activities the provisions of Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-fraud Office (OLAF) ²³ shall apply without restriction.
2. The Agency shall accede to the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by the European Anti-fraud Office (OLAF) ²⁴ and shall issue, without delay, the appropriate provisions applicable to all the employees of the Agency.
3. The decisions concerning funding and the implementing agreements and instruments resulting from them shall explicitly stipulate that the Court of Auditors and OLAF may carry out, if necessary, on-the-spot checks among the recipients of the Agency's funding and the agents responsible for allocating it.

²³ OJ L 136, 31.5.1999, p. 1.

²⁴ OJ L 136, 31.5.1999, p. 15.

Article 51

Evaluation

1. Within three years from the date of the Agency having taken up its responsibilities, and every five years thereafter, the Management Board shall commission an independent external evaluation on the implementation of this Regulation.
2. The evaluation shall examine how effectively the Agency fulfils its mission. It shall also assess the impact of this Regulation, the Agency and its working practices in establishing a high level of civil aviation safety. The evaluation shall take into account the views of stakeholders, at both European and national level.
3. The Management Board shall receive the findings of the evaluation and issue recommendations regarding changes to this Regulation, the Agency and its working practices to the Commission, which may forward them, together with its own opinion as well as appropriate proposals, to the European Parliament and to the Council. An action plan with a timetable shall be included, if appropriate. Both the findings and the recommendations of the evaluation shall be made public.

Article 52

Financial provisions

The financial rules applicable to the Agency shall be adopted by the Management Board after the Commission has been consulted. They may not depart from Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities²⁵ unless such departure is specifically required for the Agency's operation and the Commission has given its prior consent.

²⁵ OJ L 357, 31.12.2002, p. 72; corrigendum in OJ L 2, 7.1.2003, p. 39.

Article 53

Fees and charges regulation

1. The Commission, acting in accordance with the procedure laid down in Article 54(3) and after consulting the Management Board, shall adopt a regulation on fees and charges.
2. The fees and charges regulation shall determine in particular the matters for which fees and charges pursuant to Article 48(1) are due, the amount of the fees and charges and the way in which they are to be paid.
3. Fees and charges shall be levied for:
 - (a) the issuing and renewal of certificates, as well as the related continuing oversight functions;
 - (b) the provision of services; they shall reflect the actual cost of each individual provision;
 - (c) the processing of appeals.

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

4. The amount of the fees and charges shall be fixed at such a level as to ensure that the revenue in respect thereof is in principle sufficient to cover the full cost of the services delivered.

CHAPTER IV
FINAL PROVISIONS

Article 54

Committee

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply having regard to the provisions of Article 8 thereof.
3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at one month.

4. Where reference is made to this paragraph, Article 6 of Decision 1999/468/EC shall apply. Before adopting its decision, the Commission shall consult the committee referred to in paragraph 1 of this Article.

The period provided for in Article 6(b) of Decision 1999/468/EC shall be set at three months.

When a Commission decision is referred to the Council by a Member State, the Council, acting by a qualified majority, may take a different decision within a period of three months.

5. The Committee shall adopt its Rules of Procedure.

Article 55

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 agreements with the European Community whereby they have adopted and are applying Community law in the field covered by this Regulation and its implementing rules.

Under the relevant provisions of these agreements, arrangements will be developed which shall, inter alia, specify the nature and extent of, and the detailed rules for, the participation by these countries in the work of the Agency, including provisions on financial contributions and staff.

Article 56

Commencement of the Agency's operation

1. The Agency shall undertake the certification tasks incumbent upon it pursuant to Article 15 as from 28 September 2003. Until that date, Member States shall continue to implement applicable legislation and regulations.
2. During an additional transition period of 42 months from the date referred to in paragraph 1, Member States may continue to issue certificates and approvals by way of derogation from the provisions of Articles 5, 6, 9 and 15 under the conditions specified by the Commission in the implementing rules adopted for their application. When in that context Member States issue certificates on the basis of certificates issued by third countries, the Commission implementing rules shall give due consideration to the principles laid down in Article 9(2)(b) and (c).

Article 56 a

Penalties

Member States shall lay down penalties for infringement of this Regulation and its implementing rules. The penalties shall be effective, proportionate and dissuasive.

Article 57

Repeals

1. Regulation (EC) No 1592/2002 is hereby repealed without prejudice to paragraph 2.

References made to the repealed Regulation shall be construed as being made to this Regulation and should be read in accordance with the correlation table in Annex VI.

2. Council Directive 91/670/EEC is repealed as from the entry into force of the implementing rules referred to in Article 6a(6).

3. Annex III to Regulation (EEC) No 3922/91 is deleted as from the entry into force of the corresponding implementing rules referred to in Article 6b(5).

4. The provisions of Article 8 shall apply to products, parts and appliances, organisations and persons whose certification has been performed, or recognised, in accordance with the provisions of the texts referred to in paragraph 1, 2 and 3.

5. Directive 2004/36/EC is hereby repealed as from the entry into force of the implementing rules referred to in Article 7(5) of this Regulation, and without prejudice to the implementing rules referred to in Article 8(2) of that Regulation.

Article 58

Entry into force

This Regulation shall enter into force on the 20th day following that of its publication in the Official Journal of the European Union.

Articles 5, 6, 6a, 6b, 6c **and 7** shall apply as from the dates specified in **their respective** implementing rules but not later than ...*

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

Done at Brussels, []

For the European Parliament,

For the Council,

The President

The President

* [...] four years after the entry into force of this Regulation.

Essential requirements for airworthiness referred to in Article 5

1. Product integrity: product integrity must be assured for all anticipated flight conditions for the operational life of the aircraft. Compliance with all requirements must be shown by assessment or analysis, supported, where necessary, by tests.
 - 1.a. Structures and materials: the integrity of the structure must be ensured throughout, and sufficiently beyond, the operational envelope for the aircraft, including its propulsion system, and maintained for the operational life of the aircraft.
 - 1.a.1. All parts of the aircraft, the failure of which could reduce the structural integrity, must comply with the following conditions without detrimental deformation or failure. This includes all items of significant mass and their means of restraint.
 - 1.a.1.a. All combinations of load reasonably expected to occur within, and sufficiently beyond, the weights, centre of gravity range, operational envelope and life of the aircraft must be considered. This includes loads due to gusts, manoeuvres, pressurisation, movable surfaces, control and propulsion systems both in flight and on the ground.
 - 1.a.1.b. Consideration must be given to the loads and likely failures induced by emergency landings either on land or water.
 - 1.a.1.c. Dynamic effects must be covered in the structural response to these loads.
 - 1.a.2. The aircraft must be free from any aeroelastic instability and excessive vibration.
 - 1.a.3. The manufacturing processes and materials used in the construction of the aircraft must result in known and reproducible structural properties. Any changes in material performance related to the operational environment must be accounted for.

- 1.a.4. The effects of cyclic loading, environmental degradation, accidental and discrete source damage must not reduce the structural integrity below an acceptable residual strength level. All necessary instructions for ensuring continued airworthiness in this regard must be promulgated.

- 1.b. Propulsion: the integrity of the propulsion system (i.e. engine and, where appropriate, propeller) must be demonstrated throughout, and sufficiently beyond, the operational envelope of the propulsion system and must be maintained for the operational life of the propulsion system.
 - 1.b.1. The propulsion system must produce, within its stated limits, the thrust or power demanded of it at all required flight conditions, taking into account environmental effects and conditions.
 - 1.b.2. The fabrication process and materials used in the construction of the propulsion system must result in known and reproducible structural behaviour. Any changes in material performance related to the operational environment must be accounted for.
 - 1.b.3. The effects of cyclic loading, environmental and operational degradation and likely subsequent part failures must not reduce the integrity of the propulsion system below acceptable levels. All necessary instructions for ensuring continued airworthiness in this regard must be promulgated.
 - 1.b.4. All necessary instructions, information and requirements for the safe and correct interface between the propulsion system and the aircraft must be promulgated.

- 1.c. Systems and equipment
 - 1.c.1. The aircraft must not have design features or details that experience has shown to be hazardous.

- 1.c.2. The aircraft, including those systems, equipment and appliances required for type-certification, or by operating rules, must function as intended under any foreseeable operating conditions, throughout, and sufficiently beyond, the operational envelope of the aircraft, taking due account of the system, equipment or appliance operating environment. Other systems, equipment and appliance not required for type-certification, or by operating rules, whether functioning properly or improperly, must not reduce safety and must not adversely affect the proper functioning of any other system, equipment or appliance. Systems, equipment and appliances must be operable without needing exceptional skill or strength.
- 1.c.3. The aircraft systems, equipment and associated appliances, considered separately and in relation to each other, must be designed such that any catastrophic failure condition does not result from a single failure not shown to be extremely improbable and an inverse relationship must exist between the probability of a failure condition and the severity of its effect on the aircraft and its occupants. With respect to the single failure criterion above, it is accepted that due allowance must be made for the size and broad configuration of the aircraft and that this may prevent this single failure criterion from being met for some parts and some systems on helicopters and small aeroplanes.
- 1.c.4. Information needed for the safe conduct of the flight and information concerning unsafe conditions must be provided to the crew, or maintenance personnel, as appropriate, in a clear, consistent and unambiguous manner. Systems, equipment and controls, including signs and announcements must be designed and located to minimise errors which could contribute to the creation of hazards.
- 1.c.5. Design precautions must be taken to minimise the hazards to the aircraft and occupants from reasonably probable threats, both inside and external to the aircraft, including protecting against the possibility of a significant failure in, or disruption of, any aircraft appliance.

- 1.d. Continuing airworthiness
 - 1.d.1. Instructions for continuing airworthiness must be established to ensure that the aircraft type certification airworthiness standard is maintained throughout the operational life of the aircraft.
 - 1.d.2. Means must be provided to allow inspection, adjustment, lubrication, removal or replacement of parts and appliances as necessary for continuing airworthiness.
 - 1.d.3. The instructions for continuing airworthiness must be in the form of a manual, or manuals, as appropriate for the quantity of data to be provided. The manuals must cover maintenance and repair instructions, servicing information, trouble-shooting and inspection procedures, in a format that provides for a practical arrangement.
 - 1.d.4. The instructions for continuing airworthiness must contain airworthiness limitations that set forth each mandatory replacement time, inspection interval and related inspection procedure.
- 2. Airworthiness aspects of product operation
 - 2.a. The following must be shown to have been addressed to ensure a satisfactory level of safety for those onboard or on the ground during the operation of the product:
 - 2.a.1. The kinds of operation for which the aircraft is approved must be established and limitations and information necessary for safe operation, including environmental limitations and performance, must be established.
 - 2.a.2. The aircraft must be safely controllable and manoeuvrable under all anticipated operating conditions including following the failure of one or, if appropriate, more propulsion systems. Due account must be taken of pilot strength, flight deck environment, pilot workload and other human-factor considerations and of the phase of flight and its duration.

- 2.a.3. It must be possible to make a smooth transition from one flight phase to another without requiring exceptional piloting skill, alertness, strength or workload under any probable operating condition.
- 2.a.4. The aircraft must have such stability as to ensure that the demands made on the pilot are not excessive taking into account the phase of flight and its duration.
- 2.a.5. Procedures for normal operations, failure and emergency conditions must be established.
- 2.a.6. Warnings, or other deterrents intended to prevent exceedance of the normal flight envelope, must be provided, as appropriate to type.
- 2.a.7. The characteristics of the aircraft and its systems must allow a safe return from extremes of the flight envelope that may be encountered.
- 2.b. The operating limitations and other information necessary for safe operation must be made available to the crew members.
- 2.c. Product operations must be protected from hazards resulting from adverse external and internal conditions, including environmental conditions.
 - 2.c.1. In particular, no unsafe condition must occur from exposure to phenomena such as, but not limited to, adverse weather, lightning, bird strike, high frequency radiated fields, ozone, etc., reasonably expected to occur during product operation.

- 2.c.2. Cabin compartments must provide passengers with suitable transport conditions and adequate protection from any expected hazard arising in flight operations or resulting in emergency situations, including fire, smoke, toxic gases and rapid decompression hazards. Provisions must be made to give occupants every reasonable chance of avoiding serious injury and quickly evacuating the aircraft and to protect them from the effect of the deceleration forces in the event of an emergency landing on land or water. Clear and unambiguous signs or announcements must be provided, as necessary, to instruct occupants in appropriate safe behaviour and the location and correct use of safety equipment. Required safety equipment must be readily accessible.
- 2.c.3. Crew compartments must be arranged in order to facilitate flight operations, including means providing situational awareness, and management of any expected situation and emergencies. The environment of crew compartments must not jeopardise the crew's ability to perform their tasks and its design must be such as to avoid interference during operation and misuse of the controls.
3. Organisations (including natural persons undertaking design, manufacture or maintenance)
- 3.a. Organisation approvals must be issued when the following conditions are met:
- 3.a.1. the organisation must have all the means necessary for the scope of work. These means comprise, but are not limited to, the following: facilities, personnel, equipment, tools and material, documentation of tasks, responsibilities and procedures, access to relevant data and record-keeping;
- 3.a.2. the organisation must implement and maintain a management system to ensure compliance with these essential requirements for airworthiness, and aim for continuous improvement of this system;

- 3.a.3. the organisation must establish arrangements with other relevant organisations, as necessary, to ensure continuing compliance with these essential requirements for airworthiness;
- 3.a.4. the organisation must establish an occurrence reporting and/or handling system, which must be used by the management system under point 3.a.2 and the arrangements under point 3.a.3, in order to contribute to the aim of continuous improvement of the safety of products.
- 3.b. In the case of maintenance training organisations, the conditions under points 3.a.3 and 3.a.4 do not apply.

Aircraft referred to in Article 4(2) ²⁶

Article 4(1), (1a) and (1b) do not apply to aircraft falling in one or more of the categories set out below:

(a) historic aircraft meeting the criteria below:

(i) non complex aircraft whose:

- **initial design was established before 1.1.1955 and**
- **production has been stopped before 1.1.1975.**

or

(ii) aircraft having a clear historical relevance, related to:

- **a participation in a noteworthy historical event; or**
- **a major step in the development of aviation; or**
- **a major role played into the armed forces of a Member State.**

(b) aircraft specifically designed or modified for research, experimental or scientific purposes, and likely to be produced in very limited numbers;

(c) aircraft of which at least 51 % is built by an amateur, or a non-profit making association of amateurs, for their own purposes and without any commercial objective;

²⁶ CZ would like to set the limit for maximum take off mass at 600 kg for aircraft falling under paragraphs (e), (f) and (g) of Annex II. According to CZ, the application of this Regulation to aircraft under the above limit would not be proportionate from the point of view of safety. The proposed change would also contribute to the reduction of excessive administrative burdens and improve the competitiveness of the aviation sector in markets outside EU. All other delegations can accept the text of the Annex as it stands. It was pointed out that this text is based on technical expertise by EASA and that caution should therefore be exercised in making changes thereto.

- (d) **aircraft that have been in the service of military forces, unless the aircraft is of a type for which a design standard has been adopted by the Agency;**

- (e) **aeroplanes, helicopters and powered parachutes having no more than two seats, a maximum take-off mass (MTOM), as recorded by the Member States, of no more than:**
 - (i) **300 kg for a land plane/helicopter, single-seater; or**

 - (ii) **450 kg for a land plane/helicopter, two-seater; or**

 - (iii) **330 kg for an amphibian or floatplane/helicopter single-seater; or**

 - (iv) **495 kg for an amphibian or floatplane/helicopter two-seater, provided that, where operating both as a floatplane/helicopter and as a land plane/helicopter, it falls below both MTOM limits, as appropriate;**

 - (v) **472.5 kg for a land plane, two-seater equipped with an airframe mounted total recovery parachute system;**

 - (vi) **315 kg for a land plane single-seater equipped with an airframe mounted total recovery parachute system;**

and, for aeroplanes, having the stall speed or the minimum steady flight speed in landing configuration not exceeding 35 knots calibrated air speed (CAS);

- (f) **single and two-seater gyroplanes with a maximum take off mass not exceeding 560 kg;**

- (g) **gliders with a maximum empty mass, of no more than 80kg when single-seater or 100kg when two-seater, including those which are foot launched;**

- (h) replicas of aircraft meeting the criteria of (a) or (d) above, for which the structural design is similar to the original aircraft;**
- (i) unmanned aircraft with an operating mass of no more than 150 kg;**
- (j) any other aircraft which has a maximum empty mass, including fuel, of no more than 70 kg.**

Essential requirements for pilot licensing referred to in Article 6a

1. Training

1.a. General

1.a.1. A person undertaking training to fly an aircraft must be sufficiently mature educationally, physically and mentally to acquire, retain and demonstrate the relevant theoretical knowledge and practical skill.

1.b. Theoretical Knowledge

1.b.1. A pilot must acquire and maintain a level of knowledge appropriate to the functions exercised on the aircraft and proportionate to the risks associated to the type of activity. Such knowledge must include at least the following:

- (i) air law;**
- (ii) aircraft general knowledge;**
- (iii) technical matters related to the category of the aircraft;**
- (iv) flight performance and planning;**
- (v) human performance and limitations;**
- (vi) meteorology;**
- (vii) navigation;**

(viii) operational procedures, including resource management;

(ix) principles of flight;

(x) communications; and

(xi) non-technical skills, including the recognition and management of threats and errors.

1.c. Demonstration and maintenance of theoretical knowledge

1.c.1. The acquisition and retention of theoretical knowledge must be demonstrated by continuous assessment during training, and where appropriate, by examinations.

1.c.2. An appropriate level of competence in theoretical knowledge must be maintained. Compliance must be demonstrated by regular assessments, examinations, tests or checks. The frequency of examinations, tests or checks must be proportionate to the level of risk associated with the activity.

1.d. Practical skill

1.d.1. A pilot must acquire and maintain the practical skills as appropriate to exercise his/her functions on the aircraft. Such skills must be proportionate to the risks associated to the type of activity and must cover, if appropriate to the functions exercised on the aircraft, the following:

(i) pre-flight and in-flight activities, including aircraft performance, mass and balance determination, aircraft inspection and servicing, fuel planning, weather appreciation, route planning, airspace restrictions and runway availability;

(ii) aerodrome and traffic pattern operations;

- (iii) collision avoidance precautions and procedures;
- (iv) control of the aircraft by external visual reference;
- (v) flight manoeuvres, including in critical situations, and associated “upset” manoeuvres, as technically achievable;
- (vi) normal and cross-wind take-offs and landings;
- (vii) flight by reference solely to instruments, as appropriate to the type of activity;
- (viii) operational procedures, including team skills and resource management, as appropriate to the type of operation, whether single or multi-crew;
- (ix) navigation and implementation of rules of the air and related procedures, using as appropriate, visual reference or navigation aids;
- (x) abnormal and emergency operations, including simulated aircraft equipment malfunctions;
- (xi) compliance with air traffic services and communications procedures;
- (xii) aircraft type or class specific aspects;
- (xiii) additional practical skill training that may be required to mitigate risks associated with specific activities; and
- (xiv) non-technical skills, including the recognition and management of threats and errors, using an adequate assessment methodology in conjunction with the technical skills assessment.

1.e. Demonstration and maintenance of practical skill

1.e.1. A pilot must demonstrate the ability to perform the procedures and manoeuvres with a degree of competence appropriate to the functions exercised on the aircraft, by:

- (i) operating the aircraft within its limitations;**
- (ii) completing all manoeuvres with smoothness and accuracy;**
- (iii) exercising good judgement and airmanship;**
- (iv) applying aeronautical knowledge;**
- (v) maintaining control of the aircraft at all times in a manner such that the successful outcome of a procedure or manoeuvre is assured; and**
- (vi) non-technical skills, including the recognition and management of threats and errors, using an adequate assessment methodology in conjunction with the technical skills assessment.**

1.e.2. An appropriate level of competence in practical skill must be maintained. Compliance must be demonstrated by regular assessments, examinations, tests or checks. The frequency of examinations, tests or checks must be proportionate to the level of risk associated with the activity.

1.f. Language Proficiency

A pilot must have demonstrated language proficiency to a degree appropriate to the functions exercised on the aircraft. Such demonstrated proficiency shall include:

- (i) the ability to understand weather information documents;**
- (ii) the use of aeronautical en-route, departure and approach charts and associated aeronautical information documents; and**
- (iii) the ability to communicate with other flight crew and air navigation services during all phases of flight, including flight preparation.**

1.g. Flight simulation training devices

When a flight simulation training device (FSTD) is used for training, or for demonstration that practical skill is acquired or maintained, this FSTD must be qualified to a given level of performance in those areas, which are relevant to completing the related task. In particular, the replication of configuration, handling qualities, aircraft performance, and systems behaviour must adequately represent the aircraft.

1.h. Training Course

1.h.1. Training must be executed through a training course.

1.h.2. A training course must meet the following conditions:

- (i) a syllabus must be developed for each type of course; and**
- (ii) the training course must comprise a breakdown of theoretical knowledge and practical flight instruction (including synthetic training), if applicable.**

1.i. Instructors

1.i.1. Theoretical instruction.

Theoretical instruction must be given by appropriately qualified instructors. They must:

- (i) have appropriate knowledge in the field where instruction is to be given; and**
- (ii) be capable of using appropriate instructional techniques.**

1.i.2. Flight and flight simulation instruction.

Flight and flight simulation instruction must be given by appropriately qualified instructors, who have the following qualifications:

- (i) meet the theoretical knowledge and the experience requirements appropriate for the instruction being given;**
- (ii) be capable of using appropriate instructional techniques;**
- (iii) have practised instructional techniques in those flight manoeuvres and procedures in which it is intended to provide flight instruction;**

- (iv) have demonstrated the ability to instruct in those areas in which flight instruction is to be given, including pre-flight, post-flight and ground instruction; and
- (v) receive regular refresher training to ensure that the instructional standards are maintained up to date.

Flight instructors must also be entitled to act as pilot in command on the aircraft for which instruction is being given, except for training on new aircraft types.

1.j. Examiners

1.j.1. Persons responsible for assessing the skill of pilots must:

- (i) meet ~~or have met~~ the requirements for flight or flight simulation instructors;
- (ii) be capable of assessing pilot performance and conducting flight tests and checks.

2. Experience requirements

2.a.1. A person acting as flight crew member, instructor or examiner must acquire and maintain sufficient experience for the functions being exercised, unless the implementing rules provide for competence to be demonstrated in accordance with point 1.e.

3. Training Organisations

3.a. Training Organisation requirements

3.a.1. A training organisation providing pilot training must meet the following requirements:

- (i) have all the means necessary for the scope of responsibilities associated with their activity. These means comprise, but are not limited to, the following: facilities, personnel, equipment, tools and material, documentation of tasks, responsibilities and procedures, access to relevant data and record-keeping;**
- (ii) implement and maintain a management system relating to safety and the standard of training, and aim for continuous improvement of this system; and**
- (iii) establish arrangements with other relevant organisations, as necessary, to ensure continuing compliance with the above requirements.**

4. Medical fitness

4.a. Medical criteria

4.a.1. All pilots must periodically demonstrate medical fitness to satisfactorily execute their functions, taking into account the type of activity. Compliance must be shown by appropriate assessment based on aero-medical best practice, taking into account the type of activity and the possible mental and physical degradation due to age.

Medical fitness, comprising physical and mental fitness, means not suffering from any disease or disability, which makes the pilot unable:

- (i) to execute the tasks necessary to operate an aircraft; or**
- (ii) to perform assigned duties at any time; or**
- (iii) to perceive correctly his/her environment.**

4.a.2. Where medical fitness cannot be fully demonstrated, mitigation measures that provide equivalent flight safety may be implemented.

4.b. Aero-medical examiners

4.b.1 An aero-medical examiner must:

- (i) be qualified and licensed in the practice of medicine;**
- (ii) have received training in aviation medicine and regular refresher training in aviation medicine to ensure that assessment standards are maintained;**
- (iii) have acquired practical knowledge and experience of the conditions in which pilots carry out their duties.**

4.c Aero-medical Centres

4.c.1 Aero-medical centres must meet the following conditions:

- (i) have all the means necessary for the scope of responsibilities associated with their privileges. These means comprise, but are not limited to, the following: facilities, personnel, equipment, tools and material, documentation of tasks, responsibilities and procedures, access to relevant data and record-keeping;**
- (ii) implement and maintain a management system relating to safety and the standard of medical assessment, and aim for continuous improvement of this system;**
- (iii) establish arrangements with other relevant organisations, as necessary, to ensure continuing compliance with these requirements.**

Essential requirements for air operations referred to in Article 6b

1. General

- 1.a. A flight must not be performed if the crew members and, as appropriate, all other operations personnel involved in its preparation and execution are not familiar with applicable laws, regulations and procedures, pertinent to the performance of their duties, prescribed for the areas to be traversed, the aerodromes planned to be used and the air navigation facilities relating thereto.**
- 1.b. A flight must be performed in such a way that the operating procedures specified in the Flight Manual or, where required the Operations Manual, for the preparation and execution of the flight are followed. To facilitate this, a checklist system must be available for use, as applicable, by crew members in all phases of operation of the aircraft under normal, abnormal and emergency conditions and situations. Procedures must be established for any reasonably foreseeable emergency situation.**
- 1.c. Before every flight, the roles and duties of each crew member must be defined. The pilot in command must be responsible for the operation and safety of the aircraft and for the safety of all crew members, passengers and cargo on board.**
- 1.d. Articles or substances, which are capable of posing a significant risk to health, safety, property or the environment, such as dangerous goods, weapons and ammunition, must not be carried on any aircraft, unless specific safety procedures and instructions are applied to mitigate the related risks.**
- 1.e. All necessary data, documents, records and information to record the respect of the conditions specified in point 5.c must be retained for each flight and kept available for a minimum period of time compatible with the type of operation.**

2. Flight preparation

2.a. A flight must not be commenced unless it has been ascertained by every reasonable means available that all the following conditions are complied with:

2.a.1. Adequate facilities directly required for the flight and for the safe operation of the aircraft, including communication facilities and navigation aids, are available for the execution of the flight, taking into account available AIS documentation.

2.a.2. The crew must be familiar with and passengers informed of the location and use of relevant emergency equipment. Sufficient related information regarding emergency procedures and use of cabin safety equipment must be made available to crew and passengers using specified information.

2.a.3. The pilot in command must be satisfied that:

- (i) the aircraft is airworthy as specified in point 6;**
- (ii) if required, the aircraft is duly registered and that appropriate certificates with respect thereto are aboard the aircraft;**
- (iii) instruments and equipment as specified in point 5 required for the execution of that flight are installed in the aircraft and are operative, unless waived by the applicable MEL or equivalent document;**
- (iv) the mass of the aircraft and centre of gravity location are such that the flight can be conducted within limits prescribed in the airworthiness documentation;**
- (v) all cabin baggage, hold luggage and cargo is properly loaded and secured; and**
- (vi) the aircraft operating limitations as specified in point 4 will not be exceeded at any time during the flight.**

- 2.a.4. Information regarding meteorological conditions for departure, destination and, where applicable, alternate aerodromes, as well as en-route conditions, must be available to the flight crew. Special attention must be given to potentially hazardous atmospheric conditions.**
- 2.a.5. In case of flight into known or expected icing conditions, the aircraft must be certified, equipped and/or treated to operate safely in such conditions.**
- 2.a.6. For a flight based on visual flight rules, meteorological conditions along the route to be flown must be such as to render compliance with these flight rules possible. For a flight based on instrument flight rules a destination and where applicable alternate aerodrome(s) where the aircraft can land must be selected, taking into account in particular the forecasted meteorological conditions, the availability of air navigation services, the availability of ground facilities and the instrument flight procedures approved by the State in which the destination and/or alternate aerodrome is located.**
- 2.a.7 The amount of fuel and oil on board must be sufficient to ensure that the intended flight can be completed safely, taking into account the meteorological conditions, any element affecting the performance of the aircraft and any delays that are expected in flight. In addition, a fuel reserve must be carried to provide for contingencies. Procedures for in-flight fuel management must be established when relevant.**

3. Flight operations

3.a. With regard to flight operations, all the following conditions must be complied with:

- 3.a.1. Where relevant for the type of aircraft, during take-off and landing, and whenever deemed necessary by the pilot in command in the interest of safety, each crew member must be seated at their crew station and must use the provided restraint systems, taking into account the type of aircraft.**

- 3.a.2. Where relevant for the type of aircraft, all flight crew members required to be on flight deck duty must be and remain at their station, with their seatbelts fastened except en-route for physiological or operational needs.**
- 3.a.3. Where relevant for the type of aircraft and the type of operation, before take-off and landing, during taxiing and whenever deemed necessary in the interest of safety, the pilot in command must ensure that each passenger is properly seated and secured.**
- 3.a.4. A flight must be performed in such a way that appropriate separation from other aircraft is maintained and that adequate obstacle clearance is ensured, during all phases of the flight. Such separation must at least be those required by the applicable rules of the air.**
- 3.a.5. A flight must not be continued unless known conditions continue to be at least equivalent to those in point 2. Furthermore, for a flight based on instrument flight rules, an approach toward an aerodrome must not be continued below certain specified heights or beyond a certain position, if prescribed visibility criteria are not met.**
- 3.a.6. In an emergency, the pilot in command must ensure that all passengers are instructed in such emergency action as may be appropriate to the circumstances.**
- 3.a.7. A pilot in command must take all necessary measures so as to minimise the consequences on the flight of disruptive passenger behaviour.**
- 3.a.8. An aircraft must not be taxied on the movement area of an aerodrome, or its rotor must not be turned under power, unless the person at the controls is appropriately competent.**
- 3.a.9. The applicable in-flight fuel management procedures must be used, when relevant.**

4. Aircraft performance and operating limitations

4.a. An aircraft must be operated in accordance with its airworthiness documentation and all related operating procedures and limitations as expressed in its approved flight manual or equivalent documentation, as the case may be. The flight manual or equivalent documentation must be available to the crew and kept up to date for each aircraft.

4.b. The aircraft must be operated in accordance with the applicable environmental documentation.

4.c. A flight must not be commenced or continued unless the aircraft's scheduled performance, considering all factors which significantly affect its performance level, allows all phases of flight to be executed within the applicable distances/areas and obstacle clearances at the planned operating mass. Performance factors which significantly affect take-off, en-route and approach/landing are, particularly:

(i) operating procedures;

(ii) pressure altitude of the aerodrome;

(iii) temperature;

(iv) wind;

(v) size, slope and condition of the take-off/landing area; and

(vi) the condition of the airframe, the power plant or the systems, taking into account possible deterioration.

4.c.1. Such factors must be taken into account directly as operational parameters or indirectly by means of allowances or margins, which may be provided in the scheduling of performance data, as appropriate to the type of operation.

5. Instruments, data and equipment

5.a. An aircraft must be equipped with all navigation, communication and other equipment necessary for the intended flight, taking account of air traffic regulations and rules of the air applicable during any phase of the flight.

5.b. When relevant, an aircraft must be equipped with all necessary safety, medical, evacuation and survival equipment, taking account of the risks associated to the areas of operation, the routes to be flown, the flight altitude and the duration of the flight.

5.c. All data necessary for the execution of the flight by the crew must be updated and available on board the aircraft taking account of applicable air traffic regulations, rules of the air, flight altitudes and areas of operation.

6. Continuing Airworthiness

6.a. The aircraft must not be operated unless:

- (i) the aircraft is in an airworthy condition;**
- (ii) the operational and emergency equipment necessary for the intended flight is serviceable;**
- (iii) the airworthiness document of the aircraft is valid; and**
- (iv) the maintenance of the aircraft is performed in accordance with its maintenance programme.**

- 6.b. Before each flight or consistent series of consecutive flights, the aircraft must be inspected, through a pre-flight check, to determine whether it is fit for the intended flight.**
- 6.c. The maintenance programme must contain in particular, maintenance tasks and intervals, especially those that have been specified as mandatory in the instructions for continuing airworthiness.**
- 6.d. The aircraft must not be operated unless it is released to service by qualified persons or organisations, after maintenance. The signed release to service must contain in particular, the basic details of the maintenance carried out.**
- 6.e. All records demonstrating the airworthiness of the aircraft must be kept until the information contained has been superseded by new information equivalent in scope and detail but not less than 24 months in the case of detailed maintenance records. When the aircraft is leased, all records demonstrating the airworthiness of the aircraft must be kept at least for the length of the lease.**
- 6.f. All modifications and repairs must comply with the essential requirements for airworthiness. The substantiating data supporting compliance with the airworthiness requirements must be retained.**
- 7. Crew members**
- 7.a. The number and composition of the crew must be determined taking into account:**
- (i) the certification limitations of the aircraft, including if applicable, the relevant emergency evacuation demonstration;**
 - (ii) the aircraft configuration; and**
 - (iii) the type and duration of operations.**

7.b. Cabin crew members must:

- (i) be trained and checked on a regular basis to attain and maintain an adequate level of competency in order to perform their assigned safety duties; and**
- (ii) be periodically assessed for medical fitness to safely exercise their assigned safety duties. Compliance must be shown by appropriate assessment based on aero medical best practice.**

7.c. The pilot in command must have the authority to give all commands and take any appropriate actions for the purpose of securing the operation and the safety of the aircraft and of persons and/or property carried therein.

7.d. In an emergency situation, which endangers the operation or the safety of the aircraft and/or persons on board, the pilot in command must take any action he/she considers necessary in the interest of safety. When such action involves a violation of local regulations or procedures, the pilot in command must be responsible for notifying the appropriate local authority without delay.

7.e. Emergency abnormal situations must not be simulated when passengers or cargo are being carried.

7.f. No crew member must allow their task achievement/decision making to deteriorate to the extent that flight safety is endangered because of the effects of fatigue, taking into account, inter alia, fatigue accumulation, sleep deprivation, number of sectors flown, night duties or time zone changes hours. Rest periods must provide sufficient time to enable crew members to overcome the effects of the previous duties and to be well rested by the start of the following flight duty period.

- 7.g. A crew member must not perform allocated duties on board an aircraft when under the influence of psychoactive substances or alcohol or when unfit due to injury, fatigue, medication, sickness or other similar causes.**
- 8. Additional requirements for operation for commercial purposes and operation of complex motor-powered aircraft.**
- 8.a. The operation for commercial purposes and the operation of complex motor-powered aircraft must not be undertaken unless the following conditions are met:**
- 8.a.1. the operator must have directly or indirectly through contracts the means necessary for the scale and scope of the operations. These means comprise but are not limited to the following: aircraft, facilities, management structure, personnel, equipment, documentation of tasks, responsibilities and procedures, access to relevant data and record keeping.**
- 8.a.2. the operator must use only suitably qualified and trained personnel and implement and maintain training and checking programmes for the crew members and other relevant personnel.**
- 8.a.3. the operator must establish a Minimum Equipment List (MEL) or equivalent document, taking account of the following:**
- (i) the document must provide for the operation of the aircraft, under specified conditions, with particular instruments, items of equipment or functions inoperative at the commencement of the flight;**
 - (ii) the document must be prepared for each individual aircraft, taking account of the operator's relevant operational and maintenance conditions; and**
 - (iii) the MEL must be based on the Master Minimum Equipment List (MMEL), if available, and must not be less restrictive than the MMEL;**

- 8.a.4. the operator must implement and maintain a management system to ensure compliance with these essential requirements for operations and aim for continuous improvement of this system; and**
- 8.a.5. the operator must establish and maintain an accident prevention and safety programme, including an occurrence reporting programme, which must be used by the management system in order to contribute to the aim of continuous improvement of the safety of operations.**
- 8.b. The operation for commercial purposes and the operation of complex motor-powered aircraft must only be undertaken in accordance with an operator's Operations Manual. Such manual must contain all necessary instructions, information and procedures for all aircraft operated and for operations personnel to perform their duties. Limitations applicable to flight time, flight duty periods and rest periods for crew members must be specified. The Operations manual and its revisions must be compliant with the approved Flight manual and be amended as necessary.**
- 8.c. The operator must establish procedures, as appropriate, so as to minimise the consequences to safe flight operations of disruptive passenger behaviour.**
- 8.d. The operator must develop and maintain security programmes adapted to the aircraft and the type of operation including particularly:**
- (i) security of the flight crew compartment;**
 - (ii) aircraft search procedure checklist;**
 - (iii) training programmes;**
 - (iv) protection of electronic and computer systems to prevent intentional system interference and corruption; and**

- (v) reporting acts of unlawful interference.

When security measures may adversely affect the safety of operations, the risks must be assessed and appropriate procedures developed to mitigate safety risks, this may necessitate the use of specialist equipment.

- 8.e. The operator must designate one pilot amongst the flight crew as the pilot in command.
- 8.f. The prevention of fatigue must be managed through a rostering system. For a flight, or series of flights, such a rostering system needs to address flight time, flight duty periods, duty and adapted rest periods. Limitations established within the rostering system must take into account all relevant factors contributing to fatigue such as, in particular, number of sectors flown, time zone crossing, sleep deprivation, disruption of circadian cycles, night hours, positioning, cumulative duty time for given periods of time, sharing of allocated tasks between crew members, and also the provision of augmented crews.
- 8.g. The tasks specified in point 6.a and those described in points 6.d. and 6.e. must be controlled by an organisation responsible for the continuing airworthiness management that must meet, in addition to those requirements of Annex I point 3.a, the following conditions:
 - (i) the organisation must be qualified for the maintenance of products parts and appliances under its responsibility or have established a contract with such a qualified organisation for these products, parts and appliances; and
 - (ii) the organisation must establish an organisation manual providing, for use and guidance of personnel concerned, a description of all continuing airworthiness procedures of the organisation including when applicable a description of administrative arrangements between the organisation and the approved maintenance organisation.

Criteria for qualified entities referred to in Article 9a

- 1. The entity, its Director and the staff responsible for carrying out the checks, may not become involved, either directly or as authorised representatives, in the design, manufacture, marketing or maintenance of the products, parts, appliances, constituents or systems or in their operations, service provision or use. This does not exclude the possibility of an exchange of technical information between the involved organisations and the qualified entity.**

- 2. The entity and the staff responsible for the certification tasks must carry out their duties with the greatest possible professional integrity and the greatest possible technical competence and must be free of any pressure and incentive, in particular of a financial type, which could affect their judgment or the results of their investigations, in particular from persons or groups of persons affected by the results of the certification tasks.**

- 3. The entity must employ staff and possess the means required to perform adequately the technical and administrative tasks linked with the certification process; it should also have access to the equipment needed for exceptional checks.**

- 4. The staff responsible for investigation must have:**
 - sound technical and vocational training;**

 - satisfactory knowledge of the requirements of the certification tasks they carry out and adequate experience of such processes;**

- **the ability required to draw up the declarations, records and reports to demonstrate that the investigations have been carried out.**

- 5. The impartiality of the investigation staff must be guaranteed. Their remuneration must not depend on the number of investigations carried out or on the results of such investigations.**

- 6. The entity must take out liability insurance unless its liability is assumed by one Member State in accordance with its national law.**

- 7. The staff of the entity must observe professional secrecy with regard to all information acquired in carrying out their tasks under this Regulation**

CORRELATION TABLE

(for use in case the Regulation will be adopted in a "consolidated form")

(draft, to be completed)

Regulation (EC) 1592/2002	This Regulation
Article	Article
Article	Article
Article	Article
Article	Article
Article	Article
Article	Article
Article	Article
Article	Article
Article	Article
Article	Article
Article	Article