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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and repealing Regulation (EC) No 216/2008 of the European Parliament - Outcome of the European Parliament's first reading (Strasbourg, 11 to 14 June 2018)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure [1], a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the rapporteur, Marian-Jean MARINESCU (EPP, RO) presented one compromise amendment (amendment 382) to the proposal for Regulation, on behalf of the Committee on Transport and Tourism. This amendment had been agreed during the informal contacts referred to above.

[1] OJ C 145, 30.6.2007, p.5

II. VOTE

When it voted on 12 June 2018, the plenary adopted the compromise amendment (amendment 382) to the proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto[2].

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

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[2] The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics.*** The symbol " ▌ " indicates deleted text.

Common rules in the field of civil aviation and the European Union Aviation Safety Agency ***I

European Parliament legislative resolution of 12 June 2018 on the proposal for a regulation of the European Parliament and of the Council on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and repealing Regulation (EC) No 216/2008 of the European Parliament and of the Council (COM(2015)0613 – C8-0389/2015 – 2015/0277(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2015)0613),

– having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0389/2015),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Italian Senate and the Maltese Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,

– having regard to the opinion of the European Economic and Social Committee of 14 December 2016[3],

– having regard to the opinion of the Committee of the Regions of 12 October 2016[4],

– having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 22 December 2017 to approve Parliament's position, in accordance with Article

[3] OJ C 75, 10.3.2017, p. 111.
[4] OJ C 88, 21.3.2017, p. 69.

294(4) of the Treaty on the Functioning of the European Union,

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the report of the Committee on Transport and Tourism (A8-0364/2016),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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Position of the European Parliament adopted at first reading on 12 June 2018 with a view to the adoption of Regulation (EU) .../2018 of the European Parliament and of the Council on common rules in the field of civil aviation and establishing a European Union Aviation *Safety* Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee[5],

Having regard to the opinion of the Committee of the Regions[6],

Acting in accordance with the ordinary legislative procedure[7],

Whereas:

(1) A high and uniform level of civil aviation safety ▌ should be ensured at all times by the adoption of common safety rules and by measures ensuring that any goods, persons and organisations involved in civil aviation activity in the Union comply with such rules ▌.

[5] OJ C 75, 10.3.2017, p. 111.
[6] OJ C 88, 21.3.2017, p. 69..
[7] Position of the European Parliament of 12 June 2018.

(2) In addition, a high and uniform level of environmental protection should be ensured at all times by measures ensuring that any goods, persons and organisations involved in civil aviation activity in the Union comply with relevant Union law, and with international standards and recommended practices.

(3) In addition, third-country aircraft that are operated into, within or out of the territory where the relevant provisions of the Treaty on European Union ('TEU') and the Treaty on the Functioning of the European Union ('TFEU') (the 'Treaties") apply should be subject to appropriate oversight at Union level within the limits set by the Convention on International Civil Aviation, signed in Chicago on 7 December 1944 (the 'Chicago Convention'), to which all Member States are parties.

(4) It would not be appropriate to subject all aircraft to common rules. In particular, in light of their limited risk to civil aviation safety, aircraft that are of simple design or operate mainly on a local basis, and those which are home-built or particularly rare or only exist in a small number, should remain under the regulatory control of the Member States, without any obligation under this Regulation on other Member States to recognise such national arrangements. ***However, in order to facilitate the development of national rules for aircraft falling outside the scope of this Regulation, the European Union Aviation Safety Agency ('the Agency') can adopt guidance material for that purpose***.

(5) However, provision should be made for the possibility to apply certain provisions under this Regulation to certain types of aircraft which are otherwise excluded from the scope of this Regulation, especially those which are produced in an industrial manner and which could benefit from free circulation within the Union. Therefore, organisations involved in the design of such aircraft should be allowed to ***apply for a type certificate to the Agency or, if applicable, to make a declaration to the Agency in respect of an*** aircraft ***type*** which ***is*** to be put on the market by such organisations.

(6) ***This Regulation should provide for a number of new tools that should support the implementation of simple and proportionate rules for sport and recreational aviation. The measures taken in accordance with this Regulation to regulate this segment of the aviation sector should be proportionate, cost-efficient, flexible and based on existing best practices in the Member States. Those measures should be developed in a timely manner, in close cooperation with the Member States and should avoid creating unnecessary administrative and financial burden for the manufacturers and operators.***

(7) It would not be appropriate to subject all aerodromes to common rules. Aerodromes which are not open to public use ***or*** aerodromes ***which do not serve*** commercial air transport ***or aerodromes without paved*** instrument ▌runways of ***more*** than 800 metres ***and which do not exclusively serve helicopters using instrument approach or departure procedures*** should remain under the regulatory control of the Member States, without any obligation under this Regulation on other Member States to recognise such national arrangements.

(8) Member States should be allowed to exempt from this Regulation aerodromes with low volumes of traffic, ▌ provided that the aerodromes concerned meet the minimum common safety objectives laid down in the relevant essential requirements set out in this Regulation. When a Member State grants such exemptions, those exemptions should also apply to the equipment used at the aerodrome concerned and to the providers of groundhandling services and apron management services ('AMS') operating at the exempted aerodromes. Exemptions granted by Member States to aerodromes before the entry into force of this Regulation should remain valid, and information about those exemptions should be made available to the public.

(9) Aerodromes that are controlled and operated by the military, as well as air traffic management and air navigation services ('ATM/ANS') that are provided or made available by the military, should be excluded from the scope of this Regulation. However, Member States should ensure, in accordance with their national law, that such aerodromes, when opened to the public, and such ATM/ANS when serving air traffic to which Regulation (EC) No 549/2004 of the European Parliament and of the Council[8] applies, offer a level of safety and interoperability with civil systems that is as effective as that resulting from the application of the essential requirements for aerodromes and ATM/ANS set out in this Regulation.

[8] Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) (OJ L 96, 31.3.2004, p. 1).

(10) Where Member States consider it preferable, in particular with a view to achieving safety, interoperability or efficiency gains, to apply, instead of their national law, this Regulation to ***aircraft carrying out military, customs, police, search and rescue, firefighting, border control and coastguard or similar activities and services undertaken in the public interest,*** they should be allowed to do so. ▌Member States making use of this possibility should cooperate with the Agency, in particular by providing all the information necessary for confirming that the aircraft and activities concerned comply with the relevant provisions of this Regulation.

(11) ***In order to take into account the interests and views of their aeronautical industry and aircraft operators, Member States should be allowed to exempt from this Regulation the design, production, maintenance and operation activities which are performed in respect of certain small aircraft, other than unmanned aircraft, unless, in respect of those aircraft, a certificate in accordance with this Regulation or with Regulation (EC) No 216/2008 of the European Parliament and of the Council[9] has been issued, or has been deemed to have been issued, or a declaration has been made in accordance with this Regulation. Such exemptions should not create any obligation under this Regulation for other Member States to recognise such national arrangements. However, such exemptions should not prevent an organisation with a principal place of business in the territory of the Member State which has granted that exemption from deciding to conduct its design and production activities in respect of aircraft covered by that decision in accordance with this Regulation and with the delegated and implementing acts adopted on the basis thereof.***

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9 Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1).

(12) The measures taken in accordance with this Regulation to regulate civil aviation in the Union, and the delegated and implementing acts adopted on the basis thereof, should correspond and be proportionate to the nature and risks associated with the different types of ***aircraft,*** operations and activities they address. Such measures should also, in as far as possible, be formulated in a manner which focuses on objectives to be achieved, while allowing different means of achieving those objectives, ***and should also foster a systemic approach to civil aviation, taking into account interdependencies between safety and other technical domains of aviation regulation, including cyber security***. This should contribute to a more cost-efficient achievement of required safety levels and to the stimulation of technical and operational innovation. Use should be made of recognised industry standards and practices, where it has been found that they ensure compliance with the essential requirements set out in this Regulation.

(13) Application of sound safety management principles is essential for continuous improvement of civil aviation safety in the Union, anticipating emerging safety risks, and making best use of limited technical resources. It is therefore necessary to establish a common framework for planning and implementing safety improvement actions. To that end, a European Plan for Aviation Safety and a European Aviation Safety Programme should be drawn up at Union level. Each Member State should also draw up a ***State*** Safety Programme in accordance with the requirements contained in Annex 19 to the Chicago Convention. That Programme should be accompanied by a plan describing the actions to be taken by the Member State to mitigate the identified safety risks.

(14) In accordance with Annex 19 to the Chicago Convention, Member States are to establish an acceptable level of safety performance in relation to the aviation activities under their responsibility. In order to assist the Member States in meeting this requirement in a coordinated manner, the European Plan for Aviation Safety should lay down ***a*** level of safety performance for the Union in respect to the different categories of aviation activities. That ▌ level of safety performance should not have a binding character but should rather express the ambition of the Union and of the Member States with regard to civil aviation safety.

(15) The Chicago Convention provides for minimum standards to ensure the safety of civil aviation and environmental protection relating thereto. The Union's essential requirements and further rules for their implementation established in this Regulation should ensure that Member States fulfil, in a uniform manner, the obligations laid down in the Chicago Convention, including those vis-à-vis third countries. Where Union rules differ from the minimum standards established by the Chicago Convention, ***the obligations of*** Member States ***to*** notify the International Civil Aviation Organization accordingly ***are not affected***.

(16) In line with the international standards and recommended practices set by the Chicago Convention, essential requirements applicable to aeronautical products, parts, non-installed equipment, aerodromes and the provision of ATM/ANS should be established. Furthermore, essential requirements applicable to persons and organisations involved in the operation of aircraft, the operation of aerodromes and in the provision of ATM/ANS, and essential requirements applicable to persons and products involved in the training and medical examination of aircrew and air traffic controllers should also be established.

(17) It is important that personnel used by ATM/ANS providers, such as Air Traffic Safety Electronics Personnel ('ATSEP') are appropriately qualified and trained to perform their duties. ATM/ANS providers should also implement training and checking programmes, taking into account the different types of safety-related tasks performed by their personnel. The implementing acts adopted under this Regulation and concerning responsibilities of ATM/ANS providers should lay down further detailed harmonised rules for such personnel, including ATSEP to ensure the necessary level of safety.

(18) The essential requirements concerning environmental compatibility of the design of aeronautical products should address, ***where*** necessary***,*** both aircraft noise and emissions to protect the environment and human health from harmful effects of those ***products. They should correspond to the requirements which have been established in this regard at international level, as laid down in the Chicago Convention. In order to ensure full consistency, it is appropriate to refer in this Regulation to the relevant provisions of that Convention. However, products, parts and non-installed equipment should be made subject to the essential requirements for environmental compatibility laid down in Annex III to this Regulation to the extent that the provisions of the Chicago Convention do not contain environmental protection requirements. As regards those products, parts and non-installed equipment, provision should also be made for the possibility of laying down detailed environmental protection requirements.***

(19) Essential requirements should also be laid down for the safe provision of groundhandling services ***and AMS***.

(20) In view of the increasing reliance of civil aviation on modern information and communication technologies essential requirements should be laid down to ensure the security of information used by the civil aviation sector.

(21) The obligations of an aerodrome operator can be fulfilled directly by the aerodrome operator or, in some cases, by a third party. In such cases, the aerodrome operator should have arrangements in place with that third party to ensure compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof.

(22) Essential requirements should be laid down concerning reporting and analysis of safety occurrences. The detailed rules adopted in order to ensure uniform implementation of, and compliance with, those essential requirements should be consistent with Regulation (EU) No 376/2014 of the European Parliament and of the Council[10].

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

(23) Aeronautical products, parts and non-installed equipment, aerodromes and their safety-related equipment, operators of aircraft and aerodromes, ATM/ANS systems and ATM/ANS constituents and ATM/ANS providers, as well as pilots, air traffic controllers and persons, products and organisations involved in their training and medical examination, should be certified or licensed once they have been found to comply with relevant essential requirements or, where relevant, the other requirements established in, or pursuant to, this Regulation. In order to facilitate the process of certification, the necessary detailed rules for the issuance of those certificates and, where relevant, the declarations to be made to this effect, should be adopted, taking into account the objectives of this Regulation and the nature and risk of the particular activity concerned.

(***24)*** ***Cabin crew involved in commercial air transport should be subject to certification and, as a result of that certification, should be issued with an attestation. In order to ensure uniform rules for the issuing of that attestation, implementing powers should be conferred on the Commission to establish detailed rules and procedures for the qualification of cabin crew members. It should also be possible for the Commission in those implementing acts, taking into account the nature and risk of the activity concerned, to require that cabin crew involved in other types of operations be subject to certification and hold an attestation. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[11].***

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

(25) The possibility should be given to the organisations involved in the design and ▌ ***production*** of aeronautical products**,** parts***, and non-installed equipment*** to declare the compliance of the design of products**,** parts ***and non-installed equipment*** with the relevant industry standards, where it is considered that this will ensure an acceptable level of safety. That possibility should be limited to products used in ▌ sport ***and recreational*** aviation, and under appropriate limitations and conditions to ensure safety.

(26) Since unmanned aircraft also operate within the airspace alongside ***manned*** aircraft, this Regulation should cover unmanned aircraft, regardless of their operating mass. Technologies for unmanned aircraft now make possible a wide range of operations and those operations should be subject to rules that are proportionate to the risk of the particular operation or type of operations.

(27) In order to implement a risk-based approach and the principle of proportionality, a degree of flexibility should be provided for the Member States as regards unmanned aircraft operations, taking into account various local characteristics within individual Member States, such as population density, while ensuring an adequate level of safety.

(28) The rules regarding unmanned aircraft should ▌ contribute to achieving compliance with relevant rights guaranteed under Union law, and in particular the right to respect for private and family life, set out in Article 7 of the Charter of Fundamental Rights of the European Union, and with the right to protection of personal data, set out in Article 8 of that Charter and in Article 16 ***TFEU***, and regulated by Regulation (EU) 2016/679 of the European Parliament and of the Council[12].

[12] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1). .

(29) ***The essential requirements applicable to unmanned aircraft and their engines, propellers, parts and non-installed equipment should also cover matters relating to electromagnetic compatibility and the radio spectrum, in order to ensure that they do not cause harmful interference, that they use the radio spectrum effectively and that they support the efficient use of the radio spectrum. However, many types of aviation equipment are not necessarily intended specifically for use in either unmanned aircraft or in manned aircraft but could rather be used in both. Therefore, those requirements relating to electromagnetic compatibility and the radio spectrum should only apply from the moment that, and in as far as, the design of the unmanned aircraft and of their engines, propellers, parts and non-installed equipment are subject to certification in accordance with this Regulation. The reason for this is to ensure that the regime applicable to such aviation equipment is aligned with the regime applicable to other aircraft and their engines, propellers, parts and non-installed equipment in respect of which such certification is also required under this Regulation. In terms of content, in order to ensure consistency, those requirement should be equivalent to those in Directive 2014/30/EU of the European Parliament and of the Council[13] and Directive 2014/53/EU of the European Parliament and of the Council[14].***

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13 ***Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility (recast) (OJ L 96, 29.3.2014, p. 79).***

14 ***Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L 153, 22.5.2014, p. 62).***

(30) For some types of unmanned aircraft, the application of the provisions of this Regulation related to ***registration,*** certification***, identification***, oversight and enforcement, as well as ***of*** the provisions regarding the Agency is not necessary in order to reach adequate levels of safety. Market surveillance mechanisms provided by Union product harmonisation legislation should be made applicable to those cases.

(31) In view of the risks that unmanned aircraft can present for safety, privacy, protection of personal data, security or the environment, requirements should be laid down concerning the registration of unmanned aircraft and of operators of unmanned aircraft. It is also necessary to establish digital, harmonised and interoperable national registration systems in which information, including the same basic data, about unmanned aircraft and operators of unmanned aircraft registered in accordance with this Regulation and the implementing acts adopted on the basis thereof should be stored. Those national registration systems should comply with the applicable Union and national law on privacy and processing of personal data, and the information stored in those registration systems should be easily accessible.

(32) The conditions, rules and procedures for situations in which the design, production, maintenance and operation of unmanned aircraft, as well as the personnel and organisations involved in those activities, should be subject to certification, should take into account the nature and risk of the type of operation concerned. Those conditions, rules and procedures should, in particular, take into account the type, scale, and complexity of the operation, including, where relevant, the size and type of the traffic handled by the responsible organisation or person; whether the operation is open to members of the public; the extent to which other air traffic or persons and property on the ground could be endangered by the operation; the purpose of the flight and type of airspace used; and the complexity and performance of the unmanned aircraft involved.

(33) It should be possible to prohibit, limit or make subject to certain conditions the activities referred to in Chapter III of this Regulation where necessary in the interest of civil aviation safety. That possibility should be exercised in accordance with the delegated and implementing acts adopted by the Commission for that purpose. Member States have the possibility to take measures, in accordance with Union law, falling outside the scope of this Regulation, for reasons including public security and the protection of the right to privacy and protection of personal data.

(34) Model aircraft are considered to be unmanned aircraft for the purposes of this Regulation and are used primarily for leisure activities. Delegated and implementing acts concerning unmanned aircraft, adopted on the basis of this Regulation, should take into account that such model aircraft have so far had a good safety record, especially those operated by members of model aircraft associations or clubs which have developed specific codes of conduct for such activities. In addition, when adopting those delegated and implementing acts, the Commission should take account of the need for a seamless transition from the different national systems to the new Union regulatory framework so that model aircraft can continue to operate as they do today, as well as take into account existing best practices in the Member States.

(35) In order to achieve the objectives of this Regulation, the Commission, the Agency and the competent authorities of the Member States should, by sharing resources and working jointly, act as a single European aviation safety system. ***The Agency should actively promote a common certification and oversight culture and the sharing of best administrative practices including by facilitating personnel exchanges between competent authorities in order to contribute to the achievement of the objectives of this Regulation, taking into account feedback from stakeholders. The monitoring activities of the Agency with regard to the application of this Regulation by the Member States should also aim to reinforce the capacity of the competent authorities of the Member States to fulfil their obligations related to certification and oversight and at transferring knowledge between those authorities.***

(36) It is necessary to support Member States in performing their certification, oversight – and in particular cooperative and cross-border oversight – and enforcement tasks, by establishing an efficient framework for pooling and sharing of aviation inspectors and other specialists with relevant expertise. In this respect, and in order to facilitate such personnel exchanges between the national competent authorities, the Agency should be given a coordinating role.

(37) The Agency and the national competent authorities should work in partnership in order to ***improve the detection of*** unsafe conditions and take remedial measures as appropriate. Member States should in particular be able to ***reallocate*** to each other or to the Agency the responsibilities under this Regulation related to certification, oversight and enforcement, especially where that is necessary for enhanced safety or more efficient use of resources. ***Such reallocation should be voluntary, should only take place where there is sufficient assurance that those tasks can be performed effectively and should, considering the close relationship between certification, oversight and enforcement, necessarily cover all those responsibilities in respect of the legal or natural person, aircraft, equipment, aerodrome, ATM/ANS system or ATM/ANS constituent concerned by the reallocation. The reallocation of responsibility should be subject to mutual consent, the possibility to revoke the reallocation and the conclusion of arrangements setting out the necessary details to ensure a smooth transition and the continued effective performance of the tasks concerned. When concluding those detailed arrangements, due account should be taken of the views and legitimate interests of the legal or natural persons concerned and, where applicable, of the views of the Agency.***

(38) Upon such reallocation of responsibility to another Member State, the national competent authority of the Member State which accepted the reallocation request should become the competent authority and should consequently have all powers and responsibilities in respect of the legal or natural persons concerned provided for in this Regulation, in the delegated and implementing acts adopted on the basis thereof and in the national law of the Member State which accepted the request. The reallocation in respect of enforcement should concern only decisions and measures related to tasks in the area of certification and oversight that were reallocated to the national competent authority of the Member State which accepted the request. Those decisions and measures should be subject to review by the national courts of the Member State which accepted the request in accordance with the national law of that Member State. It is possible that the Member State which accepted the request will be held liable for the performance of the tasks in question. All other enforcement responsibilities of the Member State which made the request should remain unaffected by the reallocation.

(39) The possibility to reallocate responsibility for the tasks related to certification, oversight and enforcement provided for in this Regulation to the Agency or another Member State should be without prejudice to the rights and obligations of the Member States under the Chicago Convention. Consequently, although such reallocation implies a transfer of responsibility to the Agency or to another Member State for the purposes of Union law, it does not affect the responsibility under the Chicago Convention of the Member State which made the request.

(40) Since cooperation between the Agency and the national competent authorities is essential in order to ensure a high and uniform level of safety in the Union, where certification, oversight, and enforcement tasks are reallocated from national competent authorities to the Agency in respect of organisations that have a substantial proportion of facilities and personnel in more than one Member State, such reallocation should not endanger the sustainability of national competent authorities in terms of their knowledge, skills, resources and economic viability, should not generate forms of competition between the Agency and national competent authorities and should not affect the independence of the Agency when conducting standardisation inspections for the purpose of verifying the uniform implementation of this Regulation.

(41) An ▌ oversight ***support*** mechanism ***should be established in situations where verified safety-related evidence coming from inspections and other monitoring activities conducted by the Agency indicates*** a serious and persisting inability of a Member State in effectively ensuring certain or all of its certification, oversight and enforcement tasks under this Regulation, ***and*** where such situations endanger ***civil aviation safety. In such cases, the Agency and*** the Member State concerned ***should, at the request of the Commission, establish a temporary technical assistance programme in order to assist the Member State concerned in resolving the identified deficiencies. Such a technical assistance programme might include, in particular, the training of inspectors and other relevant personnel, assistance in development of oversight documentation and procedures, as well as other practical and tangible support necessary to restore safety. When designing the technical assistance programme and during its implementation, the needs and views of the Agency and Member State concerned should be taken into account. However, if the Member State concerned recognises that the programme cannot be successfully implemented as planned, it should inform the Commission, and either reallocate*** responsibility for the ***certification, oversight and enforcement tasks to which the deficiencies pertain to the Agency or another Member State, or take other measures to resolve the deficiencies.***

(42) In order to achieve the main objectives of this Regulation, as well as objectives related to the free movement of goods, persons, services and capital, the certificates issued and declarations made in accordance with this Regulation and with the delegated and implementing acts adopted on the basis thereof should be valid ***and should be recognised***, without further requirements or evaluation, in all Member States.

(43) When issuing certificates pursuant to this Regulation, account might need to be taken of certificates, or other relevant documentation attesting compliance, issued in accordance with the laws of third countries. That should be done where the relevant international agreements concluded by the Union with third countries or the delegated acts adopted by the Commission pursuant to this Regulation so provide, and in accordance with those agreements or delegated acts.

(44) In light of the rules on the acceptance of certificates and other relevant documentation attesting compliance, issued in accordance with the laws of third countries, for which this Regulation provides, any international agreements concluded between a Member State and a third country should be terminated or ***updated*** where such agreements are not compatible with those rules.

(45) A degree of flexibility should be provided for with respect to the application of the rules set out in this Regulation or in the delegated and implementing acts adopted on the basis thereof, in order to allow Member States to take the necessary measures to react immediately to problems relating to civil aviation safety or to grant exemptions in the event of certain urgent unforeseeable circumstances or urgent operational needs, subject to appropriate conditions to ensure, in particular, proportionality, objective control and transparency. For reasons of proportionality, the Agency and the Commission should only assess the ▌ exemptions in question with a view to issuing a recommendation or taking a decision, respectively, where their duration exceeds the duration of one airline scheduling season, that is, eight months, without prejudice to the powers of the Commission under Article 258 TFEU. Where the Agency is the competent authority with respect to the issuing of certain certificates in accordance with this Regulation, it should also have the power to grant such exemptions, in the same situations and subject to the same conditions as those that apply with respect to the Member States. In this connection, provision should also be made for possible amendments, where appropriate, of the relevant rules as laid down in ***the*** delegated ***and*** implementing acts adopted on the basis of this Regulation, in particular so as to allow other means of compliance while still ensuring an acceptable level of civil aviation safety in the Union.

(46) With a view to ensuring the proper application of this Regulation and having regard to the need to identify, assess and mitigate the risks for civil aviation safety, the Commission, the Agency and the national competent authorities should exchange any information available to them in the context of the application of this Regulation. For this purpose, the Agency should be allowed to organise a structured cooperation on gathering, exchange and analysis of relevant safety-related information ***using, where possible, existing information systems***. To this end***,*** it should be allowed to enter into the necessary ▌ arrangements ***with natural and legal persons subject to this Regulation or with associations of such persons. It should be clarified that, when carrying out any of its coordinating tasks relating to the gathering, exchange and analysis of information, the Agency remains bound by the restrictions regarding the Agency's access to information from recordings of cockpit voice or image recorders and of flight data recorders set out in Regulation (EU) No 996/2010 of the European Parliament and of the Council[15],and in particular point (d) of Article 8(2), point (g) of Article 14(1) and Article 14(2) thereof.***

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15 ***Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC (OJ L 295, 12.11.2010, p.35).***

(47) It is necessary to establish measures to ensure the appropriate protection of information gathered, exchanged and analysed under this Regulation by the Commission, the Agency and the national competent authorities, as well as to ensure the protection of the sources of such information. Those measures should not unduly interfere with the justice systems of the Member States. They should therefore be without prejudice to the applicable national material and procedural criminal laws, including the use of information as evidence. In addition, the rights of third parties to institute civil proceedings should not be affected by those measures and should be subject only to national law.

(48) In order to facilitate the exchange of information between theCommission, the Agency and the Member States, including data, which is relevant for certification, oversight and enforcement activities, an electronic repository of such information should be established and managed by the Agency in cooperation with the Commission and the Member States.

(49) Regulation (EU) 2016/679 applies to the processing of personal data carried out in application of this Regulation. Pursuant to that Regulation, Member States may provide for exemptions and restrictions in respect of some of the rights and obligations provided for therein, including as regards the processing of medical and health data. The processing of personal data, and in particular medical and health data, included in the repository established under this Regulation, is necessary to enable effective cooperation between the Member States in certification and oversight of medical fitness of pilots. Exchange of personal data should be subject to strict conditions, and limited to what is absolutely necessary for achieving the objectives of this Regulation. Thus, the principles set out in Regulation (EU) 2016/679 should be supplemented or clarified in this Regulation, where necessary.

(50) Regulation (EC) No 45/2001 of the European Parliament and of the Council[16] and in particular the provisions thereof concerning confidentiality and security of processing, apply to the processing of personal data by the Agency when carrying out its responsibilities in application of this Regulation and more specifically in the management of the repository established under this Regulation. Thus, the principles set out in Regulation (EC) No 45/2001 should be supplemented or clarified in this Regulation, where necessary.

(51) The Agency has been established by Regulation (EC) No 1592/2002 of the European Parliament and ***of*** the Council[17] within the Union's existing institutional structure and balance of powers, is independent in relation to technical matters and has legal, administrative and financial autonomy. The Agency has received further competences in accordance with Regulation (EC) No 216/2008. Certain adjustments should be made in its structure and functioning in order to better accommodate the new tasks conferred on it by this Regulation.

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

17 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).

(52) Under the institutional system of the Union, implementation of Union law is primarily the responsibility of the Member States. Certification, oversight and enforcement tasks required by this Regulation, and by the delegated and implementing acts adopted on the basis thereof, should therefore, in principle, be carried out at national level by one or more competent authorities of the Member States. In certain clearly defined cases, however, the Agency should also have the power to conduct those tasks. In those cases the Agency should also be allowed to take the necessary measures related to the operation of aircraft, the qualification of aircrew or the use of third-country aircraft, where this is the best means to ensure uniformity and facilitate the functioning of the internal market.

(53) The Agency should provide the technical expertise to the Commission in the preparation of the necessary legislation and assist, where appropriate, the Member States and industry in its implementation. It should be able to issue certification ***specifications and guidance material***, ***along with other detailed*** specifications and guidance material, and to make technical findings and issue certificates or register declarations, as required.

(54) Global navigation satellite systems ('GNSS'), and in particular the Union Galileo programme, established by Regulation (EU) No 1285/2013 of the European Parliament and of the Council[18], will play a pivotal role in the implementation of a European air traffic management system. In this regard, ***it should be clarified that services which augment signals emitted by satellites of core constellations of GNSS for the purpose of air navigation, such as those provided by the operator of the European Geostationary Navigation Overlay Service (EGNOS) and by other providers, should be considered to be ATM/ANS. The Agency should also*** have the power to develop the necessary technical specifications and to certify organisations providing pan-European ATM/ANS***, such as service provider of EGNOS,*** to ensure a high, uniform level of safety, interoperability and operational efficiency.

[18] Regulation (EU) No 1285/2013 of the European Parliament and of the Council of 11 December 2013 on the implementation and exploitation of European satellite navigation systems and repealing Council Regulation (EC) No 876/2002 and Regulation (EC) No 683/2008 of the European Parliament and of the Council (OJ L 347, 20.12.2013, p. 1).

(55) Regulation (EC) No 2111/2005 of the European Parliament and of the Council[19] imposes a duty on the Agency to communicate all information that could be relevant for the updating of the list of air carriers which, for safety reasons, are subject to an operating ban in the Union. The Agency should also assist the Commission in the implementation of that Regulation, by conducting the necessary evaluations of third country operators and authorities responsible for their oversight, and making appropriate recommendations to the Commission.

(56) In order to ensure compliance with this Regulation, it should be possible to impose fines or periodic penalty payments, or both, on holders of certificates issued by the Agency and on undertakings that made declarations to the Agency, where they infringed the rules applicable to them pursuant to this Regulation. The Commission should impose such fines and periodic penalty payments on the recommendation of the Agency. In this regard, the Commission should, in light of the circumstances of each individual case, respond to such infringements in a proportionate and adequate manner, taking account of other possible measures such as the withdrawal of a certificate.

[19] Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (OJ L 344, 27.12.2005, p. 15).

(57) With a view to contributing to the uniform application of this Regulation, the Agency should be empowered to monitor such application by Member States, including by conducting inspections.

(58) On the basis of its technical expertise, the Agency should assist the Commission in the definition of research policy and ***in*** the implementation of Union research programmes. It should be allowed to conduct research which is immediately needed and to participate in ad hoc research projects under the Union Framework Programme for Research and Innovation or other Union and non-Union private or public funding programmes.

(59) Having regard to the existing interdependencies between safety and security in civil aviation, the Agency should take part in the cooperation concerning the area of aviation security, including cyber-security. It should contribute its expertise to the implementation, by the Commission and by Member States, of Union rules in that area.

(60) The Agency should, on request, assist the Member States and Commission in the field of international relations relating to matters covered by this Regulation, in particular as regards the harmonisation of rules and the mutual recognition of certificates. It should be entitled to establish the appropriate relations, through working arrangements, with the authorities of third countries and international organisations competent in matters covered by this Regulation, after consulting the ***Commission***. In order to promote safety at the worldwide level, in light of the high standards applied within the Union, the Agency should be allowed to engage, within its field of competence, in *ad hoc* technical cooperation, research and assistance projects with third countries and international organisations. The Agency should also assist the Commission in the implementation of Union law in other technical domains of civil aviation regulation, such as security or the Single European Sky, where the Agency has the relevant expertise.

(61) In order to promote best practices and a uniform implementation of Union aviation safety legislation, the Agency should be able to ***approve providers of aviation training and*** provide such training.

(62) The Agency should be governed and operated in accordance with the principles of the Joint Statement of the European Parliament, the Council and the European Commission on decentralised agencies of 19 July 2012.

(63) The Commission and the Member States should be represented within the Management Board of the Agency in order to effectively control its functions. That Management Board should be entrusted with the necessary powers in particular to appoint the Executive Director, and to adopt the consolidated annual activity report, the programming document, the annual budget, and the financial rules applicable to the Agency.

(64) In the interests of transparency, interested parties should be given observer status within the Management Board of the Agency.

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(65) Public interest requires the Agency to base its safety-related action solely on independent expertise, strictly applying this Regulation and the delegated and implementing acts adopted on the basis thereof. To that end, safety-related decisions of the Agency should be made by its Executive Director, who should enjoy a high degree of flexibility in respect of obtaining advice and organising the internal functioning of the Agency.

(66) It is necessary to ensure that parties affected by decisions made by the Agency have access to the necessary remedies, which should be suited to the special character of the field of aviation. Therefore, an appropriate appeal mechanism should be set up so that decisions of the Agency can be subject to appeal to a ▌ Board of Appeal, the decisions of which can be subject to action before the Court of Justice of the European Union in accordance with the TFEU.

(67) All decisions taken by the Commission under this Regulation are subject to review by the Court of Justice in accordance with the TFEU. The Court of Justice should, in accordance with Article 261 TFEU, be given unlimited jurisdiction in respect of decisions by which the Commission imposes fines or periodic penalty payments.

(68) When the Agency develops draft rules of a general nature to be implemented by national authorities, Member States should be consulted. Furthermore, where such draft rules could have important social implications, stakeholders, including Union social partners, should be appropriately consulted by the Agency.

(69) With a view to effectively carrying out its tasks under this Regulation, the Agency should cooperate, as necessary, with Union institutions, bodies, offices and agencies in areas where their activities affect technical aspects of civil aviation. In particular, the Agency should collaborate with the European Chemicals Agency established by Regulation (EC) No 1907/2006 of the European Parliament and of the Council[20] in the exchange of information on the safety of chemical substances, their impact on aviation safety and related scientific and technical aspects. When consultation relating to military aspects is required, the Agency should ***consult, in addition to the Member States,*** the European Defence Agency ***established by Council Decision (CFSP) 2015/1835[21] and military experts designated by the Member States***.

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

21 Council Decision (CFSP) 2015/1835 of 12 October 2015 defining the statute, seat and operational rules of the European Defence Agency (OJ L 266, 13.10.2015, p. 55).

(70) It is necessary to provide the public with adequate information pertaining to the level of civil aviation safety and environmental protection relating thereto, taking into account Regulation (EC) No 1049/2001 of the European Parliament and of the Council[22] and relevant national legislation.

(71) In order to guarantee the full autonomy and independence of the Agency, it should be granted an autonomous budget principally funded from a contribution from the Union and from fees and charges paid by the users of the European aviation safety system. No financial contribution received by the Agency from Member States, third countries, or other entities or persons should compromise its independence and impartiality. The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the Union are concerned, while the auditing of accounts should be carried out by the European Court of Auditors. In order to enable the Agency to participate in all relevant future projects, it should be given the possibility to receive grants. ▌

[22] 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 (OJ L 145, 31.5.2001, p. 43).

(72) In order to ensure that the Agency can respond to demand for the activities it carries out, in particular as regards certification and activities related to ***a*** possible ***reallocation*** of responsibility from Member States, in an efficient and timely manner, while respecting sound financial management, the establishment plan should take into account the resources required to meet demands for certification and for other activities of the Agency in an efficient and timely manner, including those resulting from ***reallocation*** of responsibility**.** To this end, a set of indicators should be established to measure the Agency's workload and efficiency in relation to activities financed through fees and charges. Having regard to those indicators the Agency should adapt its staff planning and management of resources related to fees and charges so as to be able to adequately respond to such demand and to any fluctuations in revenue from fees and charges.

(73) It is necessary to establish appropriate measures to ensure the necessary protection of sensitive safety-related information.

(74) The fees and charges levied by the Agency should be set in a transparent, fair, non-discriminatory and uniform manner. They should not jeopardise the competitiveness of the Union's industry concerned. Furthermore, they should be established on a basis which takes due account of the ability of the legal or natural persons concerned to pay, in particular regarding small and medium-sized enterprises.

(75) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. The majority of those implementing powers, and in particular those relating to the laying down of detailed provisions concerning rules and procedures, should be exercised in accordance with Regulation (EU) No 182/2011.

(76) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to ▌ corrective action and safeguard measures, imperative grounds of urgency so require.

(77) In order to take into account technical, scientific, operational or safety needs ▌, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending, or, if applicable, supplementing, the provisions on airworthiness ***related to design and production, flight time limitations, aerodrome operators, ATM/ANS systems and ATM/ANS constituents*** and the ***design, production and maintenance of unmanned aircraft and their engines, propellers, parts, non-installed equipment and equipment to control the aircraft remotely, as well as the provisions on personnel, including remote pilots, and organisations involved in those activities***, third-country operators, on ***certain aspects of*** oversight and enforcement, on ***acceptance of third-country certification***, on fines and periodic penalty payments, on the ***Board of Appeal*** and on ***the*** requirements set out in ***Annexes II to IX*** to this Regulation***.***

In addition, the power to adopt acts in accordance with Article 290 TFEU should be delegated to ***the Commission in respect of amending the reference in this Regulation to the environmental protection requirements contained in Amendment 12 of Volume I, Amendment 9 of Volume II, and in the initial issue of Volume III, all as applicable on 1 January 2018, of Annex 16 to the Chicago Convention, in order to update them in light of subsequent amendments to Annex 16 to that Convention***.

(78) ***When adopting the delegated acts amending the Annexes II to IX to this Regulation, the Commission should take due account of the international standards and recommended practices, and in particular of the international standards set out in all of the Annexes to the Chicago Convention.***

(79) ***When adopting delegated acts under this Regulation,*** it is of particular importance that the Commission ***carry*** out appropriate consultations during its preparatory work, including at expert level***, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[23]. In particular, to ensure equal participation in the preparation of delegated acts,*** the European Parliament and ▌the Council ***receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.***

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23 OJ L 123, 12.5.2016, p. 1.

(80) ANS Providers should establish and implement contingency planning for a disruption of ATM services.

(81) The involvement of European third countries should be pursued to ensure the improvement of civil aviation safety throughout Europe. European third countries that have concluded international agreements with the Union to adopt and apply the Union acquis in the field covered by this Regulation should be associated with the work of the Agency in accordance with ***rules and procedures*** set in the framework of those agreements.

(82) This Regulation sets common rules in the field of civil aviation and maintains the establishment of the Agency. Regulation (EC) No 216/2008 should therefore be repealed.

(83) Since the rules necessary for the interoperability of the European air traffic management network (EATMN) are either contained in this Regulation or will be contained indelegated or implementing acts adopted on the basis thereof, Regulation (EC) No 552/2004 of the European Parliament and of the Council[24] should be repealed. However, a certain period of time will be required before necessary delegated and implementing acts can be prepared, adopted and can start to apply. The implementing rules adopted on the basis of Regulation (EC) No 552/2004 should therefore remain applicable for the time being, namely Commission Regulations (EC) No 1033/2006[25], (EC) No 1032/2006[26], (EC) No 633/2007[27], (EC) No 262/2009[28], (EC) No 29/2009[29], (EU) No 73/2010[30] and Commission Implementing Regulations (EU) No 1206/2011[31], (EU) No 1207/2011[32], and (EU) No 1079/2012[33]. Certain Articles of Regulation (EC) No 552/2004, and the Annexes thereto to

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24 Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the interoperability Regulation) (OJ L 96, 31.3.2004, p. 26).

25 Commission Regulation (EC) No 1033/2006 of 4 July 2006 laying down the requirements on procedures for flight plans in the pre-flight phase for the single European sky (OJ L 186, 7.7.2006, p. 46).

26 Commission Regulation (EC) No 1032/2006 of 6 July 2006 laying down requirements for automatic systems for the exchange of flight data for the purpose of notification, coordination and transfer of flights between air traffic control units (OJ L 186, 7.7.2006, p. 27).

27 Commission Regulation (EC) No 633/2007 of 7 June 2007 laying down requirements for the application of a flight message transfer protocol used for the purpose of notification, coordination and transfer of flights between air traffic control units (OJ L 146, 8.6.2007, p. 7).

28 Commission Regulation (EC) No 262/2009 of 30 March 2009 laying down requirements for the coordinated allocation and use of Mode S interrogator codes for the single European sky (OJ L 84, 31.3.2009, p. 20).

29 Commission Regulation (EC) No 29/2009 of 16 January 2009 laying down requirements on data link services for the single European sky (OJ L 13, 17.1.2009, p. 3).

30 Commission Regulation (EU) No 73/2010 of 26 January 2010 laying down requirements on the quality of aeronautical data and aeronautical information for the single European sky (OJ L 23, 27.1.2010, p. 6).

31 Commission Implementing Regulation (EU) No 1206/2011 of 22 November 2011 laying down requirements on aircraft identification for surveillance for the single European sky (OJ L 305, 23.11.2011, p. 23).

32 Commission Implementing Regulation (EU) No 1207/2011 of 22 November 2011 laying down requirements for the performance and the interoperability of surveillance for the single European sky (OJ L 305, 23.11.2011, p. 35).

33 Commission Implementing Regulation (EU) No 1079/2012 of 16 November 2012 laying down requirements for voice channels spacing for the single European sky (OJ L 320, 17.11.2012, p. 14).

which they refer, should therefore also continue to apply in respect of the subject matter covered, until the date of application of the implementing and delegated acts concerned.

(84) ***Regulation (EC) No 216/2008 amends Council Regulation (EEC) No 3922/91[34] by deleting Annex III thereto with effect from the entry into force of the corresponding measures referred to in Article 8(5) of Regulation (EC) No 216/2008. Such measures still awaiting adoption concern flight time limitations and rest requirements with regard to air taxi, emergency medical services and single pilot commercial air transport operations by aeroplanes.The other provisions of Regulation (ECC) No 3922/91 have become obsolete. Regulation (EEC) No 3922/91 should therefore be repealed from the date of application of those measures still awaiting adoption. However, Regulation (EEC) No 3922/91 also establishes the Air Safety Committee, within the meaning of Regulation (EU) No 182/2011, and that committee also assists the Commission in the context of Regulation (EC) No 2111/2005. Regulation (EC) No 2111/2005 should therefore be amended so as to ensure that, for the purposes of that Regulation, that Committee continues to assist the Commission even after the repeal of Regulation (EEC) No 3922/91.***

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

(85) The changes brought about by this Regulation have an impact on the implementation of other Union legislation. Regulation (EC) No 1008/2008 of the European Parliament and of the Council[35] and Regulations (EU) No 996/2010, (EU) No 376/2014 ***and (EC) No 2111/2005*** should therefore be amended accordingly. ***In particular, it should be possible for the responsible safety investigation authorities to decide, taking into account the expected lessons to be drawn for the improvement of aviation safety, not to initiate a safety investigation when an accident or serious incident concerns an unmanned aircraft for which a certificate or declaration is not required under this Regulation and no person has been fatally or seriously injured. It should be clarified that, in such a case, those certificates and declarations are those which pertain to the compliance of the design of unmanned aircraft with the applicable requirements and which are under the oversight of the Agency. That flexibility of the safety investigation authorities should apply from the date of entry into force of this Regulation.***

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

(86) Regulation (EC) No 1008/2008 should be amended to take due account of the possibility, established by this Regulation, that the Agency might become the competent authority for the issuance and oversight of air operator certificates. Moreover, given the growing importance of air carriers with operational bases in several Member States, which results in the competent authority for the operating licences and the competent authority for air operator certificates no longer being necessarily identical, there is a need to reinforce the efficient supervision of those air carriers. Regulation (EC) No 1008/2008 should therefore be amended to ensure close cooperation between the authorities responsible for the oversight in respect of the air operator certificate and the operating licence respectively.

(87) In view of the changes to the Union regulatory regime governing especially unmanned aircraft introduced by this Regulation, Directives 2014/30/EU and 2014/53/EU should be amended. In particular, in respect of aircraft other than unmanned aircraft, as well as the engines, propellers, parts and non-installed equipment associated to aircraft other than unmanned aircraft, it should be ensured that any such aviation equipment continues to be excluded from the scope of those Directives. Unmanned aircraft and their engines, propellers, parts and non-installed equipment should also be excluded from the scope of those Directives, but only from the moment and in as far as the design of the unmanned aircraft and of their engines, propellers, parts and non-installed equipment are certified by the Agency in accordance with this Regulation, given that under this Regulation they are, in that case, subject to essential requirements relating to electromagnetic compatibility and radio spectrum and that compliance with those requirements is to be assessed and ensured as part of the rules on certification, oversight and enforcement provided by this Regulation. However, the exclusion of any such aviation equipment from the scope of Directives 2014/30/EU and 2014/53/EU should only concern aviation equipment which falls within the scope of this Regulation and which is intended exclusively for airborne use on protected aeronautical frequencies. As a consequence, equipment to control unmanned aircraft remotely, as well as equipment which is intended for airborne use but also for certain other uses, is not excluded from the scope of Directives 2014/30/EU and 2014/53/EU and thus can be subject to the rules of both this Regulation and those Directives.

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

HAVE ADOPTED THIS REGULATION:

CHAPTER I

PRINCIPLES

Article 1

Subject matter and objectives

1. The principal objective of this Regulation is to establish and maintain a high uniform level of civil aviation safety in the Union ▌.

2. This Regulation further aims to:

(a) contribute to the wider Union aviation policy and to the improvement of the overall performance of the civil aviation sector;

(b) facilitate, in the fields covered by this Regulation, the free movement of goods, persons, services and capital, providing a level playing field for all actors in the internal aviation market, and improve the competitiveness of the Union's aviation industry;

(c) contribute to a high, uniform level of environmental protection;

(d) facilitate, in the fields covered by this Regulation, the movement of goods, services and personnel worldwide, by establishing appropriate cooperation with third countries and their aviation authorities, and by promoting the mutual acceptance of certificates and other relevant documents;

(e) promote cost-efficiency***, by inter alia avoiding duplication, and promoting*** effectiveness in regulatory***,*** certification ***and oversight*** processes as well as an ***efficient*** use of ***related*** resources at Union and national level;

(f) contribute, in the fields covered by this Regulation, to establishing and maintaining a high uniform level of civil aviation security;

(g) assist Member States***, in the fields covered by this Regulation, in exercising their rights and*** fulfilling their obligations under the Chicago Convention, by ensuring a common interpretation and a uniform ***and timely*** implementation of its provisions***, as appropriate***;

(h) promote, worldwide, the views of the Union regarding civil aviation standards and civil aviation rules, by establishing appropriate cooperation with third countries and international organisations;

(i) promote research and innovation, ***inter alia*** in regulatory***,*** certification ***and oversight*** processes;

(j) promote, in the fields covered by this Regulation, technical and operational interoperability ***and the sharing of administrative best practices;***

(k) support passenger confidence in a safe civil aviation.

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

(a) the preparation, adoption and uniform application of all necessary acts;

(***b)*** ***the taking of measures to improve safety standards;***

(c) ensuring that the declarations and certificates issued in accordance with this Regulation, and with ***the*** delegated and implementing acts ***adopted on the basis thereof,*** are valid ***and recognised*** throughout the Union, without any additional requirements;

(d) the development, with the involvement of standardisation and other industry bodies, of detailed technical standards to be used as a means of compliance with this Regulation, and with the delegated and implementing acts adopted on the basis thereof, where appropriate;

(e) the establishment of an independent European Union Aviation Safety Agency (the 'Agency');

(f) the uniform implementation of all necessary acts by the national competent authorities and the Agency, within their respective areas of responsibility;

(g) the gathering, analysis and exchange of information to ***support*** evidence-based decision making;

(h) the undertaking of awareness and promotion initiatives, including training, communication and dissemination of relevant ▌ information.

Article 2

Scope

1. This Regulation shall apply to:

(a) the design and production of ***products, parts and equipment to control*** aircraft ***remotely*** by a natural or legal person under the oversight of the Agency or a Member State***, to the extent not covered by point (b)***;

(b) the design, production, maintenance and operation of aircraft, as well as their ***engines, propellers***, parts***,*** non-installed equipment ***and equipment to control aircraft remotely***, where the aircraft is ***or will be***:

(i) registered in a Member State, unless and to the extent that the Member State has transferred its responsibilities pursuant to the Chicago Convention to a third country and the aircraft is operated by a third country ***aircraft*** operator;

(ii) registered in a third country and operated by an ***aircraft*** operator established, residing or with a principal place of business in the territory to which the Treaties apply;

(iii) an unmanned aircraft, that is registered neither in a Member State nor in a third country and that is operated within the territory to which the Treaties apply by an aircraft operator established, residing or with a principal place of business within that territory;

(c) the operation of aircraft into, within, or out of the ***territory to which the Treaties apply*** by a third country ***aircraft*** operator;

(d) the design, production, maintenance and operation of ***safety-related*** aerodrome equipment used or intended for use at the aerodromes referred to in point (e) and the provision of groundhandling services and AMS at those aerodromes;

(e) the design, maintenance and operation of aerodromes, ***including the safety-related equipment used at those aerodromes,*** located in the territory to which the Treaties apply, which ▌:

(i) ***are*** open to public use;

(ii) serve commercial air transport; ▌ and

(iii) have a paved ***instrument*** runway of 800 metres or more, or exclusively serve helicopters using instrument approach or departure procedures;

(f) without prejudice to Union and national law on environment and land-use planning, the safeguarding of surroundings of the aerodromes referred to in point (e);

(g) the provision of ATM/ANS in the Single European Sky airspace, and the design, production, maintenance and operation of systems and constituents used in the provision of those ATM/ANS;

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(h) without prejudice to Regulation (EC) No 551/2004 of the European Parliament and of the Council[36] and the responsibilities of Member States with regard to airspace under their jurisdiction, the design of airspace structures in the Single European Sky airspace;

[36] Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation) (OJ L 96, 31.3.2004, p. 20).

2. This Regulation shall also apply to the personnel and organisations involved in the activities referred to in paragraph 1.

3. This Regulation shall not apply to:

(a) ▌ aircraft, and their ***engines, propellers, parts, non-installed equipment and equipment to control aircraft remotely, while carrying out military, customs, police, search and rescue, firefighting, border control***, ***coastguard or similar activities or services under the control and responsibility of a Member State, undertaken in the public interest by or on behalf of a body vested with the powers of a public authority,*** and the personnel and organisations involved in the activities and services performed by ***those*** aircraft;

(b) aerodromes or parts thereof, as well as equipment, personnel and organisations, that are controlled and operated by the military;

(c) ATM/ANS, including systems and constituents, personnel and organisations, that are provided or made available by the military;

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

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

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Without prejudice to the obligations of Member States under the Chicago Convention, aircraft covered by Annex I to this Regulation and registered in a Member State may be operated in other Member States, subject to the agreement of the Member State in the territory of which the operation takes place. Such aircraft may also be maintained, and their design may be modified, in other Member States, provided that such design modifications and such maintenance activities are carried out under the oversight of the Member State where the aircraft is registered and in accordance with procedures established by the national law of that Member State.

4. ***By derogation from point (d) of the first subparagraph of paragraph 3, this Regulation, and the delegated and implementing acts adopted on the basis thereof, shall*** apply to the design, production and maintenance of ***an*** aircraft type ***falling within the scope of points (e), (f), (g), (h), or (i) of point 1 of Annex I*** and to the personnel and organisations involved in those activities, where:

(a) the ***organisation responsible for the design of that aircraft type has applied for a type certificate to the Agency in accordance with Article 11 or, if applicable, has made a declaration to the Agency in accordance with point (a) of Article 18(1) in respect of that aircraft type;***

(b) that aircraft type is intended for serial production; and

(c) the design of that aircraft type has not been ***previously*** approved in accordance with the national laws of a Member State.

This Regulation, and the delegated and implementing acts adopted on the basis thereof, shall apply with respect to the aircraft type concerned from the date on which the type certificate is issued or, if applicable, from the date on which the declaration is made. However, the provisions regarding the assessment of the application for the type certificate and the issuance of the type certificate by the Agency shall apply from the date at which the application is received.

5. Without prejudice to ***national security and defence requirements, and*** Article ***7(5)*** of Regulation (EU) No ***550/2004*** of the European Parliament and of the Council[37], Member States shall ensure that*:*

(i) the ▌ facilities referred to in point (b) of the first subparagraph of paragraph 3 of this Article that are open to ***public use;*** and

[37] Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation) (OJ L 96, 31.3.2004, p. 10).

(ii) the ATM/ANS referred to in point (c) of the first subparagraph of paragraph 3 of this Article that are provided ***to*** air traffic ***to which Regulation (EC) No 549/2004 applies,***

offer a level of safety ***and interoperability with civil systems*** that is ***as effective as*** that resulting from the application of the essential requirements set out in Annexes VII and VIII to this Regulation.

6. ***A*** Member ***State*** may decide to apply any, or any combination, of Section I, II, III, ▌ or VII of Chapter III, to some or all activities referred to in point (a) of the first subparagraph of paragraph 3 ▌ and to the personnel and organisations involved in those activities***, where it considers*** that***, in light of the characteristics of the activities, personnel and organisations in question and the purpose and content of the provisions concerned, those provisions can be effectively applied***.

From the date specified in that decision, the activities, personnel and organisations concerned shall be solely regulated by the provisions of the Section, or Sections, concerned and by the provisions of this Regulation related to the application of those sections.

The Member State concerned shall ***without delay*** notify the Commission and the Agency of its ***decision and shall provide them with*** all relevant information, ▌ in particular:

(a) the Section or Sections ***concerned***;

(b) the activities, personnel and organisations concerned;

(c) the reasons for ***its*** decision; and

(d) the date ***from*** which that ▌ decision ***applies***.

Where the Commission ▌, after consulting the Agency, ***considers that the condition specified in the first subparagraph has not been met, the Commission shall adopt*** implementing acts setting out its ***decision to that effect. Upon notification of such implementing acts to the Member State concerned, that Member State shall without delay take a decision to modify or revoke the earlier decision referred to in the first subparagraph of this paragraph and shall inform the Commission and the Agency thereof.***

Without prejudice to the fourth subparagraph, a Member State may also at any time decide to modify or revoke the earlier decision referred to in the first subparagraph of this paragraph. In such cases, it shall without delay inform the Commission and the Agency thereof.

The Agency shall include in the repository referred to in Article 74 ***all of the decisions of the Commission and of the Member States that have been notified pursuant to this paragraph***.

▌

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

▌

7. Member States may decide to exempt from this Regulation the design, maintenance and operation of an aerodrome, and the ***safety-related*** equipment used at that aerodrome, where that aerodrome handles no more than 10 000 ***commercial air transport*** passengers per year and no more than 850 movements related to cargo operations per year, and provided that ***Member States concerned ensure that*** such exemption does not endanger compliance with the essential requirements referred to in Article 33.

▌

From the date specified in ***that*** exemption decision, the design, maintenance and operation of the aerodrome concerned ▌ and the ***safety-related*** equipment ***and groundhandling services and AMS at that aerodrome*** shall no longer be regulated by this Regulation and by the delegated and implementing acts adopted on the basis thereof.

The Member State concerned shall, without delay, notify the Commission and the Agency of its exemption decision and the reasons for the adoption thereof.

Where the Commission, after consulting the Agency, considers that such exemption by a Member State does not comply with the conditions specified in the first subparagraph, the Commission shall adopt implementing acts setting out its decision to that effect. Upon notification of such implementing acts to a Member State concerned, that Member State shall without delay modify or revoke its exemption decision and shall inform the Commission and the Agency thereof.

The Member States shall also notify to the Commission and the Agency the exemptions which they have granted pursuant to Article 4(3b) of Regulation (EC) No 216/2008.

Member States shall, on an annual basis, examine the traffic figures of the aerodromes that they have exempted pursuant to this paragraph ***or Article 4(3b) of Regulation (EC) No 216/2008.*** Where that examination demonstrates that, over three consecutive years, one of those aerodromes handles more than 10 000 ***commercial air transport*** passengers per year ***or*** more than 850 movements related to cargo operations per year, the Member State concerned shall revoke the exemption of that aerodrome. In that case, it shall inform the Commission and the Agency accordingly.

The ▌ Agency shall include in the repository referred to in Article 74 ***all of the decisions of the Commission and of the Member States that have been notified pursuant to this paragraph***.

8. ***A Member State may decide to exempt from this Regulation the design, production, maintenance and operation activities in respect of one or more of the following categories of aircraft:***

(i) ***aeroplanes, other than unmanned aeroplanes, which have no more than two seats, measurable stall speed or minimum steady flight speed in landing configuration not exceeding 45 knots calibrated air speed and a maximum take-off mass (MTOM), as recorded by the Member State, of no more than 600 kg for aeroplanes not intended to be operated on water or 650 kg for aeroplanes intended to be operated on water;***

(ii) ***helicopters, other than unmanned helicopters, which have no more than two seats and a MTOM, as recorded by the Member State, of no more than 600 kg for helicopters not intended to be operated on water or 650 kg for helicopters intended to be operated on water;***

(iii) ***sailplanes, other than unmanned sailplanes, and powered sailplanes, other than unmanned powered sailplanes, which have no more than two seats and a MTOM, as recorded by the Member State, of no more than 600 kg.***

However, as regards the categories of aircraft referred to in the first subparagraph Member States may not take such a decision concerning aircraft in respect of which a certificate has been issued, or has been deemed to have been issued, in accordance with Regulation (EC) No 216/2008 or with this Regulation, or in respect of which a declaration has been made in accordance with this Regulation.

9. An exemption decision taken by a Member State pursuant to paragraph 8 shall not prevent an organisation with a principal place of business in the territory of that Member State from deciding to carry out its design and production activities in respect of aircraft covered by that decision in accordance with this Regulation and with the delegated and implementing acts adopted on the basis thereof. Where such an organisation takes such a decision it shall inform the Member State concerned thereof. In such cases, the exemption decision taken by the Member State pursuant to paragraph 8 shall not apply to those design and production activities or to the aircraft designed and produced as a result of those activities.

10. Without prejudice to obligations of Member States under the Chicago Convention, aircraft to which the exemption decision taken pursuant to paragraph 8 applies and which are registered in the Member State that took that decision may be operated in other Member States, subject to the agreement of the Member State in the territory of which the operation takes place. Such aircraft may also be maintained, or its design may be modified, in other Member States, provided that such maintenance activities and such design modifications are carried out under the oversight of the Member State where the aircraft is registered and in accordance with procedures established in the national law of that Member State.

Any certificate that is issued in respect of aircraft to which an exemption decision taken pursuant to paragraph 8 applies shall clearly indicate that that certificate is issued not under this Regulation but under the national law of the Member State which is issuing the certificate. Other Member States may accept such national certificates only if they themselves have taken a corresponding decision pursuant to paragraph 8.

11. Any provisions of national law of the Member State which has taken an exemption decision pursuant to paragraph 8 regulating the design, production, maintenance and operation activities of the aircraft to which that decision applies shall be proportionate to the nature and risk of the activity concerned and shall take account of the objectives and principles set out in Articles 1 and 4 respectively.

The Member State which has taken an exemption decision pursuant to paragraph 8 shall, without delay, notify the Commission and the Agency of that decision and provide them with all relevant information, and in particular the date from which the that decision applies and the category of aircraft that it concerns.

A Member State may decide to modify or revoke an exemption decision that it has taken pursuant to paragraph 8. In such cases, it shall without delay inform the Commission and the Agency thereof.

The Agency shall include in the repository referred to in Article 74 all of the decisions of the Member States that have been notified pursuant to this paragraph.

An exemption decision taken by a Member State pursuant to paragraph 8 shall also apply to the organisations and personnel involved in the design, production, maintenance and operation activities to which that decision applies.

Article 3

Definitions

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

(1) 'oversight' means the verification, by or on behalf of the competent authority, on a continuous basis that the requirements ***of this Regulation and of the delegated and implementing acts adopted on the basis thereof,*** on the basis of which a certificate has been issued or ▌ in respect of which a declaration has been made, continue to be complied with;

(2) ‘Chicago Convention’ means the Convention on International Civil Aviation and the Annexes thereto, signed in Chicago on 7 December 1944;

(3) ‘product’ means an aircraft, an engine or a propeller;

(4) ‘part’ means any ***element of a product, as defined by that product’s type design***;

(5) ‘ATM/ANS’ ***means air traffic management and air navigation services and covers all of the following:*** the air traffic management functions and services as defined in point (10) of Article 2 of Regulation ***(EC) No 549/2004;*** the air navigation services as defined in point (4) of Article 2 of that Regulation, including the network management functions and services referred to in Article ***6*** of ▌Regulation ***(EC) No 551/2004, as well as services which augment signals emitted by satellites of core constellations of GNSS for the purpose of air navigation; flight procedures design;*** and services consisting in the origination and processing of data and the formatting and delivering of data to general air traffic for the purpose of ▌air navigation;

(6) 'ATM/ANS constituent' means ***tangible objects such as hardware and intangible objects such as software upon which the interoperability of the EATMN depends***;

(7) 'ATM/ANS system' means ***the aggregation of airborne and ground-based constituents, as well as space-based equipment, that provides support for air navigation services for all phases of flight***;

(8) 'ATM Master Plan' means the ***plan endorsed by Council Decision 2009/320/EC[38], in accordance with*** Article ***1***(***2***) of ***Council*** Regulation (***EC) No 219/2007[39]***;

(9) 'certification' means any form of recognition in accordance with this Regulation, based on an appropriate assessment, that ***a legal*** or ***natural*** person, product, part, non-installed equipment, ***equipment to control unmanned aircraft remotely,*** aerodrome, ***safety-related*** aerodrome equipment, ATM/ANS system, ATM/ANS constituent or flight simulation training device complies with the applicable requirements of this Regulation and of the delegated and implementing acts adopted on the basis thereof, through the issuance of a certificate attesting such compliance;

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38 ***Council Decision 2009/320/EC of 30 March 2009 endorsing the European Air Traffic Management Master Plan of the Single European Sky ATM Research (SESAR) project (OJ L 95, 9.4.2009, p. 41).***

39 ***Council Regulation (EC) No 219/2007 of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR) (OJ L 64, 2.3.2007, p. 1).***

(10) ‘declaration’ means any written statement made in accordance with this Regulation under the sole responsibility of a legal or natural person subject to this Regulation and which confirms that the applicable requirements of this Regulation and of the delegated and implementing acts adopted on the basis thereof relating to ***a legal*** or ***natural*** person, product, part, non-installed equipment, ***equipment to control unmanned aircraft remotely, safety-related*** aerodrome equipment, ATM/ANS system, ATM/ANS constituent or flight simulation training device are complied with;

(11) ‘qualified entity’ means an accredited legal or natural person which may be charged with certain certification or oversight tasks under this Regulation by and under the control and the responsibility of the Agency or a national competent authority;

(12) ‘certificate’ means any certificate, approval, licence, authorisation, attestation or other document issued as the result of a certification attesting compliance with the applicable requirements;

(13) ‘***aircraft*** operator’ means any legal or natural person operating or proposing to operate one or more aircraft***;***

(14) 'aerodrome operator' means any legal or natural person operating or proposing to operate one or more aerodromes;

(15) 'flight simulation training device' means any type of device in which flight conditions are simulated on the ground, including flight simulators, flight training devices, flight and navigation procedures trainers and basic instrument training devices;

(16) 'aerodrome' means a defined area, on land or on water, on a fixed, fixed offshore or floating structure, including any buildings, installations and equipment thereon, ***intended to be*** used either wholly or in part for the arrival, departure and surface movement of aircraft;

(17) '***safety-related*** aerodrome equipment' means any instrument, equipment, mechanism, apparatus, appurtenance, software or accessory that is used or intended to be used to contribute to the ***safe*** operation of aircraft at an aerodrome;

(18) ‘apron’ means a defined area of an aerodrome intended to accommodate aircraft for purposes of loading or unloading passengers, ***baggage,*** mail or cargo, fuelling, parking or maintenance;

(19) ‘apron management service (AMS)’ means a service provided to regulate the activities and the movement of aircraft and vehicles on an apron;

(20) ‘flight information service’ means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights;

(21) ‘general air traffic’ means all movements of civil aircraft and state aircraft carried out in conformity with the procedures of the International Civil Aviation Organization ('ICAO');

(22) ‘international standards and recommended practices’ means the international standards and recommended practices adopted by ICAO in accordance with Article 37 of the Chicago Convention;

(23) ‘groundhandling service’ means any service provided at aerodromes comprising safety-related activities in the areas of ground ▌supervision, ***flight dispatch and load control,*** passenger handling, baggage handling, freight and mail handling, ***apron*** handling ***of aircraft***, aircraft services, fuel and oil handling, ***and loading of catering; including the case where aircraft operators provide those groundhandling services to themselves (self-handling)***;

(24) ‘commercial air transport’ means an aircraft operation to transport passengers, cargo or mail for remuneration or other valuable consideration ▌;

(25) ‘safety performance’ means the Union's, a Member State's or an organisation's safety achievement, as defined by its safety performance targets and safety performance indicators;

(26) ‘safety performance indicator’ means a parameter used for monitoring and assessing safety performance;

(27) ‘safety performance target’ means a planned or intended objective for complying with safety performance indicators over a given period of time;

(28) ‘aircraft’ means any machine that can derive support in the atmosphere from the reactions of the air other than reactions of the air against the earth's surface;

(29) ‘non-installed equipment’ means any ***instrument,*** equipment***, mechanism, apparatus, appurtenance, software or accessory*** carried on board of an aircraft ***by the aircraft operator, which is not a part, and which is used or intended to be used in operating or controlling an aircraft, supports the occupants' survivability, or which could impact the safe operation of the aircraft***;

(30) ‘unmanned aircraft’ means any aircraft ***operating*** or designed to ***operate autonomously or to be piloted remotely*** without a pilot on board;

(31) ‘remote pilot’ means a natural person responsible for safely conducting the flight of an unmanned aircraft by operating its flight controls, either manually or, when the unmanned aircraft flies automatically, by monitoring its course and remaining able to intervene and change the course at any time;

(32) ‘equipment to control unmanned aircraft remotely’ means any ***instrument,*** equipment***, mechanism***, apparatus, appurtenance, software or accessory that is necessary for the safe operation of an unmanned aircraft, which is not ***a part, and which is not carried on board of that unmanned aircraft***;

▌

(33) ‘Single European Sky airspace’ means airspace ***above*** the territory to which the Treaties apply, as well as any other airspace where Member States apply Regulation (EU) No ***551/2004*** in accordance with Article 1(***3***) of that Regulation;

(34) ‘national competent authority’ means one or more entities designated by a Member State and having the necessary powers and allocated responsibilities for performing the tasks related to certification, oversight and enforcement in accordance with this Regulation and with the delegated and implementing acts adopted on the basis thereof***, and with Regulation (EC) No 549/2004***.

Article 4

Principles for measures under this Regulation

1. When taking measures under this Regulation the Commission, the Agency and the Member States shall:

(a) reflect the state of the art and best practices in the field of aviation, and take into account worldwide aviation experience and scientific and technical progress in the respective fields;

(b) build on the best available evidence and analysis;

(c) allow for immediate reaction to established causes of accidents, serious incidents and intentional security breaches;

(d) take into account interdependencies between the different domains of aviation safety, and between aviation safety***, cyber security*** and other technical domains of aviation regulation;

(e) lay down, where possible, requirements ***and procedures*** in a manner which ***is performance-based and*** focuses on objectives to be achieved, while allowing different means of achieving compliance with ***those performance-based*** objectives;

(f) promote cooperation and efficient use of resources between authorities at Union and Member State level;

(g) take non-binding measures, including safety promotion actions, where possible;

(h) take into account the international ***rights and*** obligations in the field of civil aviation of the Union and of the Member States***, including those under the Chicago Convention***.

2. The measures taken under this Regulation shall correspond and be proportionate to the nature and risk of each particular activity to which they relate. In preparing and enacting such measures, the Commission, the Agency and the Member States shall take into account, as appropriate for the activity concerned:

(a) whether persons other than flight crew are carried on board, and in particular whether the operation is open to members of the public;

(b) to what extent third parties or property on the ground could be endangered by the activity;

(c) the complexity**,** performance ***and operational characteristics*** of the aircraft involved;

(d) the purpose of the flight***, the type of aircraft*** and type of airspace used;

(e) the type, scale, and complexity of the operation or activity, including, where relevant, the size and type of the traffic handled by the responsible organisation or person;

(f) the extent to which the persons affected by the risks involved in the operation are able to assess and exercise control over those risks;

(g) the results of past certification and oversight activities.

CHAPTER II

AVIATION SAFETY MANAGEMENT

Article 5

European Aviation Safety Programme

1. The Commission shall, after consulting the Agency ***and the Member States***, adopt, publish and update as required a document describing the functioning of the European aviation safety system, containing the rules, activities and processes which are used to manage the safety of civil aviation in the Union in accordance with this Regulation (the 'European Aviation Safety Programme').

2. The European Aviation Safety Programme shall include ***at least the elements related to State safety management responsibilities described in the international standards and recommended practices.***

▌

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

Article 6

European Plan for Aviation Safety

1. The Agency***, in close collaboration with Member States and relevant stakeholders as provided for in the second subparagraph of Article 5(2),*** shall develop, adopt, publish, and subsequently update at least on a yearly basis a European Plan for Aviation Safety. Based on the assessment of relevant safety information, the European Plan for Aviation Safety shall identify the main safety risks affecting the European aviation safety system and set out the necessary actions to mitigate those risks.

2. The Agency***, in close collaboration with Member States and relevant stakeholders as provided for in the second subparagraph of Article 5(2),*** shall document in a dedicated safety risk portfolio the safety risks referred to in paragraph 1 of this Article and monitor the implementation of related mitigation actions by the parties concerned, including, where appropriate, by setting safety performance indicators.

3. The European Plan for Aviation Safety shall specify, taking into account the objectives set out in Article 1, ***the*** level of safety performance in the Union. The Commission, the Agency and the Member States shall jointly aim ***to achieve that level of safety performance.***

Article 7

State Safety Programme

1. Each Member State shall***, in consultation with relevant stakeholders,*** establish ***and maintain a State*** safety programme for the management of civil aviation safety in relation to the aviation activities under its responsibility (the '***State*** Safety Programme'). That programme shall be commensurate with the size and the complexity of those activities and shall be consistent with the European Aviation Safety Programme.

2. The ***State*** Safety Programme shall include ▌ at least ***the elements related to State safety management responsibilities described in the international standards and recommended practices.***

3. The ***State*** Safety Programme shall specify, taking into account the objectives set out in Article 1 and the ▌ level of safety performance referred to in Article 6(3), ***the*** level of safety performance to be achieved at national level in respect of the aviation activities under the responsibility of the Member State concerned.

Article 8

State Plan for Aviation Safety

1. The ***State*** Safety Programme shall ***include or*** be accompanied by a ***State*** Plan for Aviation Safety. Based on the assessment of relevant safety information, each Member State***, in consultation with relevant stakeholders,*** shall identify in that plan the main safety risks affecting its national civil aviation safety system and shall set out the necessary actions to mitigate those risks.

2. The ***State*** Plan for Aviation Safety shall include the risks and actions identified in the European Plan for Aviation Safety that are relevant for the Member State concerned. The Member State shall inform the Agency of the risks and actions identified in the European Plan for Aviation Safety that it considers not to be relevant for its national aviation safety system and the reasons thereof.

CHAPTER III
SUBSTANTIVE REQUIREMENTS

SECTION I
Airworthiness and environmental protection

Article 9
Essential requirements

1. Aircraft referred to in points (a) and (b) of Article 2(1), ***other than unmanned aircraft,*** and their engines, propellers, parts and non-installed equipment shall comply with the essential requirements for airworthiness set out in Annex II to this Regulation**.**

2. ***As*** regards noise and emissions, ***those aircraft and their engines, propellers, parts and non-installed equipment shall comply with the environmental protection requirements contained in Amendment 12 of Volume I, in Amendment 9 of Volume II, and in the initial issue of Volume III, all as applicable on 1 January 2018, of Annex 16 to the Chicago Convention.***

The essential requirements for ▌environmental compatibility ▌set out in Annex III ***to this Regulation shall apply to products, parts and non-installed equipment to the extent that the provisions of the Chicago Convention referred to in the first subparagraph of this paragraph do not contain environmental protection requirements***.

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

Article 10

Compliance

1. As regards aircraft referred to in point (a) of Article 2(1)***, other than unmanned aircraft,*** and their engines, propellers and parts, compliance with Article 9 shall be ensured in accordance with Articles 11 and 12 and Article 15(1).

2. ***As regards aircraft referred to in point (b)(i) of Article 2(1), other than unmanned aircraft, and their engines, propellers, parts and non-installed equipment, compliance with Article 9 shall be ensured in accordance with Articles 11 to 16.***

Article 11

Design of products

The design of a product shall be subject to certification and shall be issued with a type certificate. Changes to that design shall also be subject to certification and shall result in the issuance of a certificate of changes, including of supplemental type certificates. Repair designs shall be subject to certification and shall be issued with an approval.

An approval shall be issued in respect of the operational suitability data associated with a type design. That approval shall be included in the type certificate or the restricted type certificate referred to in point (b) of Article 18(1), as applicable.

That type certificate, that certificate of changes**,** that approval of repair designs ***and that approval of the operational suitability data*** shall be issued upon application when the applicant has demonstrated that the design of the product complies with the ▌ certification basis established in accordance with the delegated acts referred to in point (b) (i) and (ii) of Article 19(1)***, as applicable,*** and that the design of the product has no feature or characteristic making it environmentally incompatible or unsafe for operation.

That type certificate, that certificate of changes***, that approval of repair design*** and that approval of ***the operational suitability data*** may also be issued without such application, by an organisation approved in accordance with Article 15 which has been granted the privilege to issue those certificates or approvals in accordance with the delegated act referred to in point (k) of Article 19(1), when that organisation has determined that the design of the product complies with the conditions established in the ***third*** subparagraph of this paragraph.

No separate type certificate shall be required for the design of engines and propellers that have been certified as part of the design of an aircraft in accordance with this Article.

Article 12

Design of parts

Unless otherwise established by delegated acts referred to in Article 19, the design of parts shall be subject to certification and shall be issued with a certificate.

That certificate shall be issued upon application, when the applicant has demonstrated that the design of the part complies with the certification basis established in accordance with the delegated acts referred to in point (b)(iii) of Article 19(1).

That certificate may also be issued without such application, by an organisation approved in accordance with Article 15 which has been granted a privilege to issue those certificates in accordance with the delegated act referred to in point (k) of Article 19(1), when that organisation has determined that the design of the part complies with the certification basis established in accordance with the delegated acts referred to in point (b) (iii) of Article 19(1).

No separate certificate shall be required for the design of parts that have been certified as part of the design of a product in accordance with Article 11.

Article 13

Design of non-installed equipment

Where the delegated acts referred to in Article 19 so provide, the design of non-installed equipment shall be subject to certification and shall be issued with a certificate.

That certificate shall be issued upon application, when the applicant has demonstrated that the design of non-installed equipment complies with the certification basis established in accordance with the delegated acts referred to in point (b)(iii) of Article 19(1).

That certificate may also be issued without such application, by an organisation approved in accordance with Article 15 which has been granted a privilege to issue those certificates in accordance with the delegated act referred to in point (k) of Article 19(1), when that organisation has determined that the design of the non-installed equipment complies with the certification basis established in accordance with the delegated acts referred to in point (b)(iii) of Article 19(1).

Article 14

Individual aircraft

1. Individual aircraft shall be subject to certification and shall be issued with a certificate of airworthiness and, where the delegated acts referred to Article 19 so provide, a noise certificate.

Those certificates shall be issued upon application, when the applicant has demonstrated that the aircraft is in conformity with the design certified in accordance with Article 11, and that the aircraft is in condition for safe and environmentally compatible operation.

2. ***The certificates referred to in paragraph 1 of this Article shall remain valid as long as the aircraft and its engines, propellers, parts and non-installed equipment are maintained in accordance with the implementing acts related to continuing airworthiness referred to in Article 17 and are in condition for safe and environmentally compatible operation.***

Article 15

Organisations

1. Unless otherwise established by the delegated acts referred to in Article 19, organisations responsible for the design and ***production*** of products, parts and non-installed equipment shall be subject to certification and shall be issued with an approval. That approval shall be issued upon application, when the applicant has demonstrated that it complies with the rules established by the delegated acts referred to in Article 19 for ensuring compliance with the essential requirements referred to in Article 9. That approval shall specify the privileges granted to the organisation and the scope of the approval.

2. An approval shall also be required in respect of:

(a) organisations responsible for the maintenance and continuing airworthiness management of products, parts and non-installed equipment, ***and***

(b) organisations involved in the training of the personnel responsible for the release of a product, a part or non-installed equipment after maintenance;

However, the first subparagraph shall not apply to situations in which, as a result of the adoption of the implementing acts referred to in point (b) of Article 17(1), taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, such approvals are not required.

The approvals referred to in this paragraph shall be issued upon application, ***when*** the applicant has demonstrated that it complies with the ***implementing acts*** referred to in Article ***17*** adopted to ensure compliance with the essential requirements referred to in Article 9.

3. The approvals referred to in paragraph 2 of this Article shall specify the privileges granted to the organisation. Those approvals may be amended to add or remove privileges, in accordance with the implementing acts referred to in point (b) of Article 17(1).

4. The approvals referred to in paragraph 2 of this Article may be limited, suspended or revoked when the holder no longer complies with the rules and procedures for issuing and maintaining such approval, in accordance with the implementing acts referred to in point (b) of Article 17(1).

5. When as a result of the adoption of the implementing acts referred to in point (b) of Article 17(1), taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, an approval referred to in paragraph 2 of this Article is not required, implementing acts referred to in Article 17 may still require the organisation concerned to declare its capability, and the availability to it of the means, to discharge its responsibilities associated with the activities that it performs in compliance with those implementing acts.

Article 16

Personnel

1. ***Personnel*** responsible for the release of a product, a part or non-installed equipment after maintenance shall be ***required to hold a licence, except for situations in which, as a result of the adoption of implementing acts referred to in point (d) of Article 17(1), taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, such licences are not required.***

That licence shall be issued upon application, ***when the applicant has demonstrated that he or she complies with the implementing acts referred to in Article 17 adopted to ensure compliance with the essential requirements referred to in Article 9.***

2. ***The licence referred to in paragraph 1 of this Article shall specify the privileges granted to the personnel. The licence may be amended to add or remove privileges, in accordance with the implementing acts referred to in point (d) of Article 17(1).***

3. The licence referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder no longer complies with the rules and procedures for issuing and maintaining such licence, in accordance with the implementing acts referred to in point (d) of Article 17(1).

Article 17

Implementing acts as regards airworthiness

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 9, for the aircraft referred to in points (a) and (b) of Article 2(1), other than unmanned aircraft, and their engines, propellers, parts and non-installed equipment, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:

(a) the rules and procedures for maintaining the certificates referred to in Article 14 and in point (a) of the first subparagraph of Article 18(2);

(b) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the approvals referred to in Article 15(2) and for the situations in which such approvals are not to be required;

(c) the rules and procedures for declarations referred to in Article 15(5), and for the situations in which such declarations are to be required;

(d) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the licences referred to in Article 16, and for the situations in which such licences are not to be required;

(e) the privileges and responsibilities of the holders of the approvals and licences issued pursuant to Articles 15(2) and 16, and of the organisations making declarations in accordance with Article 15(5);

(f) the rules and procedures for the maintenance of products, parts and non-installed equipment;

(g) the rules and procedures for the continuing airworthiness management of aircraft;

(h) additional airworthiness requirements for products, parts and non-installed equipment, the design of which has already been certified, needed to support continuing airworthiness and safety improvements.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

2. When adopting those implementing acts, the Commission shall ensure compliance with the essential requirements referred to in Article 9 and take due account of the international standards and recommended practices, in particular those set out in Annexes 1, 6 and 8 to the Chicago Convention.

Article 18

Derogations

1. By way of derogation from Articles 9 ***to 13,*** as appropriate:

(a) the compliance with the applicable essential requirements referred to in Article 9 of the design of products***,*** of parts ***and of non-installed equipment*** may be assessed without the issuance of a certificate, where the delegated acts referred to in point (d)(i) of Article 19(1) so provide. In that case, the delegated acts referred to in point (j) of Article 19(1) are to define the conditions and procedures for such assessment. The delegated acts referred to in point (d)(i) of Article 19(1) might provide that the organisation responsible for the design and ***production*** of those products***,*** parts ***and non-installed equipment*** is to be allowed to declare the compliance of ***their*** design with those essential requirements and with the detailed specifications established in accordance with the delegated acts referred to in point (i) of Article 19(1) adopted to ensure compliance of those designs with those essential requirements;

(b) when the design of an aircraft does not comply with the essential requirements referred to in Article 9, a restricted type certificate may be issued. In that case, that certificate shall be issued upon application, when the applicant has demonstrated that the design of the aircraft complies with ***the certification basis*** established in accordance with the delegated ***acts referred*** to ***in point (b)(i) and (ii) of*** Article 19(1) and that the design of the aircraft is adequate, as regards airworthiness and environmental compatibility, in light of the intended use of the aircraft***.***

2. By way of derogation from Articles 9, 10 and 14, as appropriate:

(a) in accordance with the delegated acts referred to in Article 19, a restricted certificate of airworthiness or a restricted noise certificate shall be issued for aircraft the design of which has either been subject to a declaration in accordance with point (a) of paragraph 1 or for which a restricted type certificate has been issued in accordance with point (b) of paragraph 1. In that case, those certificates shall be issued upon application, when the applicant has demonstrated that the aircraft conforms to that design and that the aircraft is in condition for safe and environmentally compatible operation;

(b) in accordance with the delegated acts referred to Article 19, a permit to fly may be issued to allow the operation of an aircraft which does not have a valid certificate of airworthiness or valid restricted certificate of airworthiness. In that case, such a permit to fly shall be issued, upon application, when the applicant has demonstrated that the aircraft is capable of safely performing a basic flight.

The permit to fly may also be issued without such applications, by an organisation approved in accordance with Article 15 which has been granted a privilege to issue those permits to fly in accordance with the delegated acts referred to in point (k) of Article 19(1) or the implementing act referred to in point (e) of Article 17(1), provided that that organisation has determined that the aircraft is capable of performing safely a basic flight.

The permit to fly shall be subject to appropriate limitations, provided for in the delegated acts referred to in point (f) of Article 19(1), and in particular to limitations to protect the safety of third parties.

Article 19

Delegated powers

1. For the aircraft referred to in points (a) and (b) of Article 2(1)***, other than unmanned aircraft,*** and their engines, propellers, parts and non-installed equipment, the Commission ***is*** empowered to adopt delegated acts in accordance with Article 128, laying down detailed rules with regard to:

(a) detailed environmental protection requirements for products, parts and non-installed equipment, in situations referred to in the second subparagraph of Article 9(2);

(b) the conditions for establishing and notifying to an applicant by the Agency in accordance with Article 77:

(i) the type-certification basis applicable to a product for the purposes of the type-certification referred to in Article 11 and point (b) of Article 18(1);

(i***i) the certification basis applicable to a product for the purposes of the approval of operational suitability data referred to in Article 11 including:***

– ***the minimum syllabus of maintenance certifying staff type rating training;***

– ***the minimum syllabus of pilot type rating and the reference data for the objective qualification of associated simulators;***

– ***the master minimum equipment list, as appropriate;***

– ***aircraft type data relevant to cabin crew;***

– ***additional specifications to ensure compliance with Section III;***

(iii) the certification basis applicable to a part or non-installed equipment***,*** ***including safety-related equipment and instruments referred to in Article 30(7),*** for the purposes of the certification referred to in Articles 12 and 13;

(c) the specific conditions for compliance of aircraft referred to in point (b)(ii) of Article 2(1) with the essential requirements referred to in Article 9;

(d) the conditions for issuing, maintaining, amending, ***limiting,*** suspending or revoking the certificates referred to in Articles 11, 12, 13 and point (b) of Article ▌18(1), including:

(i) the conditions for situations in which, with a view to achieving the objectives set out in Article 1 and while taking account of the nature and risk of the particular activity concerned, ▌ such certificates are to be required or are not to be required, ***or declarations are to be permitted,*** as applicable;

(ii) the conditions concerning the duration of those certificates and concerning the renewal of those certificates where their duration is limited;

(***e***) the conditions for the issuing***, amending, limiting, suspending or revoking of the certificates of airworthiness and noise certificates referred to in Article 14(1), as well as*** restricted certificates of airworthiness and restricted noise certificates referred to in point (a) of ***the first subparagraph of*** Article 18(2);

(***f***) the conditions for the issuing, maintaining, amending, ***limiting,*** suspending, revoking and use of the permits to fly referred to in point (b) of ***the first subparagraph of*** Article 18(2);

▌

(g) the conditions for issuing, maintaining, amending, ***limiting***, suspending or revoking the approvals referred to in Article ***15(1),*** and for the situations in which, with a view to achieving the objectives set out in Article 1 and while taking account of the nature and risk of the particular activity concerned, such approvals are to be required or are not to be required ***or declarations are to be permitted***, as applicable;

▌

(h) the privileges and responsibilities of the holders of the certificates issued pursuant to ***Articles 11, 12, 13, Articles 14(1), 15(1), point (b) of Article 18(1) and Article 18(2)*** and of the organisations that made declarations in accordance with point (a) of Article 18(1) and point (g) of ***this paragraph***;

(i) the conditions for establishing the detailed specifications applicable to the design of products***,*** design of parts ***and design of non-installed equipment*** which are subject to a declaration in accordance with point (a) of Article 18(1);

(j) the conditions and procedures to assess, in accordance with point (a) of Article 18(1), the airworthiness and environmental compatibility of the design of products***, the design of parts,*** and the design of ***non-installed equipment*** without the need to issue a certificate, including the conditions and limitations for operations;

(k) the conditions for organisations that have been issued with an approval in accordance with Article 15***(1)*** to be granted the privilege to issue the certificates referred to in Articles 11, 12, 13 and point (b) of ***the first subparagraph of*** Article 18(2);

▌

2. As regards the airworthiness and environmental compatibility of aircraft referred to in points (a) and (b) of Article 2(1), ***other than unmanned aircraft,*** and their engines, propellers, parts and non-installed equipment, the Commission ***is*** empowered ***to adopt*** delegated acts ▌**,** in accordance with Article 128, to amend ▌ Annexes II and III, where necessary for reasons of technical, operational or scientific developments or evidence in the field of airworthiness or environmental compatibility, in order and to the extent required to achieve the objectives set out in Article 1.

3. As regards the environmental compatibility of aircraft referred to in points (a) and (b) of Article 2(1), other than unmanned aircraft, and their engines, propellers, parts and non-installed equipment, the Commission is empowered to adopt delegated acts in accordance with Article 128, to amend the references to the provisions of the Chicago Convention referred to in the first subparagraph of Article 9(2), in order to update them in light of subsequent amendments to those provisions which enter into force after … [the date of adoption of this Regulation] and which become applicable in all Member States, in so far as such adaptations do not broaden the scope of this Regulation.

SECTION II

Aircrew

Article 20

Essential requirements

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

Article 21

Pilots

1. ***Pilots shall be required to hold*** a pilot licence and a pilot medical certificate appropriate to the operation to be performed***, except for situations in which, as a result of the adoption of implementing acts referred to in point (c)(i) of Article 23(1), taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, such licences or medical certificates are not required***.

2. ***The*** pilot licence referred to in paragraph 1 of this Article shall be issued upon application, ***when*** the applicant has demonstrated that he or she complies with the ***implementing acts*** referred to in Article ***23*** adopted to ensure compliance with the essential requirements referred to in Article 20 ▌.

3. ***The*** pilot medical certificate referred to in paragraph 1 of this Article shall be issued upon application, ***when*** the applicant has demonstrated that he or she complies with the ***implementing acts*** referred to in Article ***23 adopted*** to ensure compliance with the essential requirements referred to in Article 20 ▌**.**

4. The pilot ***licence*** and the pilot medical ***certificate*** referred to in paragraph 1 of this Article shall specify the privileges granted to the pilot.

The pilot licence and pilot medical certificate may be amended to add or remove privileges, in accordance with the implementing acts referred to in point (c) of Article 23(1).

5. ***The pilot licence or the pilot medical certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder no longer complies with the rules and procedures for issuing and maintaining a licence or a medical certificate in accordance with the implementing acts referred to in point (c) of Article 23(1).***

6. ***Training and experience on aircraft not subject to this Regulation may be recognised for the purpose of obtaining the pilot licence referred to in paragraph 1 of this Article, in accordance with the implementing acts referred to in point (c)(iv) of Article 23(1).***

Article 22

Cabin crew

1. Cabin crew involved in commercial air transport operations shall be ***required to hold*** an attestation.

2. ***Taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned***, cabin crew involved in operations other than commercial air transport ***may*** also be ***required to hold*** an attestation***, in accordance with the implementing acts referred to in point (a) of Article 23(2)***.

3. The attestations referred to in paragraphs 1 and 2 of this Article shall be issued upon application, when the applicant has demonstrated that he or she complies with the ***implementing*** acts referred to in Article ***23*** adopted to ensure compliance with the essential requirements referred to in Article ***20.***

4. ***The attestations referred to in paragraphs 1 and 2 of this Article shall specify the privileges granted to the cabin crew. The attestations may be amended to add or remove privileges, in accordance with the implementing acts referred to in point (a) of Article 23(2).***

5. ***The attestations referred to in paragraphs 1 and 2 of this Article may be limited, suspended or revoked when the holder no longer complies with the rules and procedures for issuing or maintaining such attestation, in accordance with the implementing acts referred to in point (a) of Article 23(2).***

6. Before exercising their privileges, and at regular intervals thereafter, cabin crew shall be subject to a medical fitness assessment to ensure compliance with the essential requirements referred to in Article 20 on medical fitness, in accordance with the implementing acts referred to in point (b) of Article 23(2).

Article 23

Implementing acts as regards pilots and cabin crew

1. In order to ensure the uniform implementation of, and compliance with, the essential requirements referred to in Article 20 in respect of pilots who are involved in the operation of aircraft referred to in point (b) of Article 2(1), other than unmanned aircraft, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:

(a) the different categories of pilot licences and pilot medical certificates referred to in Article 21, as well as the different ratings for such pilot licences adequate for the different types of activities performed;

(b) the privileges and responsibilities of the holders of pilot licences, ratings and pilot medical certificates;

(c) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking pilot licences, ratings and pilot medical certificates, including:

(i) the rules and procedures for situations in which such licences, ratings and medical certificates are not to be required;

(ii) the rules and procedures for the conversion of national pilot licences and national pilot medical certificates into the pilot licences and pilot medical certificates referred to in Article 21(1);

(iii) the rules and procedures for the conversion of national flight engineer licences into the pilot licences referred to in Article 21(1);

(iv) the rules and procedures for the recognition of training and experience on aircraft not subject to this Regulation for the purposes of obtaining pilot licences referred to in Article 21(1).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

When adopting those implementing acts, the Commission shall ensure compliance with the essential requirements referred to in Article 20 of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annex 1 to the Chicago Convention.

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

2. In order to ensure the uniform implementation of, and compliance with, the essential requirements referred to in Article 20 in respect of cabin crew who are involved in the operation of aircraft referred to in point (b) of Article 2(1), other than unmanned aircraft, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:

(a) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking cabin crew attestations and for the situations in which such attestations are to be required for cabin crew involved in operations other than commercial air transport;

(b) the rules and procedures for the medical fitness assessment of cabin crew referred to in Article 22;

(c) the privileges and responsibilities of the holders of cabin crew attestations referred to in Article 22.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

Article 24

Training organisations and aero-medical centres

1. ***An approval shall be required in respect of aero-medical centres.***

2. ***An approval shall be required in respect of pilot training organisations and cabin crew training organisations, except for situations in which, as a result of the adoption of implementing acts referred to in point (a) of Article 27(1), taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, such approvals are not required.***

3. ***The approvals*** referred to in paragraphs 1 and 2 of this Article shall be issued upon application, ***when*** the applicant has demonstrated that it complies with the ***implementing acts*** referred to in Article ***27*** adopted to ensure compliance with the essential requirements referred to in Article 20.

4. The ***approvals*** referred to in paragraphs 1 and 2 of this Article shall specify the privileges granted to the organisation.***Those approvals may be amended to add or remove privileges, in accordance with the implementing acts referred to in point (a) of Article 27(1).***

5. ***The approvals referred to in paragraphs 1 and 2 of this Article may be limited, suspended or revoked when the holder no longer complies with the rules and procedures for issuing and maintaining such approval, in accordance with the implementing acts referred to in point (a) of Article 27(1).***

6. ***When as a result of the adoption of the implementing acts referred to in point (a) of Article 27(1), taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, an approval referred to in paragraph 2 of this Article is not required in respect of a pilot training organisation or a cabin crew training organisation, implementing acts referred to in point (b) of Article 27(1) may still require the organisation concerned to declare its capability, and the availability to it of the means, to discharge its responsibilities associated with the activities that it performs in compliance with those implementing acts.***

Article 25

Flight simulation training devices

1. ***A certificate shall be required in respect of*** each flight simulation training device used for the training of pilots***, except for situations in which, as a result of the adoption of implementing acts referred to in point (a) of Article 27(1), taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, such certificates are not required.***

2. The certificate referred to in paragraph 1 of this Article shall be issued upon application, ***when*** the applicant has demonstrated that the ***applicant and the*** device ***comply*** with the ***implementing acts*** referred to in Article ***27*** adopted to ensure compliance with the essential requirements referred to in Article 20.

3. ***The certificate referred to in paragraph 1 of this Article shall specify the functionalities of the device. The certificate may be amended to reflect changes to those functionalities, in accordance with the implementing acts referred to in point (a) of Article 27(1).***

4. ***The certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder or the device no longer complies with the rules and procedures for issuing and maintaining such certificate, in accordance with the implementing acts referred to in point (a) of Article 27(1).***

5. ***Where the implementing acts referred to in Article 27 so provide, the organisation responsible for the operation of the flight simulation training device shall be required to declare the compliance of the device with the essential requirements referred in Article 20 and with the detailed specifications established in accordance with the implementing acts referred to in point (b) of Article 27(1).***

Article 26

Instructors and examiners

1. ***Persons*** responsible for providing flight training, flight simulation training ▌, or for assessing pilots' ▌ skills, as well as aero-medical examiners, shall be ***required to hold a certificate, except for situations in which, as a result of the adoption of implementing acts referred to in point (a) of Article 27(1), taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, such certificates are not required.***

2. ***Taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, persons responsible for providing cabin crew training or for assessing cabin crew skills may be required to hold a certificate, in accordance with the implementing acts referred to in point (a) of Article 27(1).***

3. ***The certificates*** referred to in paragraphs 1 and 2 of this Article shall be issued upon application, ***when*** the applicant has demonstrated that he or she complies with the ***implementing acts*** referred to in Article ***27*** adopted to ensure compliance with the essential requirements referred to in Article 20.

4. ***The certificates referred to in paragraphs 1 and 2 of this Article shall specify the privileges granted.***

Those certificates may be amended to add or remove privileges, in accordance with the implementing acts referred to in point (a) of Article 27(1).

5. ***The certificates referred to in paragraphs 1 and 2 of this Article may be limited, suspended or revoked when the holder no longer complies with the rules and procedures for issuing and maintaining such certificates, in accordance with the implementing acts referred to in point (a) of Article 27(1).***

Article 27

Implementing acts as regards training, testing, checking and medical assessment

1. ***In order to ensure the uniform application of and compliance with the essential requirements*** referred to in Article ***20, for*** flight simulation training devices, ***and for*** persons and organisations involved in the training, testing, checking or medical assessment of ▌ pilots and cabin crew, the Commission shall***, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down*** detailed ***provisions concerning***:

   (a) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking approvals and certificates referred to in Articles 24, 25, 26, and for the situations in which such approvals and certificates are or are not to be required;

(b) the rules and procedures for the declarations by pilot training organisations, and cabin crew training organisations referred to in Article 24(6) and by operators of flight simulation training devices referred to in Article 25(5), and for the situations in which such declarations are to be required;

(c) the privileges and responsibilities of the holders of approvals and certificates referred to in Articles 24, 25 and 26, and of the organisations making declarations in accordance with Articles 24(6) and 25(5).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

When adopting those implementing acts, the Commission shall ensure compliance with the essential requirements referred to in Article 20 and shall take due account of the international standards and recommended practices, in particular those set out in Annexes 1 and 6 to the Chicago Convention.

Article 28

Delegated powers

▌

1. As regards pilots and cabin crew involved in the operation of aircraft referred to in point (b) of Article 2(1), ***other than unmanned aircraft,*** as well as flight simulation training devices, persons and organisations involved in the training, testing, checking or medical assessment of those pilots and cabin crew, the Commission ***is*** empowered ***to adopt*** delegated acts, ▌ in accordance with Article 128, to amend ▌ Annex IV, where necessary for reasons of technical, operational or scientific developments or safety evidence related to aircrew, in order and to the extent required to achieve the objectives set out in Article 1.

2. The rules referred to in paragraph ▌ 1 shall include, where appropriate, provisions for the issuance of all types of pilot licences and ratings required under the Chicago Convention. Those rules may also include provisions for the issuance of other types of licences and ratings.

SECTION III

Air operations

Article 29

Essential requirements

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

Article 30

Aircraft Operators

1. ***In order to ensure compliance with the essential requirements referred to in Article 29, and taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, aircraft operators established, residing or*** with a principal place of business in the territory to which the Treaties apply ***may be required, in accordance with the implementing acts referred to in points (b) and (c) of the first subparagraph of Article 31(1), to:***

(a) ***declare their capability, and the availability to them of the means, to discharge the responsibilities associated with the operation of aircraft in compliance with those implementing acts; or***

(b) ***hold*** a certificate.

2. The certificate referred to in paragraph 1 of this Article shall be issued upon application, ***when*** the applicant has demonstrated that it complies with the ***implementing acts*** referred to in Article 31 adopted to ensure compliance with the essential requirements referred to in Article 29.

3. The certificate referred to in paragraph 1 of this Article shall specify the privileges granted to the ***aircraft*** operator. ***The certificate may be amended to add or remove privileges, in accordance with the implementing acts referred to in point (b) of the first subparagraph of Article 31(1).***

4. The certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked, when the holder no longer complies with the rules and procedures for issuing and maintaining such certificate, in accordance with the implementing acts referred to in point (b) of the first subparagraph of Article 31(1).

5. Taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, the aircraft operators referred to in paragraph 1 of this Article may be required, in accordance with the implementing acts referred to in Article 31, to:

(i) meet specific requirements, when entering into code sharing agreements or lease agreements;

(ii) meet specific requirements when operating an aircraft which is registered in a third country;

(iii) establish a Minimum Equipment List (MEL) or equivalent document providing ***for the operation of the aircraft, under specified conditions, with particular instruments, items of equipment or functions inoperative at the commencement of the flight***.

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

7. Where the implementing acts referred to in point (g) of the first subparagraph of Article 31(1) so provide, aircraft shall be equipped with the necessary safety-related equipment and instruments, certified where required in accordance with the delegated act referred to in point (b)(iii) of Article 19(1), including some or all of the following:

(a) flight recorders;

(b) means to track the position of the aircraft;

(c) means to recover flight recorder data in a timely manner in case of aircraft in distress by relying on real-time electronic communication or other appropriate technical solutions.

Article 31

Implementing acts as regards air operations

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 29, for the operation of aircraft referred to in point (b) of Article 2(1), other than unmanned aircraft, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:

(a) the specific rules and procedures for the operation of aircraft in compliance with the essential requirements referred to in Article 29;

(b) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in point (b) of Article 30(1), and for the situations in which such certificates are to be required;

(c) the rules and procedures for the declaration by aircraft operators referred to in point (a) of Article 30(1), and for the situations in which such declarations are to be required;

(d) the privileges and responsibilities of the holders of the certificates referred to in point (b) of Article 30(1) and of the aircraft operators making declarations referred to in point (a) of Article 30(1);

(***e) the additional requirements necessary to ensure compliance with the essential requirements referred to in Article 29 applicable to aircraft operators established, residing or with a principal place of business in the territory to which the Treaties apply when those operators enter into code sharing agreements or lease agreements or when they operate an aircraft which is registered in a third country;***

(f) the rules and procedures for the aircraft operators referred to in Article 30(1) regarding the establishment of a MEL or an equivalent document, and for the situations in which it is required.

(g) the rules and procedures in accordance with which an aircraft is to be equipped with the necessary safety-related equipment and instruments, including the flight recorders and/or means referred to in Article 30(7), and the rules and procedures for the preservation, protection, use and, where applicable, secure transmission of the data concerned.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

2. ***When adopting those implementing acts, the Commission shall ensure compliance with the essential requirements referred to in Article 29 of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annex 6 to the Chicago Convention.***

Article 32

Delegated powers

1. For the operation of aircraft referred to in point (b) of Article 2(1), ***other than unmanned aircraft,*** the Commission ***is*** empowered to adopt delegated acts, in accordance with Article 128, laying down detailed rules with regard to:

▌

(***a***) the conditions to be met by the operators referred to in Article 30(1) and their aircrew members with regard to flight and duty time limitations, as well as rest requirements for aircrew members;

▌

(***b***) the conditions and procedures necessary to ensure compliance with the essential requirements referred to in Article 29 regarding the approval by national competent authorities of individual flight time specification schemes and the issuance of Agency opinions on those schemes in accordance with Article 76(7).

▌

2. As regards the operation of aircraft referred to in point (b) of Article 2(1), ***other than unmanned aircraft*** the Commission ***is*** empowered ***to adopt*** delegated acts, ▌ in accordance with Article 128, to amend ▌ Annex V and, if applicable, Annexes VII and VIII, where necessary for reasons of technical, operational or scientific developments or safety evidence related to air operations, in order and to the extent required to achieve the objectives set out in Article 1.

SECTION IV

Aerodromes

Article 33

Essential requirements

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

Article 34

Aerodrome certification

1. ***A certificate shall be required in respect of aerodromes***. That certificate ***shall cover the aerodrome and its safety-related equipment, unless that safety-related equipment is covered by a declaration or certificate referred to in points (a) and (b) respectively of Article 35(1).***

2. ***The certificate*** referred to in paragraph 1 of this Article shall be issued upon application, ***when*** the applicant has demonstrated that the aerodrome***:***

(a) complies ***with the implementing acts referred to in Article 36 and*** with the aerodrome certification basis set out in paragraph 5 ***of this Article;*** and

(b) has no feature or characteristic making it unsafe for operation.

3. ***The certificate referred to in paragraph 1 of this Article may be amended to include changes to the aerodrome or its safety-related equipment, in accordance with the implementing acts referred to in point (c) of Article 36(1).***

4. ***The certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked when the aerodrome or its safety-related equipment no longer complies with the rules and procedures for issuing and maintaining such certificate, in accordance with the implementing acts referred to in point (c) of Article 36(1).***

5. The certification basis for an aerodrome shall consist of the following:

(a) the applicable certification specifications related to the type of aerodromes;

(b) those provisions of the applicable certification specifications for which an equivalent level of safety has been accepted;

(c) the special detailed technical specifications necessary when the design features of a particular aerodrome or the experience in operation render any of the certification specifications referred to in point (a) of this paragraph inadequate or inappropriate to ensure conformity with the essential requirements referred to in Article 33.

Article 35

Safety ***related*** aerodrome equipment

1. ***Taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, the implementing acts*** referred to in Article ***36 may require organisations involved in the design, production and maintenance of safety related*** aerodrome equipment used or intended for use at aerodromes subject to this Regulation ***to:***

(a) declare that such equipment complies with the detailed specifications established in accordance with implementing acts referred to in Article 36; or

(b) hold a certificate in respect of that safety-related aerodrome equipment.

2. The certificate ▌ referred to in point (b) of paragraph 1 of this Article shall be issued upon application, ***when*** the applicant has demonstrated that the equipment complies with the detailed specifications established in accordance with ***implementing acts referred to in*** Article ***36*** adopted to ensure compliance with the essential requirements referred to in Article 33.

3. The certificate referred to in point (b) of paragraph 1 of this Article shall specify the functionalities of the equipment. That certificate may be amended to reflect the changes to those functionalities, in accordance with the implementing acts referred to in point (d) of Article 36(1).

4. The certificate referred to in point (b) of paragraph 1 of this Article may be limited, suspended or revoked, when the equipment no longer complies with the rules and procedures for issuing and maintaining such certificate, in accordance with the implementing acts referred to in point (d) of Article 36(1).

▌

Article 36

Implementing acts as regards aerodromes and safety-related aerodrome equipment

1. ***In order to ensure the uniform implementation of and*** compliance ***with the essential requirements referred to in Article 33, for aerodromes and safety-related aerodrome equipment, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:***

(a) ***the rules and procedures for establishing and notifying to an applicant, on the basis of Article 34(5), the certification basis applicable to an aerodrome for the purposes of certification in accordance with Article 34(1);***

(b) ***the rules and procedures for establishing and notifying to an applicant the detailed specifications applicable to safety-related aerodrome equipment for the purposes of certification in accordance with Article 35(1);***

(c) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the aerodrome certificates referred to in Article 34, including operating limitations related to the specific design of the aerodrome;

(d) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the certificates for safety-related aerodrome equipment referred to in Article 35(1), and for the situations in which such certificates are to be required;

(e) the rules and procedures for establishing the detailed specifications applicable to safety-related aerodrome equipment which is subject to a declaration in accordance with Article 35(1);

(f) the rules and procedures for the declaration, in accordance with Article 35(1), in respect of safety-related aerodrome equipment, and for the situations in which such declarations are to be required;

(g) the privileges and responsibilities of the holders of the certificates referred to in Articles 34 and 35(1), and of the organisations making declarations in accordance with Article 35(1);

(h) the rules and procedures for the acceptance and the conversion of national aerodrome certificates issued on the basis of national law into the aerodromes certificates referred to in Article 34 of this Regulation, including measures which are already authorised by the Member State concerned on the basis of notified differences to Annex 14 to the Chicago Convention.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

2. When adopting those implementing acts, the Commission shall ensure compliance with the essential requirements referred to in Article 33 of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annex 14 to the Chicago Convention.

Article 37

Organisations

1. Organisations responsible for the operation of aerodromes shall be subject to certification and shall be issued with a certificate. That certificate shall be issued upon application, when the applicant has demonstrated that it complies with the delegated acts referred to in Article 39 adopted to ensure compliance with the essential requirements referred to in Article 33.

   The certificate shall specify the privileges granted to the certified organisation and the scope of the certificate.

2. Organisations responsible for the provision of groundhandling services and AMS at aerodromes subject to this Regulation shall declare their capability, and the availability to them of the means, to discharge the responsibilities associated with the services provided in compliance with the essential requirements referred to in Article 33.

▌

Article 38

Protection of aerodrome surroundings

1. Member States shall take the necessary measures to ensure that aerodromes located in their territory are safeguarded against activities and developments in their surroundings which may cause unacceptable risks to aircraft using the aerodrome.

2. The organisations referred to in Article 37(1) shall monitor activities and developments which may cause unacceptable safety risks to aviation in the surroundings of the aerodrome for the operation of which they are responsible. They shall take the necessary measures to mitigate those risks in as far as this lies within their control and, where that is not the case, bring those risks to the attention of the competent authorities of the Member State where the aerodrome is located.

3. In order to ensure the uniform application of this Article, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

Article 39

Delegated powers

1. For ▌ the operation of aerodromes and the provision of groundhandling services and AMS at aerodromes, the Commission ***is*** empowered to adopt delegated acts in accordance with Article 128 laying down detailed rules with regard to:

(a) the specific conditions for the operation of aerodromes in compliance with the essential requirements referred to in Article 33;

▌

(b) the conditions for issuing, maintaining, amending, ***limiting,*** suspending or revoking the certificates referred to in Article 37(1);

(c) the privileges and responsibilities of the holders of the certificates referred to in ***Article 37(1***);

(d) the conditions and procedures for the declaration by organisations providing groundhandling services and by organisations providing AMS in accordance with Article 37(2)***, including recognition, without further verification, by the operators, of those declarations***;

▌

(e) the privileges and responsibilities of the organisations providing groundhandling services and by organisations providing AMS which have made declarations in accordance with Article 37(2);

▌

2. As regards aerodromes, ***safety-related*** aerodrome equipment, the operation of aerodromes, and groundhandling services and AMS the Commission ***is*** empowered ***to adopt*** delegated acts, ▌ in accordance with Article 128, to amend ▌ Annex VII and, if applicable, Annex VIII, where necessary for reasons of technical, operational or scientific developments or safety evidence related to the aerodromes, in order and to the extent required to achieve the objectives set out in Article 1.

SECTION V

ATM/ANS

Article 40

Essential requirements

1. The provision of ATM/ANS ***referred to in point (g) of Article 2(1)*** shall comply with the essential requirements set out in Annex VIII and, if applicable, Annex VII.

2. ***Aircraft operating in the Single European Sky airspace, except those engaged in activities referred to in point (a) of Article 2(3), shall comply with the essential requirements set out in point 1 of Annex VIII.***

Article 41

ATM/ANS providers

1. Providers of ATM/ANS shall be ***required to hold*** a certificate.

2. The certificate referred to in paragraph 1 of this Article shall be issued upon application, ***when*** the applicant has demonstrated that it complies with the ***implementing acts*** referred to in Article ***43*** adopted to ensure compliance with the essential requirements referred to in Article 40.

3. The certificate referred to in paragraph 1 of this Article shall specify the privileges granted. ***That certificate may be amended to add or remove privileges, in accordance with the implementing acts referred to in point (b) of the first subparagraph of Article 43(1).***

4. ***The certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder no longer complies with the rules and procedures for issuing and maintaining such certificate, in accordance with the implementing acts referred to in point (b) of the first subparagraph of Article 43(1).***

5. By way of derogation from paragraph 1 of this Article, ***in accordance with the implementing acts referred to in Article 43, Member States may decide that providers of flight information services are to be allowed to declare their capability, and the availability to them of the means, to discharge the responsibilities associated with the services provided in compliance with the essential requirements referred to in Article 40. In that case, the Member State concerned shall inform the Commission, the Agency and the other Member States of its decision.***

6. By way of derogation from paragraph 1, Member States may grant exemptions to providers of ATM/ANS from the requirement to hold a certificate, where all of the following conditions have been met:

(a) the provider has its principal place of business located outside the territories for which Member States are responsible under the Chicago Convention;

(b) the provision of ATM/ANS by that provider concerns air traffic of small volume in a limited part of the airspace for which the Member State granting the exemption is responsible and where that part of the airspace borders with an airspace under the responsibility of a third country;

(c) requiring the provider to demonstrate compliance with the rules referred to in paragraph 1 would involve a disproportionate effort from that provider in light of the nature and risk of the particular activity that it carries out within that airspace;

(d) the Member State concerned has set rules and procedures applicable to the provision of ATM/ANS by the provider which ensure, in accordance with international standards and recommended practices and taking account of the specific circumstances of the case in question, an acceptable level of safety and compliance with the essential requirements referred to in Article 40, and has established appropriate and effective means and arrangements for oversight and enforcement to ensure compliance with those rules and procedures;

(e) the scope of the exemption is clearly defined and the exemption remains limited to what is strictly necessary; where its duration exceeds five years, the exemption is subject to regular review at suitable intervals; and the exemption is applied in a non-discriminatory manner.

Where a Member State intends to grant such an exemption, it shall notify the Commission and the Agency of its intention, setting out all relevant information.

After consulting the Agency, the Commission shall adopt implementing acts containing its decision whether the conditions set out in the first subparagraph of this paragraph have been met. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 127(2). Those implementing acts shall be published in the Official Journal of the European Union and included by the Agency in the repository referred to in Article 74.

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

Article 42

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

1. Taking into account the objectives and principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, organisations involved in the design, production or maintenance of ATM/ANS systems and ATM/ANS constituents, may be required, in accordance with the implementing acts referred to in Article 43, to:

(a) declare their capability, and the availability to them of the means, to discharge the responsibilities associated with the activities performed in compliance with those implementing acts; or

(b) hold a certificate.

2. The certificate referred to in point (b) of paragraph 1 of this Article shall be issued upon application, when the applicant has demonstrated that it complies with the rules established by the implementing acts referred to in Article 43 adopted to ensure compliance with the essential requirements referred to in Article 40.

3. The certificate referred to in point (b) of paragraph 1 of this Article shall specify the privileges granted. The certificate may be amended to add or remove privileges, in accordance with the implementing acts referred to in point (d) of the first subparagraph of Article 43(1).

4. The certificate referred to in point (b) of paragraph 1 of this Article may be limited, suspended or revoked, when the holder no longer complies with the rules and procedures for issuing and maintaining such certificate, in accordance with the implementing acts referred to in point (d) of the first subparagraph of Article 43(1).

Article 43

Implementing acts as regards ATM/ANS providers and organisations involved in the design, production or maintenance of ATM/ANS systems and ATM/ANS constituents

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 40, for the provision of ATM/ANS referred to in point (g) of Article 2(1), the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:

(a) the specific rules and procedures for the provision of ATM/ANS in compliance with the essential requirements referred to in Article 40, including the establishment and implementation of the contingency plan in accordance with point 5.1(f) of Annex VIII;

(b) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 41(1);

(c) the rules and procedures for the declaration by providers of flight information services referred to in Article 41(5), and for the situations in which such declarations are to be permitted;

(d) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in point (b) of Article 42(1), and for the situations in which such certificates are to be required;

(e) the rules and procedures for the declaration by organisations referred to in point (a) of Article 42(1), and for the situations in which such declarations are to be required;

(f) the privileges and responsibilities of the holders of certificates referred to in Article 41(1) and point (b) of 42(1) and of organisations making declarations in accordance with Article 41(5) and point (a) of Article 42(1);

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

2. The rules referred to in paragraph 1 shall take due account of the ATM Master Plan.

3. When adopting those implementing acts, the Commission shall ensure compliance with the essential requirements referred to in Article 40 of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annexes 2 to 4, 10, 11 and 15 to the Chicago Convention.

Article 44

Implementing acts as regards the use of airspace and the design of airspace structures

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 40, for the provision of ATM/ANS referred to in point (g) of Article 2(1), as well as for the design of airspace structures, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:

(a) the operating rules related to the use of airspace, aircraft equipment and ATM/ANS systems and ATM/ANS constituents required for the use of airspace;

(b) the rules and procedures for the design of airspace structures in order to ensure compliance with Article 46.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

2. The rules referred to in paragraph 1 shall take due account of the ATM Master Plan.

3. When adopting those implementing acts, the Commission shall ensure compliance with the essential requirements referred to in Article 40 of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annexes 2, 3, 10, 11 and 15 to the Chicago Convention.

Article 45

ATM/ANS systems and ATM/ANS constituents

1. Where the delegated acts referred to in Article 47 so provide, the providers of ATM/ANS referred to in Article 41 shall be required to declare that the ATM/ANS systems and ATM/ANS constituents ▌ which are to be put into operation by those service providers comply with the detailed specifications established in accordance with the delegated acts referred to in Article 47 adopted to ensure compliance with the essential requirements referred to in Article 40.

2. Where the delegated acts referred to in Article 47 so provide, ATM/ANS systems and ATM/ANS constituents ▌ shall be subject to certification and shall be issued with a certificate.

That certificate shall be issued upon application, when the applicant has demonstrated that those systems and constituents comply with the detailed specifications established in accordance with the delegated acts referred to in Article 47 adopted to ensure compliance with the essential requirements referred to in Article 40.

By way of derogation from the first subparagraph, where the delegated acts referred to in Article 47 so provide, the organisation involved in the design, production or maintenance of ATM/ANS systems and ATM/ANS constituents ▌ shall be permitted to declare that those systems and constituents comply with the detailed specifications established in accordance with the delegated acts referred to in Article 47 adopted to ensure compliance with the essential requirements referred to in Article 40 and that those systems and constituents are suitable for use.

Article 46

Design of airspace structures

Member States shall ensure that airspace structures are properly designed, surveyed and validated before they can be deployed and used by aircraft, in accordance with the detailed rules adopted by the Commission pursuant to point (b) of Article 44(1).

Article 47

Delegated powers

1. For the ▌ ATM/ANS ***systems and ATM/ANS constituents*** the Commission ***is*** empowered to adopt delegated acts, in accordance with Article 128, laying down detailed rules with regard to:

▌

(a) the conditions for establishing and notifying to an applicant the detailed specifications applicable to ATM/ANS systems and ATM/ANS constituents for the purposes of certification in accordance with Article 45(2);

▌

(b) the conditions for issuing, maintaining, amending, ***limiting,*** suspending or revoking the certificates referred to in ***Article*** 45(2), and for the situations in which, with a view to achieving the objectives set out in Article 1 and while taking account of the nature and risk of the particular activity concerned, such certificates are to be required or declarations are to be permitted, as applicable;

(c) the privileges and responsibilities of the holders of certificates referred to in Article 45 ***(2)***;

(d) the privileges and responsibilities of the organisations issuing declarations in accordance with ***Article*** 45 (1) and (2);

(e) the conditions and procedures for the declaration by ATM/ANS providers, in accordance with Article 45(1), and for the situations in which, with a view to achieving the objectives set out in Article 1 and while taking account of the nature and risk of the particular activity concerned such declarations are to be required;

(f) the conditions for establishing the detailed specifications applicable to ATM/ANS systems and ATM/ANS constituents ***which are subject to a declaration in accordance with Article 45 (1) and (2);***

2. As regards the provision of ATM/ANS, the Commission ***is*** empowered ***to adopt*** delegated acts, ▌ in accordance with Article 128, to amend ▌ Annex VIII and, if applicable, Annex VII, where necessary for reasons of technical, operational or scientific developments or safety evidence related to the ATM/ANS, in order and to the extent required to achieve the objectives set out in Article 1.

▌

SECTION VI

Air traffic controllers

Article 48

Essential requirements

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

Article 49

Air traffic controllers

1. Air traffic controllers shall be ***required to hold*** an air traffic controller licence and ***an air traffic controller*** medical certificate appropriate for the service to be provided.

2. The air traffic controller licence referred to in paragraph 1 of this Article ▌ shall be issued upon application, ***when*** the applicant for the licence has demonstrated that he or she complies with the ***implementing acts*** referred to in Article ***50*** adopted to ensure compliance with the essential requirements referred to in Article ***48.***

3. ***The air traffic controller*** medical certificate referred to in paragraph 1 of this Article ▌ shall be issued upon application, ***when*** the air traffic controller has demonstrated that he or she complies with the ***implementing acts*** referred to in Article ***50 adopted*** to ensure compliance with the essential requirements referred to in Article ***48.***

4. The air traffic controller licence and the ***air traffic controller*** medical certificate referred to in paragraph 1 of this Article shall specify the privileges granted to the air traffic controller***. That air traffic controller*** licence and ***air traffic controller*** medical certificate ***may be amended to add or remove privileges, in accordance with the implementing acts referred to in point (c) of the first subparagraph of Article 50(1)***.

5. The air traffic controller licence and the air traffic controller medical certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder no longer complies with the rules and procedures for issuing and maintaining a licence or a medical certificate, in accordance with the implementing acts referred to in point (c) of the first subparagraph of Article 50(1).

Article 50

Implementing acts as regards air traffic controllers

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 48, for air traffic controllers, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:

(a) the different categories, ratings and endorsements for the air traffic controller licences referred to in Article 49;

(b) the privileges and responsibilities of the holders of air traffic controller licences, ratings and endorsements for the licences and medical certificates referred to in Article 49;

(c) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking licences, ratings and endorsements for the air traffic controller licences and medical certificates referred to in Article 49, including the rules and procedures for the conversion of national air traffic controller licences and national medical certificates into the air traffic controller licences and medical certificates referred to in Article 49.

(d) the rules and procedures for air traffic controllers in regard to duty time limitations and rest requirements; such rules and procedures are to produce a high level of safety by protecting against the effects of tiredness while, at the same time, allowing for sufficient flexibility in scheduling;

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

2. ***When adopting those implementing acts, the Commission shall ensure compliance with the essential requirements referred to in Article 48 of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annex 1 to the Chicago Convention.***

Article 51

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

1. ***An approval shall be required in respect of air*** traffic controller training organisations ▌ and aero **-**medical centres ▌ .

2. ***The approval*** referred to in paragraph 1 of this Article shall be issued upon application, ***when*** the applicant has demonstrated that it complies with the ***implementing acts*** referred to in Article ***53*** adopted to ensure compliance with the essential requirements referred to in Article 48.

3. The ***approval*** referred to in paragraph 1 of this Article shall specify the privileges granted ***to the organisation. The approval may be amended to add or remove privileges, in accordance with the implementing acts referred to in point (a) of the first subparagraph of Article 53(1).***

4. ***The approval referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder no longer complies with the rules and procedures for issuing and maintaining such approval, in accordance with the implementing acts referred to in point (a) of the first subparagraph of Article 53(1).***

Article 52

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

1. Persons responsible for providing practical training***,*** for assessing the practical skills of air traffic controllers, ***as well as aero-medical examiners,*** shall be ***required to hold*** a certificate.

2. The certificate referred to in paragraph 1 of this Article shall be issued upon application, ***when*** the applicant has demonstrated that he or she complies with the ***implementing acts*** referred to in Article ***53 adopted*** to ensure compliance with the essential requirements referred to in Article 48.

3. The certificate referred to in paragraph 1 of this Article shall specify the privileges granted. ***The certificate may be amended to add or remove privileges, in accordance with the implementing acts referred to in point (a) of the first subparagraph of Article 53(1).***

4. ***The certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder no longer complies with the rules and procedures for issuing and maintaining such certificate, in accordance with the implementing acts referred to in point (a) of the first subparagraph of Article 53(1).***

Article 53

Implementing acts as regards training, testing, checking and medical assessment

1. ***In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 48, for*** persons and organisations involved in the training, testing, checking ***and*** medical assessment of air traffic controllers, the Commission shall***, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning***:

▌

(a) the ***rules and procedures*** for issuing, maintaining, amending, ***limiting,*** suspending or revoking ***the approvals and*** certificates referred to in Articles 51 and 52;

(b) the privileges and responsibilities of the holders of the ***approvals and*** certificates referred to in Articles ▌51 and ***52.***

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

2. When adopting those implementing acts, the Commission shall ensure compliance with the essential requirements referred to in Article 48 of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annex 1 to the Chicago Convention.

Article 54

Delegated powers

▌

As regards air traffic controllers, persons and organisations involved in the training, testing, checking or medical assessment of air traffic controllers, as well as synthetic training devices, the Commission ***is*** empowered ***to adopt*** delegated acts ▌ in accordance with Article 128, to amend ▌ Annex VIII, where necessary for reasons of technical, operational or scientific developments or safety evidence related to the training organisations and air traffic controllers, in order and to the extent necessary to achieve the objectives set out in Article 1.

SECTION VII

Unmanned aircraft

Article 55

Essential Requirements for Unmanned Aircraft

The design, production, maintenance and operation of ***aircraft referred to in point (a) and (b) of Article 2(1), where it concerns*** unmanned aircraft***,*** and their engines, propellers, parts, non-installed equipment and equipment to control them remotely***, as well as the personnel, including remote pilots, and organisations involved in those activities,*** shall comply with the essential requirements set out in Annex IX***, and, where the delegated acts referred to in Article 58 and the implementing acts referred to in Article 57 so provide, with the essential requirements set out in Annexes II, IV and V***.

Article 56

Compliance of Unmanned Aircraft

1. ***Taking into account the objectives and the principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, the operational characteristics of the unmanned aircraft concerned and the characteristics of area of operation, a certificate may be required for*** the design, production, maintenance and operation of unmanned aircraft ***and their engines, propellers, parts, non-installed equipment and equipment to control them remotely, as well as for the personnel, including remote pilots, and organisations involved in those activities, in accordance with the delegated acts referred to in Article 58 and the implementing acts referred to in Article 57.***

2. ***The certificate*** referred to in paragraph 1 of this Article shall be issued upon application, ***when*** the applicant has demonstrated that it complies with the ▌ delegated acts referred to in Article 58 ***and the implementing*** acts referred to in ***Article 57.***

3. The certificate referred to in paragraph 1 of this Article shall specify the safety-related limitations, operating conditions and privileges. ***The certificate may be amended to add or remove limitations, conditions and privileges, in accordance with the delegated acts referred to in Article 58 and the implementing acts referred to in Article 57.***

4. ***The certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder no longer complies with the conditions, rules and procedures for issuing or maintaining such certificate, in accordance with the delegated acts referred to in Article 58 and the implementing acts referred to in Article 57.***

5. ***Taking into account the objectives and the principles set out in Articles 1 and 4, and in particular the nature and risk of the activity concerned, the operational characteristics of the unmanned aircraft concerned and the characteristics of area of operation, the delegated acts referred to in Article 58 and the implementing*** acts referred to in ***Article 57 may require in respect of*** the design, production, maintenance and operation of unmanned aircraft ***and their engines, propellers, parts, non-installed equipment and equipment to control them remotely, as well as of the personnel, including remote pilots, and organisations involved in those activities, a declaration confirming compliance with those delegated and implementing acts***.

6. Where the ***objectives and the principles set out in Articles 1 and 4*** can be achieved without the application of Chapters IV and V of this Regulation, ***the delegated acts referred to in*** point (c) of ***Article 58(1) might provide that*** those Chapters shall ▌ apply ***neither*** to the essential requirements referred to in Article 55 ***nor to*** the corresponding detailed rules established in accordance with Article ***58.*** In such cases, those ***essential*** requirements and ***those detailed*** rules shall constitute 'Community harmonisation legislation' within the meaning of Regulation (EC) ***No*** 765/2008 of the European Parliament and ***of the*** Council[40] and Decision ***No*** 768/2008/EC of the European Parliament and ***of the*** Council[41].

7. Member States shall ensure that information about registration of unmanned aircraft and of operators of unmanned aircraft that are subject to a registration requirement in accordance with the implementing acts referred to in Article 57 and point 4 of Annex IX is stored in digital, harmonised, interoperable national registration systems. Member States shall be able to access and exchange that information through the repository referred to in Article 74.

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[40] Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

[41] Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC (OJ L 218, 13.8.2008, p. 82).

8. This Section shall be without prejudice to the possibility for Member States to lay down national rules to make subject to certain conditions the operations of unmanned aircraft for reasons falling outside the scope of this Regulation, including public security or protection of privacy and personal data in accordance with the Union law.

Article 57

Implementing acts as regards unmanned aircraft

In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 55, for the operation of aircraft referred to in points (a) and (b) of Article 2(1), where it concerns unmanned aircraft, as well as for personnel, including remote pilots, and organisations involved in those activities, and on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, the Commission shall, adopt implementing acts laying down detailed provisions concerning:

(a) the specific rules and procedures for the operation of unmanned aircraft as well as for the personnel, including remote pilots, and organisations involved in those operations;

(b) the rules and procedures for issuing, maintaining, amending, limiting, suspending, or revoking the certificates, or for making declarations, for the operation of unmanned aircraft as well as for personnel, including remote pilots, and organisations involved in those activities, and for the situations in which such certificates or declarations are to be required; the rules and procedures for issuing those certificates and for making those declarations may be based on, or consist of, the detailed requirements referred to in Sections I, II and III;

(c) the privileges and responsibilities of the holders of certificates and of natural and legal persons making declarations;

(d) the rules and procedures for the registration and marking of unmanned aircraft and for the registration of operators of unmanned aircraft, referred to in Section 4 of Annex IX;

(e) the rules and procedures for establishing digital, interoperable, harmonized, national registration systems referred to in Article 56(7).

(f) the rules and procedures for the conversion of national certificates into the certificates required under Article 56(1).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

Article 58

Delegated Powers

1. For the design, production ***and*** maintenance ▌ of ***aircraft referred to in points (a) and (b) of Article 2(1), where it concerns*** unmanned aircraft***,*** and their engines, propellers, parts, non-installed equipment and equipment to control the aircraft remotely***, as well as for the personnel, including remote pilots, and organisations involved in those activities***, the Commission ***is*** empowered to adopt delegated acts, in accordance with Article 128, laying down detailed rules with regard to:

(a) the specific conditions for the design, production and maintenance of unmanned aircraft and their engines, propellers, parts, non-installed equipment and equipment to control the aircraft remotely, as well as for personnel, including remote pilots, and organisations involved in those activities, necessary to ensure compliance with the essential requirements referred to in Article 55 which may include the conditions under which unmanned aircraft are required to be equipped with necessary features and functionalities related, in particular, to maximum operating distance and altitude limitations, position communication, geographical zones entry restriction, collision avoidance, flight stabilisation and automated landing;

(b) the conditions and procedures for issuing, maintaining, amending, ***limiting,*** suspending, or revoking the certificates***, or for making declarations,*** for the design, production ***and*** maintenance ▌ of unmanned aircraft***, their engines, propellers, parts, non-installed equipment and equipment to control them remotely, as well as for the personnel, including remote pilots, and organisations involved in those activities,*** referred to in Article 56 (1) and (5), and for the situations in which ▌ such certificates ***or declarations*** are to be required; ***the conditions and procedures for issuing those certificates and for making those declarations may be based on, or consist of, the detailed requirements referred to in Sections I, II and III***;

▌

(c) the conditions under which the requirements concerning the design, production and maintenance of unmanned aircraft and their engines, propellers, parts, non-installed equipment and equipment to control them remotely, are not to be subject to Chapters IV and V, for the purpose of Article 56(6);

(d) the privileges and responsibilities of the holders of certificates and ***of natural and legal persons*** making declarations;

▌

(e) the conditions ***for the conversion of national certificates into the certificates required under Article 56(1).***

2. As regards the design, production, maintenance and operation of ***aircraft referred to in points (a) and (b) of Article 2(1), where it concerns*** unmanned aircraft**,** and their engines, propellers, parts, non-installed equipment and equipment to control the aircraft remotely, ***as well as the personnel, including remote pilots, and organisations involved in those activities,*** the Commission ***is*** empowered to adopt delegated acts, in accordance with Article 128, to amend ▌ Annex IX and, if applicable, Annex III, where necessary for reasons of technical, operational or scientific developments or safety evidence related to air operations, in order and to the extent required to achieve the objectives set out in Article 1.

SECTION VIII

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

Article 59

Applicable rules

Without prejudice to point 1 of Annex VIII and the rules adopted on the basis of point (a) of Article 44(1), aircraft referred to in point (c) of Article 2(1), as well as their aircrew and their operations, shall comply with the applicable ICAO standards.

To the extent that there are no such standards, those aircraft, ▌ their aircrew and their operations shall comply***:(a) as regard aircraft other than unmanned aircraft,*** with the essential requirements set out in Annexes II, IV ***and V;(b) as regards unmanned aircraft, with the essential requirements set out in Annex IX and, where the delegated acts referred to in Article 61 so provide, with the essential requirements set out in Annexes II, IV and V.***

However, the second subparagraph shall not apply where those ***essential*** requirements are ▌ in conflict with the rights of third countries under international conventions.

Article 60

Compliance

1. The operation of the aircraft referred to in point (c) of Article 2(1) for commercial air transport shall be subject to certification and shall be issued with an authorisation.

That authorisation shall be issued upon application, when the applicant has demonstrated its capability, and the availability to it of the means, to discharge the responsibilities associated with the operation of that aircraft in compliance with the requirements specified in Article 59. The authorisation shall specify the privileges granted to the operator and the scope of the operations.

2. Where the delegated acts referred to in Article 61 so provide, the operation of aircraft referred to in point (c) of Article 2(1) other than for commercial air transport shall be subject to certification and shall be issued with an authorisation.

That authorisation shall be issued upon application, when the applicant has demonstrated its capability, and the availability to it of the means, to discharge the responsibilities associated with the operation of that aircraft in compliance with the requirements specified in Article 59.

The authorisation shall specify the privileges granted to the operator and the scope of the operations.

By way of derogation from the first subparagraph of this paragraph, where the delegated acts referred to in Article 61 so provide, the operators of the aircraft referred to in point (c) of Article 2(1) engaged in operations other than commercial air transport shall be permitted to declare their capability, and the availability to them of the means, to discharge the responsibilities associated with the operation of that aircraft in compliance with the requirements specified in Article 59.

3. ***Except for the operation of unmanned aircraft, the*** authorisations and declarations referred to in paragraphs 1 and 2 shall ***not*** be required in respect of the operation of aircraft that are ***only overflying*** the territory to which the Treaties apply ▌.

Article 61

Delegated powers

1. For the aircraft referred to in point (c) of Article 2(1), as well as their aircrew and their operations, the Commission ***is*** empowered to adopt delegated acts, in accordance with Article 128, laying down detailed rules with regard to:

(a) the authorisation of aircraft, in respect of which there is no standard ICAO certificate of airworthiness, or the authorisation of pilots who do not hold a standard ICAO licence, to operate into, within or out of the territory to which the Treaties apply;

(b) the specific conditions to operate an aircraft in compliance with Article 59;

(c) alternative conditions for cases where compliance with the standards and requirements referred to in Article 59 is not possible or involves a disproportionate effort from the operator, while ensuring that the objectives of the standards and requirements concerned are met;

(d) the conditions for issuing, maintaining, amending, ***limiting,*** suspending or revoking the authorisations referred to in Article 60, and for the situations in which, with a view to achieving the objectives set out in Article 1 and while taking account of the nature and risk of the particular activity concerned, such authorisations ***are to*** be required or declarations ***are to*** be permitted, as applicable. Those conditions shall take into account the certificates issued by the state of registry***,*** the state of the operator, and***, in case of unmanned aircraft, the state where the equipment to control the unmanned aircraft remotely is located, and*** be without prejudice to Regulation (EC) No 2111/2005 and to the implementing acts adopted on the basis thereof;

(e) the privileges and responsibilities of the holders of the authorisations referred to in Article 60(1) and (2), and, where relevant, ***aircraft*** operators that made declarations in accordance with Article 60(2);

▌

2. When adopting the rules referred to in paragraph 1, the Commission shall ensure, in particular, that:

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

(b) no requirement exceeds what is required under this Regulation from aircraft referred to in point (b) (i) of Article 2(1) and from the aircrew and operators of such aircraft;

(c) the process through which the authorisations referred to in Article 60(1) and (2) are obtained is simple, proportionate, effective and cost-efficient and allows for demonstrations of compliance which are proportionate to the complexity of the operation and the risk involved in that operation. The Commission shall in particular ensure that account is taken of:

(i) the results of the ICAO Universal Safety Oversight Audit Programme;

(ii) information collected under ramp inspection programmes established in accordance with the delegated acts referred to in Article 62(13) ***and the implementing*** acts referred to in Article 62***(14***);

(iii) other recognised information on safety aspects with regard to the operator concerned;

(iv) certificates issued in accordance with the laws of a third country.

(d) aspects related to ATM/ANS are taken into account.

CHAPTER IV

JOINT CERTIFICATION, OVERSIGHT AND ENFORCEMENT SYSTEM

Article 62

Certification, oversight and enforcement

1. The Commission, the Agency and the Member States shall cooperate within a single European aviation safety system to ensure compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof.

2. To ensure compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof, the Agency and the national competent authorities shall:

(a) receive and assess the applications made to them ▌, and, where applicable, ***issue or*** renew ▌ certificates and receive declarations made to them, in accordance with Chapter III;

(b) perform oversight of holders of certificates, of natural and legal persons that made declarations, and of products, parts, equipment, ATM/ANS systems and ATM/ANS constituents, flight simulation training devices and aerodromes subject to ***this Regulation***;

(c) conduct the necessary investigations, inspections, ***including ramp inspections,*** audits and other monitoring activities to identify possible infringements by ***legal or natural*** persons ***subject to this Regulation*** of the requirements set out in this Regulation and in the delegated and implementing acts adopted on the basis thereof ▌;

(d) take all necessary enforcement measures, including amending, ***limiting,*** suspending or revoking certificates issued by them, grounding of aircraft and imposing penalties, in order to terminate identified infringements***;***

(e) prohibit, limit or make subject to certain conditions the activities referred to in Chapter III, in the interest of safety;

(f) ensure an appropriate level of qualification of their staff involved in certification, oversight and enforcement tasks, including by providing adequate training.

3. Member States shall ensure that their national competent authorities are independent when taking technical decisions on certification, oversight and enforcement and exercise their tasks impartially, and transparently and are organised, staffed and managed accordingly. Member States shall also ensure that their national competent authorities have the necessary resources and capabilities to carry out the tasks assigned to them under this Regulation in an efficient and timely manner.

4. The responsibilities for the tasks related to certification, oversight and enforcement referred to in paragraph 2 shall be determined in accordance with this paragraph.

The Agency shall be responsible where those tasks have been attributed to it pursuant to Articles ▌ 77 to 82 ***and where those tasks have been allocated to it pursuant to Articles 64 and 65.***

However, where a Member State grants an exemption in accordance with Article 41(6), point (a) of Article 80(1) shall no longer apply and that Member State shall be responsible for oversight and enforcement in respect of the provider of ATM/ANS concerned as provided for in that exemption.

The national competent authority of the Member State where the aerodrome is located shall be responsible for those tasks with respect to the aerodrome certificate referred to in Article 34(1) and the certificate for an ▌ aerodrome ***operator*** referred to in Article 37(1). ▌

That national competent authority shall also be responsible for the oversight and enforcement tasks with respect to organisations responsible for the provision of groundhandling services or AMS at that aerodrome.

In all other cases, the national competent authority of the Member State where the natural ***or legal*** person applying for the certificate or making the declaration ***has its principal place of business or, if that person has no principal place of business, where it has its place of residence or place of*** establishment, shall be responsible for those tasks, unless the ***effective performance of the tasks related to certification, oversight, and enforcement requires their allocation to a national competent authority of a different Member State in accordance with the detailed rules*** referred to in point (d) of paragraph 14.

However, where the ***implementing*** acts referred to in paragraph ***15*** so provide:

(a) aero-medical examiners, aero-medical centres and general medical practitioners shall be responsible for issuing the pilot medical certificates referred to in Article 21(1) and the air traffic controller medical certificates referred to in Article 49(1);

(b) ▌cabin crew training organisations that have been issued an approval in accordance with Article 24 and ***aircraft*** operators that have been issued a certificate in accordance with Article 30 shall be responsible for issuing the cabin crew attestations referred to in Article 22.

5. Member States may decide that, by way of derogation from paragraph 4, their national competent authorities shall be jointly responsible for the tasks related to certification, oversight and enforcement in respect of an aircraft operator involved in commercial air transport where both of the following conditions are met:

(a) such joint responsibility was provided for in an agreement concluded between those Member States before 1 January 1992;

(b) those Member States have ensured that their national competent authorities effectively carry out those tasks in compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof.

The Member States concerned shall, by … [6 months after the date of application of this Regulation] at the latest, notify the Commission and the Agency of that joint-responsibility decision and provide them with all relevant information, in particular the agreement referred to in point (a) and the measures taken to ensure that those tasks are carried out effectively in accordance with point (b).

Where the Commission, after consulting the Agency, considers that the conditions specified in the first subparagraph have not been met, the Commission shall adopt implementing acts setting out its decision to that effect. Once the Commission has notified such implementing acts to the Member States concerned, those Member States shall without delay modify or revoke their joint-responsibility decision and shall inform the Commission and the Agency accordingly.

The Agency shall include in the repository referred to in Article 74 all of the decisions of the Commission and of the Member States that have been notified pursuant to this paragraph.

6. The oversight conducted by the Agency and national competent authorities shall be continuous and based on priorities set in the light of the risks to civil aviation.

7. When conducting the ramp inspections referred to in point (c) of paragraph 2, the Agency shall cooperate with the national competent authority of the Member State in the territory of which the ramp inspection takes place.

8. The Agency shall manage and operate the tools and procedures necessary for the collection, exchange and analysis of safety-related information obtained from ramp ***inspections referred to in point (c) of paragraph 2.***

9. In order to facilitate the ***effective*** exercise of their tasks related to certification, oversight and enforcement, the Commission, the Agency and national competent authorities, shall exchange ***relevant*** information, including on possible or identified infringements.

10. The Agency shall promote a common understanding and application of the requirements contained in this Regulation and in the delegated and implementing acts adopted on the basis thereof, inter alia by developing the guidance material referred to in Article 76(3) in consultation with the national competent authorities.

11. Any legal or natural person subject to this Regulation may bring to the attention of the Agency any alleged differences in the application of the rules between the Member States. Where such differences seriously hamper the ***activities*** of those persons, or otherwise lead to substantial difficulties, the Agency and the national competent authorities of the Member States concerned shall cooperate to ***address, and where necessary, promptly*** eliminate those differences ▌. Where those differences cannot be eliminated, the Agency shall present the matter to the Commission.

12. The Agency and the national competent authorities shall undertake the necessary ***and effective*** actions to increase and promote awareness of civil aviation safety and disseminate safety ▌ related information relevant for the prevention of accidents and incidents.

13. With regard to the tasks of the Agency ▌ related to certification, oversight and enforcement under this Regulation, the Commission ***is*** empowered to adopt delegated acts, in accordance with Article 128, ▌ laying down detailed rules concerning:

▌

(a) the conditions for conducting certification and for conducting the investigations, ***inspections, audits and other monitoring activities necessary to ensure effective oversight by the Agency of the natural and legal persons, products, parts, equipment, ATM/ANS systems and ATM/ANS constituents, flight simulation training devices and aerodromes subject to this Regulation;***

(b) the conditions for conducting ramp inspections by the Agency and for the grounding of aircraft when the aircraft, its operator or its aircrew do not comply with the requirements of this Regulation or with the delegated and implementing acts adopted on the basis thereof;

(c) the conditions in accordance with which the activities regulated by Chapter III may be prohibited, limited or subject to certain conditions in the interest of safety;

(d) the conditions for issuing and disseminating mandatory information and recommendations by the Agency in accordance with Article 76(6), in order to ensure the safety of the activities regulated by Chapter III;

(e***) the conditions for issuing and disseminating mandatory information by the Agency, in accordance with Article 77, to ensure the continuing airworthiness and environmental compatibility of products***, parts, non-installed equipment and equipment to control the aircraft remotely, ***and conditions for approval of alternative means of compliance to that mandatory information;***

(f) the conditions and procedures for the accreditation by the Agency of a qualified entity for the purpose of Article 69.

14. In order to ensure the uniform implementation of and compliance with paragraphs (2) to (9) of this Article, with regard to the tasks of the national competent authorities related to certification, oversight and enforcement under this Regulation, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:

(a) the rules and procedures for conducting certification and for conducting the investigations, inspections, audits and other monitoring activities necessary to ensure effective oversight ***by the national competent authority*** of the natural and legal persons, products, parts, equipment, ATM/ANS systems and ATM/ANS constituents, flight simulation training devices and aerodromes subject to this Regulation;

▌

(b) the ***rules and procedures*** for conducting ramp inspections ***by the national competent authority*** and for the grounding of aircraft when the aircraft, its operator or its aircrew do not comply with the requirements of this Regulation or with the delegated and implementing acts adopted on the basis thereof;

(***c) the rules and procedures in accordance with which the activities regulated in Chapter III may be prohibited, limited or subject to certain conditions in the interest of safety;***

(d) in respect of paragraph 4, the ***rules and procedures*** for allocation of responsibilities between the national competent authorities, with a view to ensuring the effective performance of the tasks related to certification, oversight and enforcement;

(e) the rules and procedures for the accreditation by the national competent authority of a qualified entity for the purpose of Article 69.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

15. In order to ensure the uniform implementation of and compliance with paragraphs (2) to (9) of this Article, with regard to the tasks of the Agency and national competent authorities related to certification, oversight and enforcement under this Regulation, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:

(a) the rules and procedures for the gathering, exchange and dissemination of relevant information between the Commission, the Agency and the national competent authorities for the effective performance of their tasks related to certification, oversight and enforcement, including information on possible or identified infringements;

(b) the rules and procedures for the qualifications of the Agency and national competent authorities staff involved in certification, oversight and enforcement tasks and of the organisations involved in their training;

(c) the rules and procedures for the administration and management systems of the Agency and national competent authorities relating to the exercise of the certification, oversight and enforcement tasks;

(d) in respect of paragraph 4 ***of this Article***, the ***rules and procedures*** for allocation of responsibilities to aero-medical examiners and aero-medical centres for the purpose of issuing pilot medical certificates and air traffic controller medical certificates, as well as the conditions under which general medical practitioners are to be given such responsibilities, with a view to ensuring effective performance of the tasks related to medical certification of pilots and air traffic controllers;

(e) in respect of paragraph 4 ***of this Article***, the ***rules and procedures*** for allocation of responsibilities to ▌ cabin crew training organisations ***and aircraft operators*** for the purpose of issuing cabin crew attestations, with a view to ensuring effective performance of the tasks related to certification of cabin crew.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

Article 63

Pool of European aviation inspectors

1. The Agency shall establish, in cooperation with the national competent authorities, a mechanism for the ***voluntary*** pooling and sharing of inspectors and other personnel with expertise relevant for the exercise of the certification and oversight tasks under this Regulation.

   To that end, the Agency shall, ***in cooperation with*** the national competent authorities, ***define*** the required qualification and experience profiles on the basis of which those authorities *and* ***the Agency*** shall designate, subject to availability, candidates for participation in the pooling and sharing mechanism in the role of European aviation inspectors.

2. The Agency and each national competent authority may request assistance from the ***pool of*** European aviation inspectors in the performance of oversight and certification activities. The Agency shall coordinate ***the responses to*** those requests and develop appropriate procedures for that purpose, in consultation with the national competent authorities.

3. The European aviation inspectors shall perform their oversight and certification activities under the control, instructions and responsibility of the Agency or the national competent authority that requested their assistance.

4. The costs of the assistance provided by the European aviation inspectors ***shall be covered by the authority that requested the assistance***.

That authority may decide to finance that assistance by means of fees invoiced and collected on the basis of the rules established in accordance with point (c) of paragraph 6, from the legal or natural person which was subject to the certification and oversight activities performed by those European aviation inspectors.

In that case, that authority shall transfer the amount collected to the authority that provided the assistance.

5. ***Any statements, records and reports by European aviation inspectors carrying out their activities in accordance with this Article shall be, in all aspects, treated as equivalent to those of the national inspectors and shall constitute admissible evidence in administrative or judicial proceedings.***

6. As regards the mechanism for the pooling and sharing referred to in paragraph 1 ***of this Article***, the Commission ***may adopt implementing*** acts ***laying down*** detailed rules with regard to:

(a) the ***rules*** and ***procedures in accordance with which*** the Agency and the national competent authorities ▌ request, receive or provide assistance through that mechanism;

(b) the ***rules and procedures for the*** authorisations of and the ***detailed*** rules applicable to the European aviation inspectors when they are providing such assistance;

(c) the ***rules and procedures for the*** fixing and collection of the fees referred to in paragraph 4 ***of this Article***.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

Article 64

Reallocation of responsibility ***upon request of Member States***

1. ***A*** Member ***State*** may ***request*** the Agency ***to carry out the tasks related to*** certification, oversight and enforcement ***referred to in Article 62(2)*** with respect to any or all ***natural and legal persons, aircraft, safety related aerodrome equipment, ATM/ANS systems and ATM/ANS constituents,*** flight simulation training devices ***and*** aerodromes for which the Member State concerned is responsible under this Regulation ***and the delegated and implementing acts adopted on the basis thereof***.

Once the Agency ***accepts such a request, it*** shall become the competent authority ***responsible for the tasks covered by that request*** and the requesting Member State shall be relieved of ***the*** responsibility ***for those tasks***.

In relation to the Agency´s exercise of that responsibility ***for those tasks***, Chapters IV and V shall apply.

2. ***A*** Member ***State may request*** another Member State ***to carry out the tasks related to*** certification, oversight and enforcement ***referred to in Article 62(2)*** with respect to any or all ***natural and legal persons, aircraft, safety related aerodrome equipment, ATM/ANS systems and ATM/ANS constituents,*** flight simulation training devices ***and*** aerodromes for which ***the Member State concerned is*** responsible under this Regulation ***and under the delegated and implementing acts adopted on the basis thereof***.

Once the Member State ***accepts such a request, it shall become responsible for the tasks covered by that request*** and the ***requesting*** Member State ▌ shall be relieved of ***the*** responsibility ***for those tasks***.

In relation to the exercise of ***the*** responsibility ***for the tasks reallocated in accordance with this paragraph***, Chapters II and IV and Articles 131 and 132, as well as the applicable provisions of the national law of the ***accepting*** Member State, ▌ shall apply.

3. ***As regards enforcement, the Member State which accepted the request, or the Agency, shall only be responsible for matters related to the procedures leading up to the adoption of decisions by the national competent authority of that Member State, or of the Agency, and pertaining to the certification and oversight tasks reallocated to it in accordance with this Article, as well as to the application of those decisions. For all other matters regarding enforcement, the allocation of responsibilities provided for in this Regulation and in the delegated and implementing acts adopted on the basis thereof shall remain unaffected.***

4. The Agency or a Member State, as applicable, shall only ***accept*** the ***request*** referred to in ***paragraph 1 or 2 when the Agency or the national competent authority of the Member State concerned considers that it has the necessary resources and*** it can effectively exercise the responsibility ***for the tasks concerned.***

5. When a Member State wishes to ***apply paragraph*** 1 or 2, it shall ***conclude*** with the Agency or with the other Member State, as applicable, ***detailed arrangements concerning the reallocation of responsibility for the tasks in question***. The natural and legal persons concerned by the ***reallocation*** and, in case of ***the reallocation*** referred to in paragraph 2, the Agency***,*** shall be consulted on ***those detailed arrangements before they are finalised. Those detailed arrangements shall, at least, identify clearly the tasks which are being reallocated, and shall include the legal, practical and administrative arrangements necessary to ensure an orderly transfer and the effective and uninterrupted continuation of the performance of the tasks concerned in compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof, as well as a seamless continuation of the activities undertaken by the natural and legal persons concerned. The detailed arrangements shall also include provisions on the transfer of relevant technical records and documentation.***

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

6. The Agency shall make available, through the repository established under Article 74, a list of Member States that have ***applied paragraphs 1 and 2 of*** this Article. That list shall ***clearly identify the reallocated tasks and the competent authority responsible for the tasks after their reallocation.***

The Agency shall take account of the ***reallocation of the responsibility for the tasks*** when conducting inspections and other monitoring activities in accordance with Article 85.

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

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

8. ***A Member State which has reallocated the responsibility for the tasks to the Agency or another Member State pursuant to paragraph 1 or 2, may, at any time, decide to revoke the reallocation. In that case, paragraphs 4, 5, 6 and the second subparagraph of paragraph 7 shall apply mutatis mutandis.***

Article 65

Reallocation of responsibility upon request of organisations operating in more than one Member State

1. An organisation may request ***that*** the Agency ***acts*** as the competent authority responsible for the ***tasks related to*** certification, oversight and enforcement with respect to that organisation, by way of derogation from Article 62(4), where that organisation holds a certificate or is eligible to apply for a certificate in accordance with Chapter ***III*** to the national competent authority from one Member State, but it has or it intends to have ***a*** substantial ***proportion of*** facilities and personnel covered by that certificate located in one or more other Member States.

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

2. ***The request referred to in paragraph 1 shall be sent by the organisations concerned to the Agency and the national competent authorities of the Member States in which they have their principal places of business.***

Upon receipt of that request, the Agency and the national competent authorities concerned shall, without undue delay, consult each other and, if needed, seek supplementary views from the organisations that made the request. In those consultations consideration shall be given by the Agency and by the national competent authorities to making use of inspectors and of other personnel available to the national competent authorities concerned in the case of an agreement on reallocation.

If, following those consultations, the Agency or a national competent authority concerned considers that the request would have an adverse effect on its own ability to effectively conduct certification, oversight and enforcement tasks under this Regulation and under the delegated and implementing acts adopted on the basis thereof, or would otherwise adversely impact the effective functioning of the authority it shall, within a maximum period of 180 days from the date of receipt of that request, inform the organisations concerned that it considers that the request would have such adverse effect, providing its justification. That letter of information shall also be communicated to the other party. In that case, the request shall be considered to have been dismissed.

3. Unless the request has been dismissed in accordance with paragraph 2, the Agency and the national competent authorities concerned shall conclude detailed arrangements concerning the reallocation of responsibility for the tasks concerned. The organisations that requested the Agency to act as their competent authority shall be consulted on those detailed arrangements before they are finalised. Those detailed arrangements shall, at least, identify clearly the tasks which are being reallocated, and shall include the legal, practical and administrative arrangements necessary for ensuring an orderly transfer, and the effective and uninterrupted continuation of the performance of the tasks concerned, in compliance with this Regulation and with the delegated and implementing acts adopted on the basis thereof, as well as a seamless continuation of the activities undertaken by the organisations concerned. The detailed arrangements shall also include provisions on the transfer of relevant technical records and documentation.

The Agency and the Member State or Member States concerned, as applicable, shall ensure that the ***reallocation*** of the responsibility ***for the tasks*** is carried out in accordance with ***those detailed arrangements. When implementing those arrangements, the Agency shall use to the extent possible the inspectors and other personnel available in the Member States***.

4. Upon the ***conclusion of the detailed arrangements*** pursuant to ***paragraph 3,*** the Agency shall become the competent authority ***responsible*** for the ***tasks covered by the request*** and the Member State or Member States concerned shall be relieved of ***the*** responsibility ***for those tasks***. In relation to the exercise of ***the*** responsibility ***for the reallocated tasks*** by the Agency, Chapters IV and V shall apply.

5. Article 64(***3), (***6) and (7) shall apply *mutatis mutandis* to any ***reallocation*** of responsibility ***for the tasks*** pursuant to this Article.

6. Organisations in respect of which the Agency acts as a competent authority pursuant to this Article may request that the Member States where those organisations have their principal places of business resume responsibility for the tasks related to certification, oversight and enforcement with respect to those organisations. In that case, Articles 64(4) to (7) shall apply mutatis mutandis.

Article 66

Oversight support mechanism

1. ***Where*** all of the following conditions have been met:

(a) the results of inspections and other monitoring activities conducted by the Agency in accordance with Article 85 indicate a serious and persisting inability of a Member State to effectively perform certain or all of its certification, oversight and enforcement tasks under this Regulation;

(b) the Commission has requested the Member State concerned to remedy the deficiencies identified in accordance with point (a);

(c) the Member State has not remedied the deficiencies in a satisfactory manner and the resulting situation endangers civil aviation safety**,**

the Member State concerned and the Agency shall, at the request of the Commission, establish jointly a temporary technical assistance programme with the aim of remedying the identified deficiencies and assisting the Member State concerned to restore its ability to perform the certification, oversight and enforcement tasks covered by this Regulation by the end of the support phase. That technical assistance programme shall include, in particular, the timeline of the programme, the planning and exercise of certification, oversight and enforcement tasks in cases where deficiencies have been identified, the training and qualifications of relevant inspectors and personnel, and the organisation of the work of the national competent authority of the Member State concerned, where it has direct influence on the identified deficiencies.

2. ***The Member State concerned shall be responsible for the implementation of the technical assistance programme to remedy the identified deficiencies. For that purpose, the Member State concerned shall cooperate with the Agency when implementing that technical assistance programme, including by issuing all necessary instructions to the national competent authority and providing all material facilities necessary for the successful conduct of the assistance programme.***

During the implementation of the technical assistance programme, the Member State concerned shall remain responsible for the certification, oversight and enforcement tasks, in accordance with Article 62(2). The Agency shall bear its own costs when providing assistance to the Member State concerned.

When implementing the technical assistance programme, the Member State concerned shall, if appropriate, given the nature of the deficiencies, make use of the pool of European aviation inspectors established under Article 63, of the qualified entities under Article 69, and of the training possibilities envisaged under Article 92.

3. ***The Agency shall provide updates to the Commission and the other Member States on the progress made in the implementation of the technical assistance programme.***

4. ***The Member State concerned shall make all possible efforts to restore its ability to perform certification, oversight and enforcement tasks under this Regulation. If the Member State concerned recognises that the technical support programme cannot be implemented as planned, it shall inform the Commission thereof and shall either reallocate its responsibilities for certification, oversight and enforcement tasks to the Agency or to another Member State in accordance with Article 64 or take other measures to resolve the deficiencies. The scope of the reallocation shall be limited to what is strictly necessary in order to address the deficiencies identified. The Agency shall include in the repository established under Article 74 the information about the tasks that have been reallocated and shall make that information public.***

5. ***This Article shall be without prejudice to the application of other measures, including Article 67 of this Regulation and Regulation (EC) No 2111/2005.***

Article 67

Validity ***and recognition*** of certificates and declarations

1. Certificates issued ***by the Agency or the national competent authorities,*** and declarations made ***by natural and legal persons*** in accordance with this Regulation and with the delegated and implementing acts adopted on the basis thereof shall be ***subject exclusively to the rules, conditions and procedures laid down in this Regulation and national administrative requirements and shall be valid and recognised*** in all Member States, without further requirements or evaluation.

2. ***If*** the Commission considers that a legal or a natural person to which a certificate has been issued or which has made a declaration no longer complies with the applicable requirements of this Regulation or of the delegated and implementing acts adopted on the basis thereof, the Commission shall, based on a recommendation from the Agency, require the Member State responsible for the oversight of that person to take appropriate corrective action and safeguard measures, including limitation or suspension of the certificate. The Commission shall adopt implementing acts containing that decision. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 127(2). On duly justified imperative grounds of urgency relating to aviation safety, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 127(4).

From the date at which that implementing act takes effect, the certificate or declaration concerned shall, by way of derogation from paragraph 1, no longer be valid ***and recognised*** in all Member States.

3. When the Commission considers that the Member State referred to in paragraph 2 has taken appropriate corrective action and safeguard measures, it shall decide, based on a recommendation from the Agency, that the certificate or declaration concerned shall again be valid ***and recognised*** in all Member States, in accordance with paragraph 1.

The Commission shall adopt implementing acts containing that decision. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 127(2). On duly justified imperative grounds of urgency relating to aviation safety, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 127(4).

4. This Article shall be without prejudice to Regulation (EC) No 2111/2005.

Article 68

Acceptance of third-country certification

1. The Agency and the national competent authorities may either issue the certificates provided for in this Regulation, and in the delegated and implementing acts adopted on the basis thereof, on the basis of certificates issued in accordance with the laws of a third country, or accept certificates and other relevant documentation attesting compliance with civil aviation rules which were issued in accordance with the laws of a third country, where such possibility is provided for in:

(a) international agreements concerning the recognition of certificates concluded between the Union and a third country;

(b) the delegated acts adopted on the basis of paragraph 3***; or***

(c) in the absence of an international agreement and of a relevant delegated act as referred to in points (a) and (b) of this paragraph respectively, and without prejudice to Article 140(6) of this Regulation, an agreement concerning the recognition of certificates concluded between a Member State and a third country before the entry into force of Regulation (EC) No 1592/2002 that has been notified to the Commission and the other Member States in accordance with point (a) of Article 9(2) of Regulation (EC) No 1592/2002 or point (a) of Article 12(2) of Regulation (EC) No 216/2008.

2. In order to achieve and maintain confidence in the regulatory systems of third countries, the Agency shall be authorised to conduct the necessary technical assessments and evaluations of the laws of third countries and of foreign aviation authorities. For the purpose of conducting such assessments and evaluations, the Agency may conclude working arrangements in accordance with Article 90(2).

3. The Commission is empowered to adopt delegated acts in accordance with Article 128 laying down detailed rules with regard to the acceptance of certificates and other documentation attesting to compliance with civil aviation rules issued in accordance with the laws of a third country and ensuring an equivalent level of safety to that provided for in this Regulation, including the conditions and procedures for achieving and maintaining the necessary confidence in regulatory systems of third countries.

Article 69

Qualified entities

1. The Agency and the national competent authorities may allocate their tasks related to certification and oversight under this Regulation to qualified entities that have been accredited ***in accordance with the delegated acts referred to in point (f) of Article 62(13) or the implementing acts referred to in point (e) of the first subparagraph of Article 62 (14)*** as being compliant with the criteria set out in Annex VI.

Without prejudice to paragraph 4, the Agency and the national competent authorities which make use of the qualified entities shall establish a system for that accreditation and for the assessment of the compliance of qualified entities with those criteria, both at the moment of accreditation and continuously thereafter.

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

2. The Agency or the national competent authority or authorities, as applicable, shall ***amend, limit,*** suspend or revoke the accreditation of a qualified entity that they granted, when that entity no longer complies with the criteria set out in Annex VI.

3. The Agency or the competent national authority or authorities accrediting a qualified entity may grant it a privilege to issue, ***renew,*** amend, ***limit,*** suspend and revoke certificates, or to receive declarations, on behalf of the Agency or the national competent authority. That privilege shall be included in the scope of the accreditation.

4. The Agency and the national competent authorities shall recognise, without further technical requirements or evaluation, accreditations of qualified entities granted by the Agency and by other national competent authorities in accordance with paragraph 1.

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

5. The Agency and the national competent authorities shall exchange information about the accreditations granted, ***limited,*** suspended and revoked***, including information about the scope of the accreditation and the privileges granted***. The Agency shall make that information available through the repository referred to in Article 74.

Article 70

Safeguard provisions

1. This Regulation and the delegated acts and implementing acts adopted on the basis thereof shall not prevent a Member State from reacting immediately to a problem relating to civil aviation safety, where all of the following conditions have been met:

(a) the problem involves a serious risk to aviation safety and immediate action by that Member State is required to address it;

(b) it is not possible for the Member State to adequately address the problem in compliance with this Regulation and with the delegated acts and implementing acts adopted on the basis thereof;

(c) the action taken is proportionate to the severity of the problem.

In such a case, the Member State concerned shall immediately notify the Commission, the Agency and the other Member States, through the repository established under Article 74, of the measures taken***, their duration*** and the reasons for taking them.

2. ***Once the Agency receives the notification referred to in paragraph 1 of this Article, it shall, without undue delay,*** assess whether the conditions set out in paragraph 1 ***of this Article*** have been met. ***The results of that assessment shall be included by the Agency in the repository established under Article 74.***

Where the Agency considers that those conditions have been met, it shall assess, without undue delay, whether it is able to address the problem identified by the Member State by taking the decisions referred to in the first subparagraph of Article 76(4), thereby obviating the need for the measures taken by the Member State. Where the Agency considers that it can address the problem in that manner, it shall take the appropriate decision to that effect and inform the Member States thereof through the repository established under Article 74. Where it considers that the problem cannot be addressed in that manner, it shall recommend to the Commission that it amends any delegated acts or implementing acts adopted on the basis of this Regulation in the way that it considers necessary in light of the application of paragraph 1 of this Article.

Where the Agency considers that those conditions have not been met it shall issue, without undue delay, a recommendation to the Commission as regards the outcome of that assessment. The Agency shall include that recommendation in the repository established under Article 74.

3. ***The*** Commission shall assess, taking account of ***the Agency*** recommendation ***referred to in the third subparagraph of paragraph 2,*** whether ***the*** conditions ***set out in paragraph 1*** have been met.

4. Where it considers that those conditions have not been met or where it ***departs*** from the outcome of the assessment by the Agency, the Commission shall adopt, ***without undue delay, implementing acts containing its decision and setting out its findings*** to that effect. Those implementing acts shall be published in the *Official Journal of the European Union* and shall be entered by the Agency into the repository established under Article 74.

Upon notification of an implementing act confirming that those conditions have not been met, the Member State concerned shall immediately ***revoke*** the measure ***taken in accordance with paragraph 1.***

Article 71

Flexibility provisions

1. Member States may grant exemptions to any natural or legal person subject to this Regulation from the requirements applicable to that person pursuant to Chapter III, other than the essential requirements laid down in that Chapter, or to the delegated or implementing acts adopted on basis of that Chapter in the event of urgent unforeseeable circumstances affecting those persons or urgent operational needs of those persons, where all of the following conditions have been met:

   (a) it is not possible to adequately address those circumstances or needs in compliance with the applicable requirements;

(b) ▌ safety**,** environmental protection and compliance with the applicable essential requirements ***are*** ensured, where necessary through the application of mitigation measures;

(c) the Member State has mitigated any possible distortion of market conditions as a consequence of the granting of the exemption as far as possible; and

(d) the exemption is limited in scope and duration to the extent strictly necessary and it is applied in a non-discriminatory manner.

In such a case, the Member State concerned shall immediately notify the Commission, the Agency and the other Member States, through the repository established under Article 74, of the exemption granted, ***its duration,*** the reason for granting it and, where applicable, the necessary mitigation measures applied.

2. Where the ***exemption*** referred to in paragraph 1 of this Article ***was granted for a duration that*** exceeds eight consecutive months or where a Member State has granted the same ***exemption*** repetitively and ***its*** total duration exceeds eight months, the Agency shall assess whether the conditions set out in paragraph 1 of this Article have been met and shall issue, within three months from the date of the reception of the ***last*** notification referred to in paragraph 1 of this Article, a recommendation to the Commission as regards the outcome of that assessment. The Agency shall include that recommendation in the repository established under Article 74.

In that case, the Commission shall, taking account of that recommendation, assess whether those conditions have been met. Where it considers that those conditions have not been met or where it departs from the outcome of the assessment by the Agency, the Commission shall adopt, within 3 months from the date of the reception of that recommendation, an implementing act containing its decision to that effect. Those implementing acts shall be published in the *Official Journal of the European Union* and entered by the Agency into the repository established under Article 74.

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

3. Where a Member State considers that the compliance with the applicable essential requirements set out in the Annexes can be demonstrated by other means than those laid down in the delegated and implementing acts adopted on the basis of this Regulation, and that those means present significant advantages in terms of civil aviation safety or of efficiency for the persons subject to this Regulation or for the authorities concerned, it may submit to the Commission and the Agency, through the repository established under Article 74, a reasoned request for amendment of the delegated or implementing act concerned so as to allow for the use of those other means.

In that case, the Agency shall, without undue delay, issue a recommendation to the Commission on whether the Member State's request fulfils the conditions set out in the first subparagraph. Where necessary as a result of the application of this paragraph, the Commission shall, without delay and taking account of that recommendation, consider amending the delegated or implementing act concerned.

Article 72

Information gathering, exchange and analysis

1. The Commission, the Agency and the national competent authorities shall exchange any information available to them in the context of the application of this Regulation and of the delegated and implementing acts adopted on the basis thereof, which is relevant to the other parties for the performance of their tasks under this Regulation. The competent authorities of the Member States entrusted with the investigation of civil aviation accidents and incidents, or with the analysis of occurrences, shall also be entitled to access to that information for the performance of their tasks. That information may also be disseminated to interested parties in accordance with the implementing acts referred to in paragraph 5.

2. ***Without prejudice to Regulations (EU) No 996/2010 and (EU) No 376/2014, the*** Agency shall coordinate at Union level the gathering, exchange and analysis of information on matters falling within the scope of this Regulation***, including operational flight data***. For that purpose, the Agency may enter into ▌ arrangements ***on information gathering, exchange and analysis*** with natural and legal persons subject to this Regulation ▌ or ***with*** associations of such persons ▌ . ***When gathering, exchanging and analysing the information and entering into and giving effect to such arrangements, the Agency shall limit the administrative burden on the persons concerned as much as possible and ensure appropriate protection of the information, including of any personal data contained therein, in accordance with paragraph 6 of this Article and with Articles 73(1), 123 and 132 of this Regulation.***

3. The Agency shall, upon request, assist the Commission in the management of the European Central Repository referred to in Article 8 of Regulation (EU) No 376/2014.

4. Upon a request by the Commission, the Agency shall analyse urgent or important issues falling within the scope of this Regulation. Where relevant, the national competent authorities shall cooperate with the Agency for the purpose of conducting such analysis.

5. The Commission shall adopt implementing acts laying down detailed rules for the exchange of the information referred to in paragraph 1 ***of this Article*** between the Commission, the Agency and the national competent authorities and the dissemination of such information to interested parties. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

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

(a) provide natural and legal persons subject to this Regulation with the information they need to ensure compliance with and further the objectives set out in Article 1;

(b) limit the dissemination and use of information to what is strictly necessary for achieving ***the*** objectives ***set out in Article 1***;

(c) prevent making the information available or prevent the information being used in order to attribute blame or liability***, without prejudice to applicable national criminal law***.

6. The Commission, the Agency and the national competent authorities, as well as the natural and legal persons and the associations of those persons referred to in paragraph 2 of this Article, shall***, in accordance with Union and national law,*** take the necessary measures to ensure appropriate confidentiality of the information received by them pursuant to this Article***. This paragraph is*** without prejudice to any stricter confidentiality requirements provided for in Regulations (EU) No 996/2010, (EU) No 376/2014, or other Union legislation.

7. In order to inform the general public of the overall level of civil aviation safety in the Union, the Agency shall ▌ annually***, and, when special circumstances apply, publish*** a safety review. That review shall contain an analysis of the general safety situation in wording that is simple and easy to understand and it shall indicate whether there are increased safety risks.

Article 73

Protection of the source of information

1. When the information referred to in Article 72(1) and (2) has been provided to a national competent authority, the source of such information shall be protected in accordance with the applicable Union and national law on the protection of the source of information relating to civil aviation safety. Where such information is provided by a natural person to the Commission or the Agency, the source of such information shall not be revealed and personal details of that source shall not be recorded together with the information provided.

2. Without prejudice to applicable national criminal law, Member States shall refrain from instituting proceedings in respect of unpremeditated or inadvertent infringements of the law which come to their attention only because the information about those infringements have been provided pursuant to this Regulation and to the delegated and implementing acts adopted on the basis thereof.

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

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

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

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

5. This Article shall not prevent the Commission, the Agency and the Member States from taking any action necessary for maintaining or improving civil aviation safety.

6. This Article shall be without prejudice to the rules on protection of the source of information set out in Regulations (EU) No 996/2010 and (EU) No 376/2014.

Article 74

Repository of information

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

That repository shall include information about:

(a) certificates issued and declarations received by the Agency and by national competent authorities in accordance with Chapter III and Articles 64 and 65 and Articles ▌77 to 82;

(b) certificates issued and declarations received by qualified entities on behalf of the Agency and national competent authorities in accordance with Article 69(3);

(c) accreditations granted by the Agency and by national competent authorities to qualified entities in accordance with Article 69, including information about the scope of the accreditation ***and the privileges granted***;

(d) the measures taken by Member States pursuant to Article 2(6) and (7), as well as the corresponding Commission decisions;

(e) ***Member State*** decisions taken pursuant to Article 2(***8***);

(f) Member States decisions taken pursuant to Article 41(5);

(g) the ***reallocation*** by Member States of ***the responsibility for tasks*** to the Agency or to another Member State in accordance with Articles 64 and 65, including details about the ***reallocated tasks;***

▌

(h) Commission decisions taken in accordance with Article 67;

(i) notifications by national competent authorities concerning individual flight time specification schemes submitted to the Agency on the basis of the delegated acts adopted in accordance with point (b) of Article 32(1), and the corresponding Agency opinions issued in accordance with Article 76(7);

(j) notifications by Member States concerning the measures taken to react immediately to a problem relating to civil aviation safety and concerning the granting of exemptions, and the corresponding Agency recommendations and Commission decisions, pursuant to Articles 70(1) and 71(1);

(k) requests by Member States concerning other means of compliance ***with the essential requirements***, and the corresponding Agency recommendations pursuant to Article 71(3);

(l) notifications by the Agency and the corresponding Commission decisions pursuant to Article 76(4);

(m) information which is available to the national competent authorities and related to the activities by aircraft involved in operations other than commercial air transport;

(n) information related to the implementation of international standards and recommended practices, referred to in Article 90(4);

(o) Member State and Commission decisions that have been notified pursuant to Article 62(5), including information about the tasks which are being exercised jointly;

(p) exemptions granted by Member States pursuant to Article 41(6) and the corresponding Commission decisions;

(q) measures of the Agency concerning flights above conflict zones applied in accordance with Article 88(3);

(r) other information that may be necessary for ensuring ▌effective cooperation ***between the Agency and the national competent authorities concerning the exercise of their tasks related to certification, oversight and enforcement under this Regulation***.

2. The national competent authorities, aeromedical examiners and aeromedical centres shall also exchange through the repository information concerning medical fitness of pilots. Any such information which constitutes personal data, including health data, shall be limited to what is strictly necessary for ensuring effective certification and oversight of pilots in accordance with Article 21.

3. Any personal data, including health data, included in the repository shall be stored for no longer than is necessary for the purposes for which the data were collected or for which they are further processed.

4. Member States and the Agency shall ensure that data subjects whose personal data are processed in the repository are informed, *ex ante*, thereof.

5. Member States and the Agency may restrict the scope of the rights of the data subject to access, rectify and erase personal data included in the repository to the extent that it is strictly necessary to safeguard civil aviation safety, in accordance with Article 23 of Regulation (EU) 2016/679 and Article 20 of Regulation (EC) 45/2001.

6. Without prejudice to paragraph 7, the Commission, the Agency, national competent authorities and any competent authority of the Member States entrusted with the investigation of civil aviation accidents and incidents shall, for the exercise of their tasks, have on-line and secure access to all information included in the repository.

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

The Agency shall in any case make publicly available information concerning:

(a) any certificates issued and any declarations received in accordance with Article 2(4);

(b) any decision of the Commission or of a Member State that has been notified to it pursuant to Article 2(6) and (7).

(c) any decision of a Member State that has been notified to it pursuant to the second subparagraph of Article 2(11).

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

8. The Commission shall adopt implementing acts laying down the necessary rules for the functioning and management of the repository and detailed requirements with regard to:

(a) the technical aspects of the establishment and maintenance of the repository;

(b) the classification of the information to be transmitted by the Commission, the Agency and the national competent authorities for inclusion in the repository, including the form and manner of transmitting such information;

(c) regular and standardised updates of the information included in the repository;

(d) the detailed arrangements for the dissemination and publication of certain information included in the repository in accordance with paragraph 6 ***of this Article***;

(e) the classification of information concerning the medical fitness of pilots to be transmitted by the national competent authorities, aero-medical examiners and aeromedical centres, for inclusion in the repository, including the form and manner of transmitting such information;

(f) the detailed arrangements for protecting the information included in the repository from unauthorised access, restricting access to the information and protecting any personal data included in the repository in accordance with the applicable Union law on the protection of personal data, in particular against accidental or unlawful destruction, loss, alteration, or disclosure;

(g) the maximum storage period allowed with regard to the personal data included in the repository, including the information concerning the medical fitness of pilots which constitutes personal data;

(h) the detailed conditions in accordance with which Member States and the Agency may restrict the rights of the data subject to access, rectify and erase personal data included in the repository, for the purpose of paragraph 5 ***of this Article***.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

CHAPTER V

THE EUROPEAN UNION AVIATION SAFETY AGENCY

SECTION I

TASKS

Article 75

Establishment and functions of the Agency

1. A European Union Aviation Safety Agency is hereby established.

2. For the purposes of ensuring the proper functioning and development of civil aviation in the Union in accordance with the objectives set out in Article 1, the Agency shall:

(a) undertake any task and formulate opinions on all matters covered by this Regulation;

(b) assist the Commission by preparing measures to be taken under this Regulation. Where those measures comprise technical rules, the Commission may not change their content without prior coordination with the Agency;

(c) provide the Commission with the necessary technical, scientific and administrative support to carry out its tasks;

(d) take the necessary measures within the powers conferred on it by this Regulation or other Union legislation;

(e) conduct inspections, other monitoring activities and investigations as necessary to fulfil its tasks under this Regulation, or as requested by the Commission;

(f) within its field of competence, carry out, on behalf of Member States, functions and tasks ascribed to them by applicable international conventions, in particular the Chicago Convention;

(g) assist the national competent authorities in carrying out their tasks, in particular by providing a forum for exchanges of information and expertise;

(h) contribute, ***for matters covered by this Regulation,*** upon request ***by the Commission***, to the establishment, measurement, reporting and analysis of performance indicators, where Union law establishes performance schemes relating to civil aviation;

(i) promote Union aviation standards and rules at international level by establishing appropriate cooperation with the competent authorities of third countries and international organisations;

(j) cooperate with other Union institutions, bodies, offices and agencies in areas where their activities relate to technical aspects of civil aviation.

Article 76

Agency measures

1. The Agency shall, upon request, assist the Commission in the preparation of proposals for amendments to this Regulation and of delegated and implementing acts to be adopted on the basis of this Regulation***, in accordance with the principles laid down in Article 4.*** The documents that the Agency submits to the Commission for those purposes shall take the form of opinions.

2. The Agency shall issue recommendations addressed to the Commission for the application of Articles 70 and 71.

3. The Agency shall, in accordance with Article 115 and with the applicable delegated and implementing acts adopted on the basis of this Regulation, issue certification ***specifications and other detailed*** specifications, acceptable means of compliance and guidance material for the application of this Regulation and of the delegated and implementing acts adopted on the basis thereof.

4. The Agency shall take the appropriate decisions for the application of ***paragraph 6 of this Article,*** Articles ▌ 77 to 83, ***85 and 126 and where tasks have been allocated to it pursuant to Articles 64 and 65.***

The Agency may grant exemptions to any legal or natural person to whom it has issued a certificate in the situations and subject to the conditions set out in Article 71(1).

In such a case, the Agency shall immediately notify the Commission and the Member States, through the repository established under Article 74, of the exemptions granted, the reasons for granting them and, where applicable, the necessary mitigation measures applied.

Where ▌ an exemption ***was granted for a duration that*** exceeds eight consecutive months or where the Agency has granted the same exemption repetitively and ***its*** total duration exceeds eight months, the Commission shall assess whether the conditions set out in Article 71(1) have been met. Where it considers that this is not the case, the Commission shall adopt implementing acts containing its decision to that effect. Those implementing acts shall be published in the *Official Journal of the European Union* and entered by the Agency into the repository established under Article 74.

The Agency shall immediately revoke the exemption upon the notification of that implementing act.

5. The Agency shall issue reports on the inspections and other monitoring activities conducted pursuant to Article 85.

6. The Agency shall react without undue delay to an urgent safety problem falling within the scope of this Regulation by***:***

(a) determining corrective action to be taken by ▌ natural and legal persons ***in respect of which it acts as the competent authority*** and by disseminating related information to those ▌ persons, including directives or recommendations, where this is necessary to safeguard the objectives set out in Article 1; ***the Agency may also issue safety bulletins containing non-binding information or recommendations addressed to other natural and legal persons involved in aviation activities;***

(b) determining safety objectives to be achieved and recommending corrective action to be taken by national competent authorities and by disseminating related information to those national competent authorities where this is necessary to safeguard the objectives set out in Article 1.

With regard to point (b), the national competent authorities shall inform the Agency without undue delay about the measures taken to achieve those safety objectives determined by the Agency. In addition, where the problem affects more than one Member State, the national competent authorities concerned shall cooperate with the Agency to ensure that the measures necessary to achieve those safety objectives are taken in a coordinated manner.

7. The Agency shall issue opinions on the individual flight time specification schemes proposed by the Member States pursuant to the delegated acts adopted in accordance with point (b) of Article 32(1) which deviate from the certifications specifications adopted by the Agency.

Article 77

Airworthiness and environmental certification

1. With regard to the products, parts***,*** non-installed equipment ***and equipment to control unmanned aircraft remotely,*** referred to in points (a) and (b)(i) of Article 2(1), the Agency shall, where applicable and as specified in the Chicago Convention or the Annexes thereto, carry out on behalf of Member States the functions and tasks of the state of design, manufacture or registry, when those functions and tasks are related to design certification and mandatory continuing airworthiness information. To that end, it shall in particular:

(a) for each design of a product ***and equipment to control unmanned aircraft remotely*** for which a type certificate, ***a restricted type*** certificate***, a change to a type certificate or to a restricted type certificate***, including a supplemental type certificate, ▌ an approval of ▌ repair design, ***or an approval of operational suitability data*** has been applied for in accordance with Article ***11 or Article 56(1)*** establish and notify to the applicant the ▌ certification basis;

▌

(b) for each design of a part or non-installed equipment for which a certificate has been applied for in accordance with Article 12***,*** 13 ***or*** Article ***56(1)*** respectively, establish and notify to the applicant the certification basis;

(c) for aircraft for which a permit to fly has been applied for in accordance with point (b) of ***the first subparagraph of*** Article 18(2) ***or Article 56(1***), issue the approval for associated flight conditions related to the design;

(d) establish and make available the airworthiness and environmental compatibility specifications applicable to the design of products***, parts, non-installed equipment and equipment to control unmanned aircraft remotely*** which are subject to a declaration in accordance with point (a) of Article 18(1) ***or Article 56(5***);

(e) be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(***2***) with respect to the type certificates, restricted type certificates, certificates of changes, including supplemental type certificates, and approvals of repair designs ***and approvals of operational suitability data*** for the design of products in accordance with Article ***11,*** point (b) of Article 18(1) ***or Article 56(1***);

(f) be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(***2***) with respect to the certificates for the design of parts***,*** for non-installed equipment ***and equipment to control unmanned aircraft remotely*** in accordance with Articles ***12,*** 13 ***and 56(1)***;

(g) issue the appropriate environmental data sheets on the design of products which it certifies in accordance with Articles 11 ***and 56(1)***;

(h) ensure the continuing airworthiness functions associated with the design of products, the design of parts***,*** non-installed equipment ***and equipment to control unmanned aircraft remotely*** it has certified and in respect of which it performs oversight, including reacting without undue delay to a safety or security problem and issuing and disseminating the applicable mandatory information.

2. The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(***2***) with respect to:

(a) the approvals of ***and the declarations made by*** the organisations responsible for the design of products, parts***,*** non-installed equipment ***and equipment to control unmanned aircraft remotely***, in accordance with Article 15(1), point (g) of Article 19(1) ***and Article 56***(1) and (5);

(b) the approvals of ***and the declarations made by*** the organisations responsible for the ***production***, maintenance and continuing airworthiness management of products, parts***,*** non-installed equipment and ***equipment to control unmanned aircraft remotely and by*** the organisations involved in the training of personnel ***responsible for the release of a product, part, non-installed equipment or equipment to control unmanned aircraft remotely after maintenance*** in accordance with Article ***15, point (g) of Article 19(1) and Article 56(1) and (5),*** where those organisations have their principal place of business outside the territories for which Member States are responsible under the Chicago Convention.

3. The Agency shall be responsible for the tasks related to oversight and enforcement in accordance with Article ***62***(***2***) with respect to the declarations made by organisations***,*** in accordance with point (a) of ***Article 18(1) and Article 56(5) and concerning the compliance of a design of a product, part, non-installed equipment or equipment to control unmanned aircraft remotely with detailed technical specifications***.

Article 78

Aircrew certification

1. The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(***2***) with respect to the approvals of ***and the declarations made by*** the pilot ***training organisations*** and cabin crew training organisations and the aero-medical centres referred to in Article 24 ***and Article 56(1) and (5),*** where those organisations and centres have their principal place of business outside the territories for which Member States are responsible under the Chicago Convention.

2. The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with ***Article*** 62(***2***) with respect to the certificates ***and declarations*** for flight simulation training devices in accordance with Article 25 ***and Article 56 (1) and (5)*** in each of the following cases:

(a) the device is operated by an organisation ***with a principal place of business outside the territories for which Member States are responsible under the Chicago Convention***;

(b) ***the device is located outside the territories for which Member States are responsible under the Chicago Convention.***

Article 79

Certification of Safety-Related Aerodrome Equipment

With regard to the safety-related aerodrome equipment referred to in Article 35, the Agency shall:

(***a) establish and notify to the applicant the detailed specifications for the safety-related aerodrome equipment which is subject to certification in accordance with Article 35;***

(b) establish and make available the detailed specifications for the safety-related aerodrome equipment which is subject to a declaration in accordance with Article 35.

(c) be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(2) with respect to the certificates for, and the declarations made in respect of safety-related aerodrome equipment in accordance with Article 35.

Article 80

ATM/ANS

1. The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(***2***) with respect to:

(a) the certificates for the ATM/ANS providers referred to in Article 41, where those providers have their principal place of business located outside the ***territories for which Member States are responsible under the Chicago Convention*** and they are responsible for providing ATM/ANS in the airspace ***above the*** territory ***to which the Treaties apply***;

(b) the certificates for the ATM/ANS providers referred to in Article 41, where those providers provide pan-European ATM/ANS;

(c) the certificates for ▌ and the declarations made by the organisations referred to in Article 42, where those organisations are involved in the design, production or maintenance of ▌ ATM/ANS systems and ATM/ANS constituents***, including where they contribute to Single European Sky ATM Research (SESAR) implementation, used in the provision of the services referred to in point (b) of this paragraph.***

(d) the declarations made by the ATM/ANS providers to which the Agency has issued a certificate in accordance with points (a) and (b) of this paragraph, in respect of ATM/ANS systems and ATM/ANS constituents which are put in operation by those providers in accordance with Article 45(1).

2. With regard to ***ATM/ANS*** systems and ATM/ANS constituents referred to in Article 45, ***including where they contribute to SESAR implementation,*** the Agency shall**,** where the delegated acts referred to in Article 47 so provide***:***

(a) establish and notify to the applicant the detailed specifications for the ATM/ANS systems and ATM/ANS constituents, ▌ which are subject to certification ***in accordance with Article 45(2);***

(b) ***establish and make available the detailed specifications for the ATM/ANS systems and ATM/ANS constituents which are subject to*** a declaration in accordance with Article 45(2);

(c) be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(***2***) with respect to the certificates for, and the declarations made in respect of, ATM/ANS systems and ATM/ANS constituents ▌ in accordance with Article 45(2).

Article 81

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

The Agency shall be responsible for the tasks related to certification, oversight, and enforcement in accordance with Article 62(***2***) with respect to the certificates for the air traffic controller training organisations referred to in Article 51, where those organisations have their principal place of business located outside the territories for which Member States are responsible under the Chicago Convention and, where relevant, their personnel.

Article 82

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

1. The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(***2)*** with respect to the authorisations and declarations for the operations ***of aircraft and for aircraft*** operators referred to in Article 60 ▌ unless a Member State carries out the functions and ***duties*** of the state of operator in respect of the ***aircraft*** operators concerned.

2. The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(***2***) with respect to the authorisations for aircraft and pilots referred to in point (a) of Article 61(1).

3. The Agency shall, upon request, assist the Commission in the implementation of Regulation (EC) No 2111/2005 by conducting ***all*** the necessary ***safety*** assessments, including on-site visits, of third country operators and authorities responsible for their oversight. It shall provide the results of those assessments, with appropriate recommendations, to the Commission.

Article 83

Investigations by the Agency

1. The Agency shall conduct either itself or through national competent authorities or qualified entities the investigations necessary for the performance of its tasks related to certification, oversight and enforcement in accordance with Article 62***(2).***

2. For the purposes of conducting the investigations referred to in paragraph 1, the Agency shall be empowered to:

   (a) require the legal or natural persons to whom it has issued a certificate, or who made a declaration to it, to provide the Agency with all necessary information;

   (b) require those persons to provide oral explanations on any fact, document, object, procedure or other subject matter relevant for determining whether the person complies with this Regulation and with the delegated and implementing acts adopted on the basis thereof;

(c) enter ***relevant*** premises, land and means of transport of those persons;

(d) examine, copy or make extracts from any ***relevant*** document, record or data held by or accessible to those persons, irrespective of the medium on which the information in question is stored.

The Agency shall, where required for determining whether a person to whom it has issued a certificate, or who has made a declaration to it, complies with this Regulation and with the delegated and implementing acts adopted on the basis thereof, also be empowered to exercise the powers set out in the first subparagraph in relation to any other legal or natural person who can reasonably be expected to possess or to have access to information relevant for those purposes. The powers of this paragraph shall be exercised in compliance with the national law of the Member State or of the third country where the investigation takes place, with due regard for the rights and legitimate interests of persons concerned and in compliance with the principle of proportionality.

Where in accordance with the applicable national law prior authorisation from the judicial ***or administrative*** authority of the Member State or third country concerned is needed to enter ***relevant*** premises, land and means of transport as referred to in point (c) of the first subparagraph, those powers shall be exercised only after obtaining such prior authorisation.

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

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

Article 84

Fines and periodic penalty payments

1. The Commission may, at the request of the Agency, impose on a legal or natural person to whom ***the Agency*** has issued a certificate, or who has made a declaration to it, in accordance with this Regulation, either one or both of the following:

   (a) a fine, where that person infringed, intentionally or negligently, one of the provisions of this Regulation or of the delegated and implementing acts adopted on the basis thereof;

   (b) a periodic penalty payment where that person ***continues to infringe*** one of those provisions, ▌ in order to compel that person to comply with those provisions.

2. The fines and periodic penalty payments referred to in paragraph 1 shall be effective, proportionate and dissuasive. They shall be set taking account of the gravity of the case, and in particular the extent to which safety or protection of the environment has been compromised, ***the activity to which the infringement pertains*** and the economic capacity of the legal or natural person concerned.

The amount of the fines shall not exceed 4 % of the annual income or turnover of the legal or natural person concerned. The amount of the periodic penalty shall not exceed 2,5 % of the average daily income or turnover of the legal or natural person concerned.

3. The Commission shall only impose fines and periodic penalty payments pursuant to paragraph 1 when other measures provided for in this Regulation and in the delegated ***and implementing*** acts adopted on the basis thereof to address such infringements are inadequate or disproportionate.

4. With regard to the imposition of fines and periodic penalty payments in accordance with this Article, the Commission shall adopt delegated acts in accordance with Article 128, laying down:

(a) detailed criteria and a detailed methodology for establishing the amounts of the fines and periodic penalty payments;

(b) detailed rules for enquiries, associated measures and reporting, as well as decision-making, including provisions on rights of defence, access to file, legal representation, confidentiality and temporary provisions; and

(c) procedures for the collection of the fines and periodic penalty payments.

5. The Court of Justice shall have unlimited jurisdiction to review decisions of the Commission taken pursuant to paragraph 1. It may cancel, reduce or increase the fine or periodic penalty payment imposed.

6. The decisions of the Commission taken pursuant to paragraph 1 shall not be of a criminal law nature.

Article 85

Monitoring of Member States

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

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

2. For the purposes of conducting the inspections and other monitoring activities referred to in paragraph 1, the Agency shall be empowered to:

   (a) require any national competent authority and any natural and legal person subject to this Regulation to provide the Agency with all necessary information;

(b) require those authorities and persons to provide oral explanations on any fact, document, object, procedure or other subject matter relevant for determining whether a Member State complies with this Regulation and with the delegated and implementing acts adopted on the basis thereof;

(c) enter ***relevant*** premises, land and means of transport of those authorities and persons;

(d) examine, copy or make extracts from any ***relevant*** document, record or data held by or accessible to those authorities and persons, irrespective of the medium on which the information in question is stored.

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

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

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

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

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

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

5. When an inspection or another monitoring activity conducted in accordance with this Article entails an inspection or another monitoring activity in respect of a legal or a natural person subject to this Regulation, Article 83(2), (3) and (4) shall apply.

6. Upon request of the Member State, reports drawn up by the Agency pursuant to paragraph 1 shall be made available to it in the official Union language or languages of the Member State where the inspection took place.

7. The Agency shall publish a summary of information about the application by each Member State of this Regulation and of the delegated and implementing acts adopted on the basis thereof. It shall include that information in the annual safety review referred to in Article 72(7).

8. The Agency shall contribute to the assessment of the impact of the implementation of this Regulation and of the delegated and implementing acts adopted on the basis thereof, without prejudice to the Commission's assessment under Article 124, having regard to the objectives set out in Article 1.

9. The Commission shall adopt implementing acts laying down detailed rules on the working methods of the Agency for conducting the tasks under this Article. Those implementing acts shall be adopted in accordance with the ***examination*** procedure referred to in Article 127(***3***).

Article 86

Research and innovation

1. The Agency shall assist the Commission and the Member States in identifying key research themes in the field of civil aviation to contribute to ensuring consistency and coordination between publicly funded research and development and policies falling within the scope of this Regulation.

2. The Agency shall support the Commission in the definition and accomplishment of the relevant Union framework programmes for research and innovation activities and of the annual and multi-annual work programmes, including in the conduct of evaluation procedures, in the review of funded projects and in the exploitation of the results of research and innovation projects.

The Agency shall implement civil aviation related parts of the Framework Programme for Research and Innovation where the Commission has delegated the relevant powers to it.

3. The Agency may develop and finance research in so far as is strictly related to the improvement of activities in its field of competence. The Agency's research needs and activities shall be included in its annual work programme.

4. The results of research funded by the Agency shall be published, unless the applicable rules of intellectual property law or the security rules of the Agency referred to in Article 123 preclude such publication.

5. In addition to the tasks set out in paragraphs 1 to 4 of this Article and in Article 75, the Agency may also engage in ad hoc research activities, provided that those activities are compatible with the Agency’s tasks and the objectives of this Regulation.

Article 87

Environmental protection

1. The measures taken by the Agency as regards emissions and noise, for the purpose of the certification of the design of products in accordance with Article 11, shall aim to prevent significant harmful effects on ***climate,*** environment and human health caused by the civil aviation ***products concerned, giving due consideration to the international standards and recommended practices, environmental benefits, technological feasibility and economic impact***.2. The Commission, the Agency, other Union institutions, bodies, offices and agencies and the Member States shall, within their respective fields of competence, cooperate on environmental matters, including those addressed in ***Directive 2003/87/CE of the European Parliament and of the Council***[42] and Regulation (EC) No 1907/2006 with a view to ensuring that interdependencies between ***climate and*** environmental protection, human health and other, technical, domains of civil aviation are taken into account***, giving due consideration to the international standards and recommended practices, environmental benefits, technological feasibility and economic impact***.

[42] ***Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).***

3. The Agency shall***, where it has the relevant expertise,*** assist the Commission with the definition and coordination of civil aviation environmental protection policies and actions, in particular by conducting studies, simulations and providing technical advice ***while taking into account the interdependencies between climate and environmental protection, human health and other, technical, domains of civil aviation***.

4. In order to inform interested parties and the general public, the Agency shall, ***at least*** every three years, publish an environmental review, which shall give an objective account of the state of environmental protection relating to civil aviation in the Union.

When preparing that review, the Agency shall primarily rely on information already available to Union institutions and bodies, as well as on publicly available information.

The Agency shall associate the Member States and consult relevant stakeholders and organisations in the development of that review.

That review shall also contain recommendations aiming to improve the level of environmental protection in the area of civil aviation in the Union.

Article 88

Interdependencies between civil aviation safety and security

1. The Commission, the Agency and the Member States shall cooperate on security matters related to civil aviation, including cyber security, ***where*** interdependencies between civil aviation safety and security ***exist***.

2. Where interdependencies between civil aviation safety and security exist, the Agency shall, upon request, provide technical assistance to the Commission, where the Agency has the relevant safety expertise, in the implementation of Regulation (EC) No 300/2008 of the European Parliament and of the Council[43] and other relevant provisions of Union legislation.

3. To contribute to protecting civil aviation against acts of unlawful interference where interdependencies between civil aviation safety and security exist, the Agency shall where necessary, react without undue delay to an urgent problem which is of common concern to Member States and which falls within the scope of this Regulation by:

(a) taking measures under point (h) of Article 77(1) to address vulnerabilities in aircraft design;

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

(b) recommending corrective actions to be taken by the national competent authorities or natural and legal persons subject to this Regulation and/or disseminating relevant information to those authorities and persons, in the case that the problem affects aircraft operation, including the risks to civil aviation arising from conflict zones.

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

Article 89

Interdependencies between civil aviation safety and socio-economic factors

1. The Commission, the Agency, other Union institutions bodies, offices and agencies and the Member States, shall, within their respective fields of competence, cooperate with a view to ensuring that interdependencies between civil aviation safety and related socio-economic factors are taken into account including in regulatory procedures, oversight and implementation of just culture as defined in Article 2 of Regulation (EU) No 376/2014, to address socio-economic risks to aviation safety.

2. *The Agency shall consult relevant stakeholders when addressing such interdependencies.*

3. *The Agency shall, every three years, publish a review, which shall give an objective account of the actions and measures undertaken, in particular those addressing the interdependencies between civil aviation safety and socio-economic factors.*

Article 90

International cooperation

1. The Agency shall, upon request, assist the Commission in its management of relations with third countries and international organisations relating to matters covered by this Regulation. Such assistance shall in particular contribute to the harmonisation of rules***,*** the mutual recognition of certificates, ***in the interest of European industry, and the promotion of European aviation safety standards***.

2. The Agency may cooperate with the competent authorities of third countries and with international organisations competent in matters covered by this Regulation. To this end, the Agency ▌ , ***in*** prior ***consultation with*** the Commission, ***may*** establish working arrangements with those authorities and international organisations. ***Those working arrangements shall not create legal obligations incumbent on the Union and its Member States.***

3. The Agency shall assist Member States in ***exercising their rights and fulfilling*** their obligations under international agreements relating to matters covered by this Regulation, in particular their ***rights and*** obligations under the Chicago Convention.

The Agency may act as a Regional Safety Oversight Organisation in the ICAO framework.

4. The Agency shall, in cooperation with the Commission and the Member States, ***include*** and update where necessary, ***the following information in the*** repository ***referred to in Article 74***:

(a) information on the compliance of this Regulation and of the delegated and implementing acts adopted on the basis thereof and of the measures taken by the Agency under this Regulation with the international standards and recommended practices;

(b) other information related to the implementation of this Regulation, which is common to all Member States and which is relevant for monitoring by ICAO of the compliance of Member States with the Chicago Convention and international standards and recommended practices;

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

5. Without prejudice to the relevant Treaty provisions, the Commission, the Agency and the national competent authorities ***who are involved in ICAO activities*** shall collaborate, through a network of experts, on technical matters falling within the scope of this Regulation and related to the work of ICAO. The Agency shall provide this network with the necessary administrative support, including assistance for the preparation and organisation of its meetings.

6. In addition to the tasks set out in paragraphs 1 to 5 of this Article and in Article 75, the Agency may also engage in ad hoc technical cooperation, and research and assistance projects with third countries and international organisations, provided that those activities are compatible with the Agency's tasks and the objectives set out in Article 1.

Article 91

Aviation Crisis Management

1. The Agency shall, within its field of competence, contribute to a timely response to and mitigation of aviation crises***, in coordination, with other appropriate stakeholders***.

2. The Agency shall participate in the European Aviation Crisis Coordination Cell ('EACCC') established in accordance with Article 18 of Commission Regulation (EU) No 677/2011[44].

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

Article 92

Aviation training

1. In order to promote best practices and uniformity in the implementation of this Regulation and of the delegated and implementing acts adopted on the basis thereof, the Agency may***, upon request by a provider of aviation training, assess the compliance of that provider and of its training courses with the requirements established by the Agency and published in its official publication. Upon having established such compliance, the provider shall be entitled to provide Agency-approved training courses.***

2. ***The Agency may provide training primarily addressed to its and*** national competent authorities***' staff, but also to*** competent authorities of third countries, international organisations, the natural and legal persons subject to this Regulation and other interested parties***, either through its own training resources or, where necessary, by relying on*** external training providers ▌.

Article 93

Implementation of Single European Sky

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

(a) conducting technical inspections, technical investigations, and studies;

(b) ***contributing, in matters covered by this Regulation, in cooperation with the Performance Review Body provided for in Article 11 of Regulation No 549/2004,*** to the implementation of a performance scheme for air navigation services and network functions;

(c) contributing to the implementation of the ATM Master Plan, including the development and deployment of the SESAR programme.

SECTION II

INTERNAL STRUCTURE

Article 94

Legal status, seat and local offices

1. The Agency shall be a body of the Union. It shall have legal personality.

2. In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.

3. The seat of the Agency shall be Cologne, Federal Republic of Germany.

4. The Agency may establish local offices in the Member States ***or co-locate staff in Union delegations in third countries***, ▌ in accordance with Article 104(4).

5. The Agency shall be legally represented by its Executive Director.

Article 95

Staff

1. The Staff Regulations of Officials of the European Union, the Conditions of Employment of Other Servants of the European Union[45] and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and Conditions of Employment shall apply to the staff employed by the Agency.

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

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

Article 96

Privileges and immunities

The Protocol No 7 on the Privileges and Immunities of the European Union, annexed to the TEU and to the TFEU, shall apply to the Agency and its staff.

Article 97

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 shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.

3. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by ***it*** or by its staff in the performance of their duties.

4. The Court of Justice shall have jurisdiction in disputes over compensation for damages referred to in paragraph 3.

5. The personal liability of its staff towards the Agency shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

Article 98

Functions of the Management Board

1. The Agency shall have a Management Board.

2. The Management Board shall:

(a) appoint the Executive Director, and where relevant extend his or her term of office or remove him or her from office, in accordance with Article 103;

(b) adopt a consolidated annual activity report on the Agency's activities and send it by 1 July each year to the European Parliament, the Council, the Commission and the Court of Auditors. The consolidated annual activity report shall be made public;

(c) adopt each year the Agency's programming document by a majority of two-thirds of members entitled to vote and in accordance with Article 117;

(d) adopt the annual budget of the Agency by a majority of two-thirds of the members entitled to vote and in accordance with Article 120(11);

(e) establish procedures for making decisions by the Executive Director as referred to in Articles 115 and 116;

(f) carry out its functions relating to the Agency's budget pursuant to Articles 120, 121 and 125;

(g) appoint the members of the Board ▌ of Appeal pursuant to Article ***106***;

(h) exercise disciplinary authority over the Executive Director;

(i) give its opinion on the rules relating to fees and charges referred to in Article 126 ▌;

(j) adopt its Rules of Procedure ▌;

(k) decide on the linguistic arrangements for the Agency;

(l) take ▌ decisions on the establishment of the internal structures of the Agency ***at directors' level*** and, where necessary, their modifications;

(m) in accordance with paragraph 6, exercise, with respect to the staff of the Agency, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment ('the appointing authority powers');

(n) adopt appropriate implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;

(o) adopt rules for the prevention and management of conflicts of interest in respect of its members, as well as of the members of the Board of Appeal;

(p) ensure adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-fraud Office ('OLAF')[46];

▌

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

(q) adopt the financial rules applicable to the Agency in accordance with Article 125;

(r) appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of Other Servants, who shall be totally independent in the performance of his or her duties;

(s) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;

(t) give its opinion on the draft of the European Aviation Safety Programme in accordance with Article 5;

(u) adopt the European Plan for Aviation Safety in accordance with Article ***6;***

(v) take duly reasoned decisions in relation to waiver of immunity in accordance with Article 17 of Protocol No 7 on the privileges and immunities of the European Union, annexed to the TEU and to the TFEU;

(w) establish procedures for expedient cooperation of the Agency with national judicial authorities, without prejudice to Regulations (EU) No 996/2010 and (EU) No 376/2014.

3. The Management Board may advise the Executive Director on any matter related to areas covered by this Regulation.

4. The Management Board shall establish an advisory body representing the full range of interested parties affected by the work of the Agency, which it shall consult prior to making decisions in the fields referred to in points (c), (e), (f) and (i) of paragraph 2. The Management Board may also decide to consult the advisory body on other issues referred to in paragraphs 2 and 3. The Management Board shall not, in any case, be bound by the opinion of the advisory body.

5. The Management Board may establish working bodies to assist in carrying out its tasks, including the preparation of its decisions and monitoring the implementation thereof.

6. The Management Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants, delegating relevant appointing authority powers to the Executive Director and defining the conditions under which that delegation of powers can be suspended. The Executive Director shall be authorised to sub-delegate those powers.

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

Article 99

Composition of the Management Board

1. The Management Board shall be composed of representatives from Member States and from the Commission, all with voting rights. Each Member State shall appoint one member of the Management Board and ***two alternates.*** An alternate shall ***only*** represent the member in his or her absence. The Commission shall appoint two representatives and their alternates. The term of office for members and their alternates shall be four years. That term shall be extendable.

2. Members of the Management Board and their alternates shall be appointed because of their knowledge, recognised experience and commitment in the field of civil aviation, taking into account relevant managerial, administrative and budgetary expertise, which are to be used to further the objectives of this Regulation. ***The members*** shall have overall responsibility at least for civil aviation safety policy in their respective Member States.

3. All parties represented in the Management Board shall make efforts to limit turnover of their representatives, in order to ensure continuity of the work of the Management Board. All parties shall aim to achieve a balanced representation between men and women on the Management Board.

4. Where appropriate, the participation of representatives of European third countries in the Management Board with observer status and the conditions for such participation shall be established in the agreements referred to in Article 129.

5. The advisory body referred to in Article 98(4) shall appoint four of its members to participate with observer status in the Management Board. They shall represent, as broadly as possible, the different views represented in the advisory body. The ***initial*** term of office shall be ***48*** months and shall be extendable ▌ .

Article 100

Chairperson of the Management Board

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from among its members with voting rights. The Deputy Chairperson shall *ex officio* replace the Chairperson in the event of his or her inability of attending to his or her duties.

2. The term of office of the Chairperson and Deputy Chairperson shall be four years and shall be extendable once for a further four years. If their membership of the Management Board ceases at any time during their term of office, their term of office shall automatically expire on that date.

Article 101

Meetings of the Management Board

1. Meetings of the Management Board shall be convened by its Chairperson.

2. The Management Board shall hold at least two ordinary meetings a year. In addition it shall meet at the request of the Chairperson, of the Commission or of at least one third of its members.

3. The Executive Director of the Agency shall take part in the deliberations, without the right to vote.

4. The members of the Management Board may, in accordance with its Rules of Procedure, be assisted by their advisers or experts.

5. The Management Board may invite any person whose opinion might be of interest to attend its meetings with observer status.

6. The Agency shall provide the secretariat for the Management Board.

Article 102

Voting rules of the Management Board

1. Without prejudice to points (c) and (d) of Article 98(2) and Article 103(7), the Management Board shall take decisions by majority of its members with voting rights. At the request of a member of the Management Board, the decision referred to in point (k) of Article 98(2) shall be taken by unanimity.

2. Each member appointed pursuant to Article 99(1) shall have one vote. In the absence of a member, his or her alternate shall be entitled to exercise his or her right to vote. Neither observers nor the Executive Director of the Agency shall have the right to vote.

3. The Rules of Procedure of the Management Board shall establish more detailed voting arrangements, in particular the conditions under which a member may act on behalf of another member, as well as any quorum requirements, where appropriate.

4. In order for them to be adopted, decisions on budgetary or human resources matters***, in particular matters referred to in points (d), (f), (h), (m), (n), (o), and (q) of Article 98(2) ,*** require a positive vote from the Commission.

I

Article 103

Executive Director

1. The Executive Director shall be engaged as a temporary agent of the Agency under point (a) of Article 2 of the Conditions of Employment of Other Servants.

2. The Executive Director shall be appointed by the Management Board on grounds of merit and of documented competence and experience relevant for civil aviation, from a list of candidates proposed by the Commission, following an open and transparent selection procedure.

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

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

3. The term of office of the Executive Director shall be five years. By the end of that period ▌ the Commission shall undertake an assessment that takes into account an evaluation of the Executive Director's performance and the Agency's future tasks and challenges. ***At the midway point, the Executive Director may be invited to make a statement to the competent committee of the European Parliament and answer questions from its members regarding the Executive Director's performance.***

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

5. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.

6. The Executive Director may be removed from office only upon a decision of the Management Board acting on a proposal from the Commission.

7. The Management Board shall reach decisions on appointment, extension of the term of office or removal from office of the Executive Director on the basis of a two-thirds majority of its members with voting rights.

8. The Executive Director may be assisted by one or more Directors. If the Executive Director is absent or indisposed, one of the Directors shall take his or her place.

Article 104

Responsibilities of the Executive Director

1. The Executive Director shall manage the Agency. The Executive Director shall be accountable to the Management Board. Without prejudice to the powers of the Commission ***and of*** the Management Board, ▌ the Executive Director shall be independent in the performance of his or her duties and shall neither seek nor take instructions from any government or from any other body.

2. The Executive Director shall report to the European Parliament on the performance of his or her duties when invited to do so. The Council may invite the Executive Director to report on the performance of those duties.

3. The Executive Director shall be responsible for the implementation of the tasks assigned to the Agency by this Regulation or other Union acts. In particular, the Executive Director shall be responsible for:

(a) approving the measures of the Agency as defined in Article 76 within the limits specified by this Regulation and by the delegated and implementing acts adopted on the basis thereof;

(b) deciding on investigations, inspections, and other monitoring activities as provided for in Articles 83 and 85;

(c) deciding on allocation of tasks to qualified entities in accordance with Articles 69(1) and on the conduct of investigations on behalf of the Agency by national competent authorities or qualified entities in accordance with Article 83(1);

(d) taking the necessary measures concerning the activities of the Agency related to international cooperation in accordance with Article 90;

(e) taking all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the proper functioning of the Agency in accordance with this Regulation;

(f) implementing decisions adopted by the Management Board;

(g) preparing the consolidated annual report on the Agency's activities and submitting it to the Management Board for adoption;

(h) preparing the Agency's draft statement of estimates of revenue and expenditure pursuant to Article 120, and implementing its budget pursuant to Article 121;

(i) delegating the powers of the Executive Director to other members of the Agency's staff. The Commission shall adopt implementing acts laying down the rules applicable to such delegations. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 127(2);

(j) preparing the programming document referred to in Article 117(1), and submitting it to the Management Board for adoption, after obtaining the opinion of the Commission;

(k) implementing the programming document referred to in Article 117(1), and report to the Management Board on its implementation;

(l) preparing an action plan following up conclusions of internal or external audit reports and evaluations, as well as investigations by OLAF, and reporting on progress twice a year to the Commission and regularly to the Management Board ▌;

(m) protecting the financial interests of the Union by applying preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative and financial penalties;

(n) preparing an anti-fraud strategy for the Agency and present it to the Management Board for adoption;

(o) preparing draft financial rules applicable to the Agency;

(p) preparing the European Plan for Aviation Safety and its subsequent updates, and ***submitting*** them to the Management Board for adoption;

(q) reporting to the Management Board on the implementation of the European Plan for Aviation Safety;

(r) responding to requests for assistance from the Commission made in accordance with this Regulation;

(s) accepting the reallocation of responsibilities to the Agency in accordance with Articles 64 and 65;

(t) the day-to-day administration of the Agency;

(u) taking all decisions on the establishment of the internal structures of the Agency and, where necessary, on any changes to them, except for those at directors' level, which will be approved by the Management Board;

(v) adopting rules for the prevention and management of conflicts of interest in respect of participants in working groups and groups of experts, and other members of staff not covered by the Staff Regulations, which shall include provisions on declarations of interest and, where appropriate, post-employment occupational activities.

4. The Executive Director shall also be responsible for deciding whether it is necessary for the purpose of carrying out the Agency's tasks in an efficient and effective manner to establish one or more local offices in one or more Member States ***or to co-locate staff in Union delegations in third countries subject to the appropriate agreements with the European External Action Service***. That decision requires the prior consent of the Commission, the Management Board and***, where applicable,*** the Member State where the local office is to be established. That decision shall specify the scope of the activities to be carried out at that local office ***or by that co-located staff*** in a manner that avoids unnecessary costs and duplication of administrative functions of the Agency.

Article 105

Powers of the Board of Appeal

1. ***A Board*** of Appeal shall be established as part of the administrative structure of the Agency. The Commission is empowered to adopt ***delegated*** acts, in accordance with ▌ Article 128, to determine the ***organisation and composition of the Board of Appeal.***

2. The Board ▌ of Appeal shall be responsible for deciding on appeals against the decisions referred to in Article 108. The Board ▌ of Appeal shall be convened as necessary.

▌

Article 106

Members of the Board of Appeal

1. The members and their alternates shall be appointed by the Management Board from a list of qualified candidates established by the Commission.

2. The term of office of the members of ***the*** Board of Appeal, including the Chairperson and any alternates, shall be five years and shall be extendable for a further five years.

3. The members of ***the*** Board of Appeal shall be independent. In making their decisions they shall neither seek nor take instructions from any government or from any other body.

4. The members of ***the*** Board of Appeal shall not perform any other duties within the Agency. The members of ***the*** Board of Appeal may work on a part-time basis.

5. The members of ***the*** Board of Appeal shall not be removed from office or from the list of qualified candidates during their term of office, unless there are serious grounds for such removal and the Commission, after receiving the opinion of the Management Board, has taken a decision to that effect.

6. The Commission is empowered to adopt delegated acts, in accordance with Article 128, to determine the qualifications required for the members of the Board of Appeal, their status and contractual relationship with the Agency, the powers of individual members in the preparatory phase of decisions and the rules of, and procedures for, voting.

Article 107

Exclusion and objection

1. The members of ***the*** Board of Appeal shall not take part in any appeal proceedings if they have any personal interest therein, if they have previously been involved as representatives of one of the parties to the proceedings or if they participated in the adoption of the decision under appeal.

2. If, for one of the reasons listed in paragraph 1 or for any other reason, a member of ***the*** Board of Appeal considers that he or she should not take part in any appeal proceeding, he or she shall inform the Board of Appeal accordingly.

3. Any party to the appeal proceedings may object to any member of ***the*** Board of Appeal on any of the grounds given in paragraph 1, or if the member is suspected of partiality. Any such objection shall not be admissible if, while being aware of a reason for objecting, the party to the appeal proceedings has taken a procedural step. No objection may be based on the nationality of members.

4. The Board of Appeal shall decide as to the action to be taken in the cases specified in paragraphs 2 and 3 without the participation of the member concerned. For the purposes of taking this decision, the member concerned shall be replaced on the Board of Appeal by his or her alternate.

Article 108

Decisions subject to appeal

1. An appeal may be brought against decisions of the Agency taken pursuant to Article 64, 65, Article ***76(6) and*** Article 77 to 83, 85 or 126.

2. An appeal lodged pursuant to paragraph 1 shall not have suspensory effect. Where the ***Executive Director*** considers that circumstances so permit, he or she may suspend the application of the decision appealed against.

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

Article 109

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 110

Time limit and form

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

Article 111

Interlocutory revision

1. Before examining the appeal, the Board of Appeal shall give the Agency the opportunity to review its decision. If the Executive Director considers the appeal to be well founded, he or she shall rectify the decision within two months from being notified ***by the Board of Appeal***. That shall not apply where the appellant is opposed to another party to the appeal proceedings.

2. If the decision is not rectified, the Agency shall forthwith decide whether or not to suspend the application of the decision pursuant to Article 108(2).

Article 112

Examination of appeals

1. The Board of Appeal shall assess whether the appeal is admissible and well founded.

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

Article 113

Decisions on appeal

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

Article 114

Actions before the Court of Justice

1. Actions may be brought before the Court of Justice for the annulment of ▌ acts of the Agency ***intended to produce legal effects vis-à-vis third parties***, for failure to act and, in accordance with Article 97, for the non-contractual liability and, pursuant to an arbitration clause, the contractual liability for damages caused by acts of the Agency.

2. Actions for the annulment of decisions of the Agency taken pursuant to Articles 64, 65, ***76(6),*** 77 to 83, 85 or 126 may be brought before the Court of Justice only after all appeal procedures within the Agency have been exhausted.

3. Union institutions and Member States may bring actions against decisions of the Agency directly before the Court of Justice, without being required to exhaust the appeal procedures within the Agency.

4. The Agency shall take all necessary measures to comply with the judgment of the Court of Justice.

SECTION III

WORKING METHODS

Article 115

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

1. The Management Board shall establish transparent procedures for issuing opinions, certification specifications ***and other detailed*** specifications, acceptable means of compliance and guidance material referred to in Article 76(1) and (3). Those procedures shall:

   (a) draw on the expertise of ***the civil and, where appropriate, military aviation*** authorities ***of the Member States***;

(b) whenever necessary, involve experts from relevant interested parties or draw on the expertise of the relevant European standardisation bodies or other specialised bodies;

(c) ensure that the Agency publishes documents and widely consults interested parties, in accordance with a timetable and a procedure which includes an obligation on the Agency to give a written response to the consultation process.

2. When the Agency, pursuant to Article 76(1) and (3), develops opinions, certification specifications ***and other detailed*** specifications, acceptable means of compliance and guidance material, it shall establish a procedure for the prior consultation of the Member States. To that effect, it may create a working group in which each Member State is entitled to designate an expert. When consultation relating to military aspects is required, the Agency shall***, in addition to Member States, consult*** the European Defence Agency ***and other competent military experts designated by the Member States***. When consultation relating to the possible social impact of those measures of the Agency is required, the Agency shall involve ▌ the Union social partners ***and other relevant stakeholders***.

3. The Agency shall publish the opinions, certification specifications ***and other detailed*** specifications, acceptable means of compliance and guidance material developed pursuant to Article 76(1) and (3) and the procedures established pursuant to paragraph 1 of this Article in the official publication of the Agency.

Article 116

Procedures for taking decisions

1. The Management Board shall establish transparent procedures for taking individual decisions as provided for in Article 76(4).

Those procedures shall in particular:

(a) ensure the hearing of the natural or legal person to be addressed in the decision and of any other party with a direct and individual concern;

(b) provide for notification of the decision to natural or legal persons and for its publication, subject to the requirements of Articles 123 and 132(2);

(c) provide for the natural or legal person to whom the decision is addressed, and any other parties to proceedings, to be informed of the legal remedies available to them under this Regulation;

(d) ensure that the decision contains a statement of reasons.

2. The Management Board shall establish procedures specifying the conditions under which decisions are notified to the persons concerned, including information on the available appeal procedures as provided for in this Regulation.

Article 117

Annual and multi-annual programming

1. By 31 December each year, in accordance with point (c) of Article 98(2), the Management Board shall adopt a programming document containing multi-annual and annual programming, based on a draft put forward by the Executive Director ***six weeks before its adoption***, taking into account the opinion of the Commission and in relation to multiannual programming after consulting the European Parliament. ***The Management Board*** shall forward it to the European Parliament, the Council and the Commission. The programming document shall become definitive after final adoption of the general budget and, if necessary, shall be adjusted accordingly.

2. The annual work programme shall comprise detailed objectives and expected results including performance indicators ***and shall take into account the objectives of the European Plan for Aviation Safety***. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management, indicating which activities are to be financed through the regulatory budget and which activities are to be financed through fees and charges received by the Agency. The annual work programme shall be coherent with the multi-annual work programme referred to in paragraph 4 of this Article. It shall clearly indicate tasks that have been added, changed or deleted in comparison with the previous financial year. Annual programming shall include the Agency's strategy concerning its activities related to international cooperation in accordance with Article 90 and the Agency's actions linked to that strategy.

3. The Management Board shall amend the adopted annual work programme when a new task is given to the Agency. Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial annual work programme. The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the Executive Director.

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

   The resource programming shall be updated annually. The strategic programming shall be updated where appropriate, and in particular to address the outcome of the evaluation referred to in Article 124.

Article 118

Consolidated annual activity report

1. The consolidated annual activity report shall describe the way in which the Agency has implemented its annual work programme, budget and staff resources. It shall clearly indicate which of the mandates and tasks of the Agency have been added, changed or deleted in comparison with the previous year.

2. The report shall outline the activities carried out by the Agency and evaluate the results thereof with respect to the objectives, performance indicators and timetable set, the risks associated with those activities, the use of resources and the general operations of the Agency, and the efficiency and effectiveness of the internal control systems. It shall also indicate which activities have been financed through the regulatory budget and which activities have been financed through fees and charges received by the Agency.

Article 119

Transparency and communication

1. Regulation (EC) No 1049/2001 shall apply to documents held by the Agency. This shall be without prejudice to the rules on access to data and information set out in Regulation (EU) No 376/2014 and in the implementing acts adopted on the basis of Articles 72(5) and 74(8) of this Regulation.

2. The Agency may engage in communication activities on its own initiative within its field of competence. It shall ensure in particular that, in addition to the publication specified in Article 115(3), the general public and any interested party are rapidly given objective, reliable and easily understandable information with regard to its work. The Agency shall ensure that the allocation of its resources to communication activities shall not be detrimental to the effective exercise of the tasks referred to in Article 75.

3. The Agency shall translate safety ***promotion*** material into the official languages of the Union**,** where appropriate.

4. National competent authorities shall assist the Agency by effectively communicating relevant safety information within their respective jurisdictions ▌.

5. Any natural or legal person shall be entitled to address the Agency in writing in any of the official languages of the Union and shall have the right to receive an answer in the same language.

6. The translation services required for the functioning of the Agency shall be provided by the Translation Centre of the Bodies of the European Union.

SECTION IV

FINANCIAL REQUIREMENTS

Article 120

Budget

1. Without prejudice to other revenues, the revenues of the Agency shall comprise:

(a) a contribution from the Union;

(b) a contribution from any European third country with which the Union has concluded an international agreements as referred to in Article 129;

(c) the fees paid by applicants for, and holders of, certificates issued by the Agency, and by persons who have registered declarations with the Agency;

(d) charges for publications, training and any other services provided and for the processing of appeals by the Agency;

(e) any voluntary financial contribution from Member States, third countries or other entities, provided that such a contribution does not compromise the independence and impartiality of the Agency;

▌

(f) grants.

2. The expenditure of the Agency shall include staff, administrative, infrastructure and operational expenditure. In respect of operational expenditure, budgetary commitments for actions which extend over more than one financial year may be broken down over several years into annual instalments, where necessary.

3. Revenue and expenditure shall be in balance.

4. Regulatory budgets, the fees set and collected for certification activities and charges levied by the Agency shall be dealt with separately in the Agency's accounts.

5. The Agency shall***, during the financial year,*** adapt its staff planning and management of ***activities financed from*** resources related to fees and charges in a manner that enables it to swiftly respond to ***work load and*** fluctuations ***of those revenues***.

6. Each year, the Executive Director shall draw up a draft statement of estimates of the Agency's revenue and expenditure for the following financial year, including a draft establishment plan, and send it to the Management Board ***together with explanatory material on the budgetary situation***. That draft establishment plan shall, in relation to posts financed from fees and charges, be based on a limited set of indicators approved by the Commission to measure the Agency's workload and efficiency, and shall set out the resources required to meet demands for certification and other activities of the Agency in an efficient and timely manner, including those resulting from ***reallocations*** of responsibility in accordance with Articles ***64*** and ***65.***

The Management Board shall, on the basis of that draft, adopt a provisional draft estimate of revenue and expenditure of the Agency for the following financial year. The provisional draft estimate of the Agency's revenue and expenditure shall be sent to the Commission by 31 January each year.

7. The Management Board shall send the final draft estimate of the revenue and expenditure of the Agency, which shall include the draft establishment plan together with the provisional work programme, by 31 March at the latest to the Commission and to the European third countries with which the Union has concluded international agreements as referred to in Article 129.

8. The Commission shall send the statement of estimates to the European Parliament and the Council together with the draft general budget of the European Union.

9. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the contribution to be charged to the general budget, which it shall place before the European Parliament and the Council in accordance with Articles 313 and 314 TFEU.

10. The European Parliament and the Council shall authorise appropriations for the contribution to the Agency and shall adopt the establishment plan of the Agency***, taking into account the indicators related to Agency workload and efficiency referred to in paragraph 6.***

11. The budget shall be adopted by the Management Board. It shall become final following final adoption of the general budget of the Union. Where appropriate, it shall be adjusted accordingly.

12. The Management Board shall, as soon as possible, notify the European Parliament and the Council of its intention to implement any project which may have significant financial implications for the funding of the budget, in particular any projects relating to property, such as the rental or purchase of buildings, and it shall inform the Commission thereof. For any building project likely to have significant implications for the budget of the Agency, Commission Delegated Regulation (EU) No 1271/2013[47] shall apply.

Where the European Parliament or the Council 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.

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

Article 121

Implementation and control of the budget

1. The Executive Director shall implement the budget of the Agency.

2. By 1 March following each financial year, the Agency's accounting officer shall communicate the provisional accounts to the Commission's accounting officer and to the Court of Auditors. The Agency's accounting officer shall also send a report on the budgetary and financial management for that financial year to the Commission's accounting officer by 1 March following each financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 147 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[48].

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

3. By 31 March following each financial year, the Executive Director shall forward the report on the budgetary and financial management for that financial year to the European Parliament, the Council, the Commission and the Court of Auditors.

4. Pursuant to Article 148 of Regulation (EU, Euratom) No 966/2012, on receipt of the Court of Auditors' observations on the Agency's provisional accounts, the accounting officer shall draw up the Agency's final accounts under his or her own responsibility and the Executive Director shall submit them to the Management Board for an opinion.

5. The Management Board shall deliver an opinion on the Agency's final accounts.

6. The Agency's accounting officer shall, by 1 July following each financial year, forward the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board's opinion.

7. The final accounts shall be published in the *Official Journal of the European Union* by 15 November following each financial year.

8. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September following each financial year. He or she shall also send that reply to the Management Board and the Commission.

9. The Executive Director shall submit to the European Parliament, at the latter's request, any information necessary for the smooth application of the discharge procedure for the financial year in question, as provided for by Article 165(3) of Regulation (EU, Euratom) No 966/2012.

10. The European Parliament, on a recommendation from the Council acting by a qualified majority, shall, before 15 May of year n + 2, ***decide on the*** discharge to the Executive Director in respect of the implementation of the budget for year n.

Article 122

Combating fraud

1. In order to combat fraud, corruption and other unlawful activities, the Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council[49] shall apply without restriction.

2. The Agency shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-fraud Office (OLAF)[50] within six months from … [*the date of entry into force of this Regulation*] and shall adopt the appropriate provisions applicable to its staff using the template set out in the Annex to that Agreement.

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

[50] OJ L 136, 31.5.1999, p. 15.

3. The Court of Auditors shall have the power of audit, on the basis of documents and of on-the-spot inspections, over all grant beneficiaries, contractors and subcontractors who have received Union funds from the Agency.

4. OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/96[51], with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the Agency.

5. Without prejudice to paragraphs 1 to 4, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions of the Agency shall contain provisions expressly empowering the Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

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

Article 123

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

The Agency shall adopt own security rules equivalent to the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, as set out in the Commission Decisions (EU, Euratom) 2015/443[52] and 2015/444[53]. The security rules of the Agency shall cover, inter alia, provisions for the exchange, processing and storage of such information.

[52] Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

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

Article 124

Evaluation

1. Not later than … [*5 years after the date of entry into force of this Regulation]*, and every five years thereafter, the Commission shall ***perform*** an evaluation in compliance with the Commission guidelines to assess the Agency's performance in relation to its objectives, mandate and tasks. The evaluation shall ***assess the impact of this Regulation, the Agency and its working practices in establishing a high level of civil aviation safety. The evaluation shall also*** address the possible need to modify the mandate of the Agency, and the financial implications of any such modification. ***The evaluation shall take into account the views of the Management Board and of stakeholders at both Union and national level.***

2. Where the Commission considers that the continuation of the Agency is no longer justified with regard to its assigned objectives, mandate and tasks, it may propose that this Regulation be amended accordingly or repealed.

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

Article 125

Financial rules

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

Article 126

Fees and charges

▌

1. Fees and charges shall be levied for:

(a) the issuing and renewal of certificates and the registration of declarations by the Agency pursuant to this Regulation, as well as its oversight activities concerning the activities to which those certificates and declarations relate;

(b) publications, training and the provision of any other service by the Agency, which shall reflect the actual cost of each individual service provided;

(c) the processing of appeals.

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

2. The amount of the fees and charges shall be fixed at such a level as to ensure that the revenue in respect thereof covers the full cost of the activities related to the services delivered, and to avoid a significant accumulation of surplus. All expenditure of the Agency attributed to staff involved in activities referred to in paragraph ***1,*** in particular the employer's pro-rata contribution to the pension scheme, shall be reflected in that cost. The fees and charges shall be assigned revenues for the Agency for activities related to services for which fees and charges are due.

3. Budgetary surpluses generated through fees and charges shall fund future activities related to fees and charges or offset losses. Where a significant positive or negative budget result becomes recurrent, the level of fees and charges shall be revised.

4. After consulting the Agency in accordance with point (i) of Article 98(2), the Commission shall adopt implementing acts laying down detailed rules relating to fees and charges levied by the Agency, specifying in particular the matters for which fees and charges pursuant to points (c) and (d) of Article 120(1) are due, and the amount of the fees and charges and the way in which they are paid. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

CHAPTER VI

FINAL PROVISIONS

Article 127

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 4 thereof, shall apply.

Article 128

Exercise of the delegation

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

2. The power to adopt delegated acts referred to in ▌ Articles 19, 28, ***32,*** 39, 47, 54, 58, 61, 62(13), ▌ ***68***(▌ ***3***), 84(4), ***105*** and ***106*** shall be conferred on the Commission for ***a period of 5 years from … [the date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period***.

3. The delegation of power referred to in ▌ Articles 19, 28, ***32,*** 39, 47, 54, 58, 61, 62(13), ***68***(***3***), 84(4)***, 105*** and ***106*** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act referred to in Articles 19, 28, 32, 39, 47, 54, 58, 61, 62(13), 68(3), 84(4), 105 and 106 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or ***of*** the Council.

Article 129

Participation of European third countries

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

Those international agreements may include provisions specifying, in particular, the nature and extent of the participation by the European third country concerned in the work of the Agency, including provisions on financial contributions and staff. The Agency may, in accordance with Article 90(2), establish working arrangements with the competent authority of the European third country concerned in order to give effect to those provisions.

Article 130

Headquarters Agreement and operating conditions

1. The necessary arrangements concerning the accommodation to be provided for the Agency in the host Member State and the facilities to be made available by that Member State together with the specific rules applicable in the host Member State to the Executive Director, members of the Management Board, Agency staff and members of their families shall be laid down in a Headquarters Agreement between the Agency and Member State where the seat is located ▌.

2. The Agency's host Member State shall provide the ***necessary*** conditions to ensure the ***smooth*** functioning of the Agency, including multilingual, ***adequate*** schooling and appropriate transport connections.

Article 131

Penalties

Member States shall lay down the rules on penalties applicable to infringement of this Regulation and of the delegated and implementing acts adopted on the basis thereof and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

Article 132

Processing of personal data

1. With regard to the processing of personal data within the framework of this Regulation, Member States shall carry out their tasks under this Regulation in accordance with the national laws, regulations or administrative provisions in accordance with Regulation (EU) 2016/679.

2. With regard to the processing of personal data within the framework of this Regulation, the Commission and the Agency shall carry out their tasks under this Regulation in accordance with Regulation (EC) No 45/2001.

Article 133

Amendment to Regulation (EC) No 2111/2005

In Article 15 of Regulation (EC) No 2111/2005, paragraphs 1 to 3 are replaced by the following:

"1. The Commission shall be assisted by a committee ('EU Air Safety Committee'). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.".

Article 134

Amendments to Regulation (EC) No 1008/2008

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

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

"(b) it holds a valid AOC issued ***in accordance with Regulation (EU) …/2018 of the European Parliament and of the Council**** ± ***either*** by a national authority of a Member State***, by several national authorities of Member States acting jointly in accordance with Article 62(5) of that Regulation*** or by the European Union Aviation Safety Agency**.**

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

+ OJ : please insert the number, date and publication references in corresponding footnote for this Regulation (PE-CONS 2/18, 2015/0277(COD)).

2) Article 6 is replaced by the following:

"Article 6
Air operator certificate

1. The granting and validity of an operating licence shall ▌ be dependent on the possession of a valid AOC specifying the activities covered by ***that*** operating licence.

2. Any modification ***to*** the AOC of a Community air carrier shall be reflected, where appropriate, in its operating licence.

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

3. ***The*** authority competent for the AOC and the competent licensing authority shall ***agree measures to proactively*** exchange ▌ information relevant ***for*** the assessment ***and retention*** of the ***AOC and operating licence.***

That exchange may include, without being limited to, information relating to the financial, ownership or organisational arrangements of the Community air carrier which may affect the safety ***or solvency*** of its operations or which may assist the authority competent for the AOC in performing its oversight activities related to safety***. Where information is provided in confidence, measures shall be put in place to ensure that the information is appropriately protected.***

3a. Where it is likely that enforcement action will be necessary, the authority competent for the AOC and the competent licensing authority shall consult each other as soon as possible prior to taking such action, and work together in seeking to resolve the issues before action is taken. Where action is taken, the authority competent for the AOC and the competent licensing authority shall notify each other as soon as possible that action has been taken.";

3) in Article 12, paragraph 1 is replaced by the following:

"1. ***Aircraft*** used by a Community air carrier shall be registered, at the option of the Member State whose competent authority issues the operating licence, either in its ***own*** national register or ***in the national register of another Member State. However, when used under a dry lease or a wet lease agreement in accordance with Article 13, such aircraft may be registered in the national register either of any Member State or of a third country***.";

Article 135

Amendments to Regulation (EU) No 996/2010

Article 5 of Regulation (EU) No 996/2010 is replaced by the following:

"Article 5

Obligation to investigate

'1. Every accident or serious incident involving aircraft to which Regulation (EU) 2018/… of the European Parliament and of the Council*± applies shall be the subject of a safety investigation in the Member State in which the accident or serious incident occurred.

2. Where an aircraft to which Regulation (EU) 2018/…++ applies and which is registered in a Member State is involved in an accident or a serious incident the location of which cannot be definitely established as being in the territory of any State, a safety investigation shall be conducted by the safety investigation authority of the Member State of registration.

+ OJ : please insert the number, date and publication references in corresponding footnote for this Regulation (PE-CONS 2/18, 2015/0277(COD)).

++ OJ: please insert the number for this Regulation (PE-CONS 2/18, 2015/0277(COD)).

3. The extent of safety investigations referred to in paragraphs 1, 2 and 4 and the procedure to be followed in conducting such safety investigations shall be determined by the safety investigation authority, taking into account the ***consequences of the accident or serious incident and the*** lessons it expects to draw from such investigations for the improvement of aviation safety.

4. Safety investigation authorities may decide to investigate incidents other than those referred to in paragraphs 1 and 2, as well as accidents or serious incidents to other types of aircraft, in accordance with the national legislation of the Member States, when they expect to draw safety lessons from them.

5. By way of derogation from paragraphs 1 and 2 of this Article, the responsible safety investigation authority may decide, taking into account the expected lessons to be drawn for the improvement of aviation safety, not to initiate a safety investigation when an accident or serious incident concerns an unmanned aircraft for which a certificate or declaration is not required pursuant to Article 56(1) and (5) of Regulation (EU) 2018/…[+], or concerns a manned aircraft with a maximum take-off mass less than or equal to 2 250 kg, and where no person has been fatally or seriously injured.

6. Safety investigations referred to in paragraphs 1, 2 and 4 shall in no case be concerned with apportioning blame or liability. They shall be independent of, separate from and without prejudice to any judicial or administrative proceedings to apportion blame or liability.

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

[+] OJ: please insert the number for this Regulation (PE-CONS 2/18, 2015/0277(COD)).

Article 136

Amendments to Regulation (EU) No 376/2014

In Article 3 of Regulation (EU) No 376/2014, paragraph 2 is replaced by the following:

"2. This Regulation applies to occurrences and other safety-related information involving civil aircraft to which Regulation (EU) 2018/… of the European Parliament and of the Council[*,+] applies.

However, this Regulation shall not apply to occurrences and other safety-related information involving unmanned aircraft for which a certificate or declaration is not required pursuant to Article 56(1) and (5) of Regulation (EU) 2018/…[++], unless the occurrence or other safety-related information involving such unmanned aircraft resulted in a fatal or serious injury to a person or it involved aircraft other than unmanned aircraft.

Member States may decide to apply this Regulation also to occurrences and other safety-related information involving the aircraft to which Regulation (EU) 2018/…[++] does not apply.

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

[+] OJ : please insert the number, date and publication references in corresponding footnote for this Regulation (PE-CONS 2/18, 2015/0277(COD)).

[++] OJ : please insert the number for this Regulation (PE-CONS 2/18, 2015/0277(COD)).

Article 137

Amendments to Directive 2014/30/EU

In Article 2(2) of Directive 2014/30/EU, point (b) is replaced by the following:

"(b) The following aviation equipment, where that equipment falls within the scope of Regulation (EU) 2018/… of the European Parliament and of the Council+ and is intended exclusively for airborne use:*

(i) aircraft, other than unmanned aircraft, as well as associated engines, propellers, parts and non-installed equipment;

(ii) unmanned aircraft, as well as associated engines, propellers, parts and non-installed equipment, the design of which is certified in accordance with Article 56(1) of that Regulation which are intended to operate only on frequencies allocated by the Radio Regulations of the International Telecommunications Union for protected aeronautical use.

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

+ OJ : please insert the number, date and publication references in corresponding footnote for this Regulation (PE-CONS 2/18, 2015/0277(COD)).

Article 138

Amendments to Directive 2014/53/EU

In Annex I to Directive 2014/53/EU, point 3 is replaced by the following:

"3. The following aviation equipment, where that equipment falls within the scope of Regulation (EU) 2018/… of the European Parliament and of the Council+ and is intended exclusively for airborne use:*

(a) aircraft, other than unmanned aircraft, as well as associated engines, propellers, parts and non-installed equipment;

(b) unmanned aircraft, as well as associated engines, propellers, parts and non-installed equipment, the design of which is certified in accordance with Article 56(1) of that Regulation and which are intended to operate only on frequencies allocated by the Radio Regulations of the International Telecommunications Union for protected aeronautical use.

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

+ OJ : please insert the number, date and publication references in corresponding footnote for this Regulation (PE-CONS 2/18, 2015/0277(COD)).

Article 139

Repeal

1. Regulation (EC) No 216/2008 is repealed with effect from … [the date of entry into force of this Regulation].

2. ***Regulation (EC) No 552/2004 is repealed with effect from … [the date of entry into force of this Regulation]. However, Articles 4, 5, 6, 6a and 7 of that Regulation and Annexes III and IV thereto shall continue to apply until the date of application of the delegated acts referred to in Article 47 of this Regulation and insofar as those acts cover the subject matter of the relevant provisions of Regulation (EC) No 552/2004, and in any case not later than … [five years after the date of entry into force of this Regulation].***

3. ***Regulation (EEC) No 3922/91 is repealed from the date of application of the detailed rules adopted pursuant to point (a) of Article 32(1) on flight and duty time limitations and rest requirements with regard to air taxi, emergency medical service and single pilot commercial air transport operations by aeroplanes.***

4. ***References to the repealed Regulations*** referred to in paragraphs 1, 2 and 3 shall be construed as references to this Regulation and, where appropriate, read in accordance with the correlation table in Annex X.

Article 140

Transitional provisions

1. The certificates ***and specific airworthiness specifications*** issued or recognised and the declarations made or recognised in accordance with Regulation (EC) No 216/2008 ***and its implementing rules*** shall continue to be valid and shall be deemed to have been issued, made and recognised pursuant to the corresponding provisions of this Regulation, including for the purposes of applying Article 67.

2. Not later than … [five years after the date of entry into force of this Regulation] the implementing rules adopted on the basis of Regulations (EC) No 216/2008 ***and (EC) No 552/2004*** shall be adapted to this Regulation. Until adaptation, any references in those implementing rules to:

   (a) 'commercial operation' shall be understood as a reference to point (i) of Article 3 of Regulation (EC) No 216/2008;

(b) 'complex motor-powered aircraft' shall be understood as a reference to point (j) of Article 3 of Regulation (EC) No 216/2008;

(c) 'appliances' shall be understood as a reference to point (29) of Article 3 of this Regulation;

(d) 'leisure pilot licence' shall be understood as a reference to the licence referred to in Article 7(7) of Regulation (EC) No 216/2008;

▌

3. The Agency shall issue, at the latest two years after … [the date of entry into force of this Regulation], in accordance with Article 76(1) and 76(3) of this Regulation, opinions concerning proposals for amendments to Commission Regulations (EU) No 748/2012[54], (EU) No 1321/2014[55], (EU) No 1178/2011[56], and (EU) No 965/2012[57] and the applicable certification specification in order to adapt them, as regards aircraft intended primarily for sports and recreational use, to this Regulation.

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54 Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 224, 21.8.2012, p. 1).

55 Commission Regulation (EU) No 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks (OJ L 362, 17.12.2014, p. 1).

56 Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 311, 25.11.2011, p. 1).

57 Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1).

4. By … [three years after the date of entry into force of this Regulation] the Agency may issue guidance material for voluntary use by Member States to support the development of proportionate national rules concerning the design, production, maintenance and operation of aircraft listed in Annex I.

5. By way of derogation from Articles 55 and 56, the relevant provisions of Regulation (EC) 216/2008 shall continue to apply until the delegated acts referred to in Article 58 ***and the implementing*** acts referred to in Article ***57 of this Regulation*** enter into force.

6. Member States shall terminate or adjust existing bilateral agreements that they concluded with third countries ▌ for ***the*** fields covered by this Regulation as soon as possible following the entry into force of this Regulation and in any event before … [three yearsafter the date of entry into force of this Regulation].

Article 141

Entry into force

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

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

Done at …,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX I

Aircraft referred to in point (d) of Article 2(3)

1. Categories of ***manned*** aircraft to which this Regulation does not apply:

(a) historic aircraft meeting the following criteria:

(i) ▌ aircraft whose:

– initial design was established before 1 January 1955, and

– production has been stopped before 1 January 1975;

or

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

– a participation in a noteworthy historical event,

– a major step in the development of aviation, or

– a major role played into the armed forces of a Member State;

or

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

(c) ▌aircraft***, including those supplied in kit form, where*** at least 51 % of ***the fabrication and assembly tasks are performed*** by an amateur, or a non-profit making association of amateurs, for their own purposes and without any commercial objective;

(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 having ***measurable*** stall speed or the minimum steady flight speed in landing configuration not exceeding 35 knots calibrated air speed (CAS)***,*** helicopters***,*** powered parachutes***, sailplanes and powered sailplanes,*** having no more than two seats ***and*** a maximum take-off mass (MTOM), as recorded by the Member States, of no more than:

		Aeroplane/ Helicopter/Powered parachute / powered sailplanes	***Sailplanes***	***Amphibian or floatplane/helicopter***	***Airframe mounted total recovery parachute***
Single-seater		***300 kg MTOM***	***250 kg MTOM***	***Additional 30 kg MTOM***	***Additional 15 kg MTOM***
Two-seater		***450 kg MTOM***	***400 kg MTOM***	***Additional 45 kg MTOM***	***Additional 25 kg MTOM***
When an amphibian or a floatplane/helicopter is operating both as a floatplane/helicopter and as a land plane/helicopter, it must fall below the applicable MTOM limit.					

(f) single and two-seater gyroplanes with a MTOM not exceeding ***600*** kg;

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(g) replicas of aircraft meeting the criteria of points (a) or (d), for which the structural design issimilar to the original aircraft;

(h) ▌balloons ***and airships*** having a single ***or double*** occupancy and a maximum design ▌volume of***, in the case of hot air*** not more than ***1 200 m3, and in the case of other lifting gas not more than 400*** m3;

(i) any other manned aircraft which has a maximum empty mass, including fuel, of no more than 70 kg.

2. Furthermore, this Regulation shall not apply to:

(a) tethered aircraft with no propulsion system, where the maximum length of the tether is 50 m, and where:

(i) the MTOM of the aircraft, including its payload, is less than 25 kg, or

(ii) in the case of a lighter-than-air aircraft, the maximum design volume of the aircraft is less than 40 m^3;

(b) tethered aircraft with a MTOM of no more than 1 kg.

ANNEX II

Essential requirements for airworthiness

1. PRODUCT INTEGRITY

Product integrity***, including protection against information security threats,*** 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.

1.1. Structures and materials

1.1.1. 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.

1.1.2. 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.

(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.

(b) Consideration must be given to the loads and likely failures induced by emergency landings either on land or water.

(c) As appropriate to the type of operation, dynamic effects must be covered in the structural response to those loads, taking into account the size and configuration of the aircraft.

1.1.3. The aircraft must be free from any ***aero elastic*** instability and excessive vibration.

1.1.4. The ***production*** 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.

1.1.5. It must be ensured, to the extent practicable, that the effects of cyclic loading, environmental degradation, accidental and discrete source damage do not reduce the structural integrity below an acceptable residual strength level. All necessary instructions for ensuring continued airworthiness in this regard must be promulgated.

1.2. Propulsion

1.2.1. 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, taking into account the role of the propulsion system in the overall safety concept of the aircraft.

1.2.2. 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.

1.2.3. The ***production*** 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.

1.2.4. 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.

1.2.5. All necessary instructions, information and requirements for the safe and correct interface between the propulsion system and the aircraft must be promulgated.

1.3. Systems and equipment (other than non-installed equipment):

1.3.1. The aircraft must not have design features or details that experience has shown to be hazardous.

1.3.2. The aircraft, including those systems, and equipment required for the assessment of the type design, 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 or equipment operating environment. Other systems or equipment 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 or equipment. Systems and equipment must be operable without needing exceptional skill or strength.

1.3.3. The aircraft systems and equipment, 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.

1.3.4. 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.

1.3.5. Design precautions must be taken to minimise the hazards to the aircraft and occupants from reasonably probable threats, including information security threats, both inside and external to the aircraft, including protecting against the possibility of a significant failure in, or disruption of, any non-installed equipment.

1.4. Non-installed equipment

1.4.1. Non-installed equipment must perform its safety function or function relevant for safety as intended under any foreseeable operating conditions unless that function can also be performed by other means.

1.4.2. Non-installed equipment must be operable without needing exceptional skill or strength.

▌

1.4.3. Non-installed equipment, whether functioning properly or improperly, must not reduce safety and must not adversely affect the proper functioning of any other equipment, system or appliance.

1.5. Continuing airworthiness

1.5.1. All necessary documents including instructions for continuing airworthiness must be established and made available to ensure that the airworthiness standard related to the aircraft type and any associated part is maintained throughout the operational life of the aircraft.

1.5.2. Means must be provided to allow inspection, adjustment, lubrication, removal or replacement of parts and non-installed equipment as necessary for continuing airworthiness.

1.5.3. 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.

1.5.4. 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

2.1. The following must be shown to have been addressed to ensure ▌ safety for those on board or on the ground during the operation of the product:

(a) 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;

(b) 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, taking into account the size and configuration of the aircraft. 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;

(c) 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;

(d) 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;

(e) Procedures for normal operations, failure and emergency conditions must be established;

(f) Warnings or other deterrents intended to prevent exceedance of the normal flight envelope, must be provided, as appropriate to the aircraft type;

(g) The characteristics of the aircraft and its systems must allow a safe return from extremes of the flight envelope that may be encountered.

2.2. The operating limitations and other information necessary for safe operation must be made available to the crew members.

2.3. Product operations must be protected from hazards resulting from adverse external and internal conditions, including environmental conditions.

(a) In particular, and as appropriate to the type of operation, 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, taking into account the size and configuration of the aircraft;

(b) Cabin compartments, as appropriate to the type of operations, 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, taking into account the size and configuration of the aircraft. 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;

(c) Crew compartments, as appropriate to the type of operations, 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, PRODUCTION, CONTINUED AIRWORTHINESS MANAGEMENT OR MAINTENANCE)

3.1. As appropriate to the type of activity, organisation approvals must be issued when the following conditions are met:

(a) the organisation must have all the means necessary for the scope of work. Those 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;

(b) as appropriate for the type of activity undertaken and the size of the organisation, the organisation must implement and maintain a management system to ensure compliance with the essential requirements set out in this Annex, manage safety risks and aim for continuous improvement of that system;

(c) the organisation shall establish arrangements with other relevant organisations, as necessary, to ensure continuing compliance with the essential requirements for airworthiness set out in this Annex;

(d) the organisation shall establish an occurrence reporting system as part of the management system under point (b) and the arrangements under point (c), in order to contribute to the aim of continuous improvement of safety. The occurrence reporting system shall be compliant with ***the applicable Union law.***

3.2. In the case of maintenance training organisations, the conditions under points 3.1(c) and 3.1(d) do not apply.

3.3. Natural persons undertaking maintenance must acquire and maintain a level of theoretical knowledge, practical skills and experience as appropriate to the type of activity.

ANNEX III

Essential requirements for environmental compatibility related to products

1. Products must be designed to ***minimise noise as far as*** possible ▌ taking into account point 4.

2. Products must be designed to minimise emissions ***as far as*** possible taking into account point 4.

3. Products must be designed to minimise the emissions arising from the evaporation or discharge of fluids, taking into account point 4.

4. Any trade-offs between design measures intended to minimise noise, the emission of different species and the discharge of fluids must be taken into account.

5. The total range of normal operating conditions and geographical areas where the aircraft noise and emissions are of concern, shall be considered when minimising noise and emissions.

6. The aircraft systems and equipment required for environmental protection reasons must be designed, produced and maintained to function as intended under any foreseeable operating condition. Their reliability must be adequate in relation to their intended effect on the environmental compatibility of the product.

7. Any instructions, procedures, means, manuals, limitations and inspections needed to ensure continuing compliance of an aviation product with the essential requirements set out in this Annex must be established and provided to the intended users in a clear manner.

8. The organisations involved in the design, production and maintenance of aviation products must:

   (a) have all means necessary to ensure compliance of an aviation product with the essential requirements set out in this Annex; and

   (b) establish arrangements with other relevant organisations as necessary to ensure compliance of an aviation product with the essential requirements set out in this Annex.

ANNEX IV

Essential requirements for aircrew

1. PILOT TRAINING

1.1. General

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.

1.2. Theoretical knowledge

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:

(a) air law;

(b) aircraft general knowledge;

(c) technical matters related to the category of the aircraft;

(d) flight performance and planning;

(e) human performance and limitations;

(f) meteorology;

(g) navigation;

(h) operational procedures, including resource management;

(i) principles of flight;

(*j*) communications; and

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

1.3. Demonstration and maintenance of theoretical knowledge

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

1.3.2. 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.

1.4. Practical skill

A pilot must acquire and maintain the practical skills as appropriate to exercise his or 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:

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

(***b***) aerodrome and traffic-pattern operations;

(***c***) collision avoidance precautions and procedures;

(***d***) control of the aircraft by external visual reference;

(***e***) flight manoeuvres, including in critical situations, and associated 'upset' manoeuvres, as technically achievable;

(***f***) normal and cross-wind take-offs and landings;

(***g***) flight by reference solely to instruments, as appropriate to the type of activity;

(***h***) operational procedures, including team skills and resource management, as appropriate to the type of operation, whether single or multi-crew;

(***i***) navigation and implementation of rules of the air and related procedures, using as appropriate, visual reference or navigation aids;

(*j*) abnormal and emergency operations, including simulated aircraft equipment malfunctions;

(*k*) compliance with air traffic services and communications procedures;

(*l*) aircraft type or class specific aspects;

(*m*) additional practical skill training that may be required to mitigate risks associated with specific activities; and

(*n*) non-technical skills, including the recognition and management of threats and errors, using an adequate assessment methodology in conjunction with the technical skills assessment.

1.5. Demonstration and maintenance of practical skill

1.5.1. 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:

(***a***) operating the aircraft within its limitations;

(***b***) exercising good judgement and airmanship;

(***c***) applying aeronautical knowledge;

(***d***) maintaining control of the aircraft at all times in such a manner that the successful outcome of a procedure or manoeuvre is assured; and

(***e***) non-technical skills, including the recognition and management of threats and errors, using an adequate assessment methodology in conjunction with the technical skills assessment.

1.5.2. 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.

1.6. Language Proficiency

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

(a) the ability to understand weather information documents;

(b) the use of aeronautical en-route, departure and approach charts and associated aeronautical information documents; and

(c) the ability to communicate with other flight crew and air navigation services during all phases of flight, including flight preparation***, in the language used for radio communications involved in the flight***.

1.7. 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 ***meet*** 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.

1.8. Training course

1.8.1. Training must be executed through a training course.

1.8.2. A training course must meet the following conditions:

(***a***) a syllabus must be developed for each type of course; and

(***b***) the training course must comprise a breakdown of theoretical knowledge and practical flight instruction (including synthetic training), if applicable.

1.9. Instructors

1.9.1. Theoretical instruction

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

(***a***) have appropriate knowledge in the field where instruction is to be given; and

(***b***) be capable of using appropriate instructional techniques.

1.9.2. Flight and flight simulation instruction

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

(a) meet the theoretical knowledge and the experience requirements appropriate for the instruction being given;

(b) be capable of using appropriate instructional techniques;

(c) have practised instructional techniques in those flight manoeuvres and procedures in which it is intended to provide flight instruction;

(d) 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

(e) receive regular refresher training to ensure that the instructional standards are maintained up to date.

Flight instructors ***conducting training in aircraft*** 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.

1.10. Examiners

Persons responsible for assessing the skill of pilots must:

(***a***) meet the requirements for flight or flight simulation instructors; and

(***b***) be capable of assessing pilot performance and conducting flight tests and checks.

2. EXPERIENCE REQUIREMENTS - PILOTS

A person acting as flight crew member, instructor or examiner must acquire and maintain sufficient experience for the functions being exercised, unless the ***implementing*** acts adopted on the basis of this Regulation provide for competence to be demonstrated in accordance with point 1.5.

3. MEDICAL FITNESS - PILOTS

3.1. Medical criteria

3.1.1. 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:

(a) to execute the tasks necessary to operate an aircraft;

(b) to perform assigned duties at any time; or

(c) to perceive correctly his or her environment.

3.1.2. Where medical fitness ***is not*** fully demonstrated, mitigation measures that provide equivalent flight safety may be implemented.

3.2. Aero-medical examiners

An aero-medical examiner must:

(a) be qualified and licensed in the practice of medicine;

(b) have received training in aviation medicine and regular refresher training in aviation medicine to ensure that assessment standards are maintained up to date; and

(c) have acquired practical knowledge and experience with regard to the conditions in which pilots carry out their duties.

3.3. Aero-medical centres

Aero-medical centres must meet the following conditions:

(a) have all the means necessary for the scope of responsibilities associated with their privileges. Those 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;

(b) as appropriate for the type of activity undertaken and the size of the organisation, implement and maintain a management system to ensure compliance with the essential requirements set out in this Annex, manage safety risks and aim for continuous improvement of this system; and

(c) establish arrangements with other relevant organisations, as necessary, to ensure continuing compliance with those requirements.

4. CABIN CREW MEMBERS

4.1. General

Cabin crew members must:

(a) 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

(b) 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.

4.2. Training course

4.2.1. When appropriate for the type of operation or privileges, training must be executed through a training course.

4.2.2. A training course must meet the following conditions:

(a) a syllabus must be developed for each type of course; and

(b) the training course must comprise a breakdown of theoretical knowledge and practical instruction (including synthetic training), if applicable.

4.3. Cabin Crew Instructors

Instruction must be given by appropriately qualified instructors. Those instructors must:

(a) have appropriate knowledge in the field where instruction is to be given;

(b) be capable of using appropriate instructional techniques; and

(c) receive regular refresher training to ensure that the instructional standards are maintained up to date.

4.4. Cabin crew Examiners

Persons responsible for examination of cabin crew must:

(a) meet the requirements for cabin crew instructors; and

(b) be capable of assessing cabin crew performance and conducting examinations.

5. TRAINING ORGANISATIONS

A training organisation providing pilot or cabin crew training must meet the following requirements:

(a) have all the means necessary for the scope of responsibilities associated with their activity. Those 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;

(b) as appropriate for the training provided and the size of the organisation, the organisation must implement and maintain a management system to ensure compliance with the essential requirements set out in this Annex, manage safety risks, ***including risks related to deterioration in the standard of training,*** and aim for continuous improvement of this system; and

(c) establish arrangements with other relevant organisations, as necessary, to ensure continuing compliance with those requirements.

ANNEX V

Essential requirements for air operations

1. GENERAL

1.1. 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.

1.2. 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. ▌

1.3. 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.

1.4. 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.

1.5. All necessary data, documents, records and information to record the respect of the conditions specified in point 5.3 must be retained for each flight and kept available ***and protected against unauthorised modification*** for a minimum period of time compatible with the type of operation.

2. FLIGHT PREPARATION

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

(a) 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 Aeronautical Information Services documentation;

(b) The crew must be familiar with and passengers informed of the location and use of relevant emergency equipment. Sufficient information, related to the operation and specific to the equipment installed, regarding emergency procedures and use of cabin safety equipment must be made available to crew and passengers;

(c) 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;

(d) 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;

(e) Appropriate mitigation measures or contingency plans must be in place to deal with potentially hazardous atmospheric conditions expected to be encountered in flight;

(f) For a flight based on visual flight rules, meteorological conditions along the route to be flown must be such as to render compliance with those 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;

(g) The amount of fuel/energy for propulsion and consumables 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/energy reserve must be carried to provide for contingencies. Procedures for in-flight fuel/energy management must be established when relevant.

3. FLIGHT OPERATIONS

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

(a) 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;

(b) 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;

(c) 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;

(d) 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, as appropriate to the type of operation;

(e) 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;

(f) 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;

(g) a pilot in command must take all necessary measures so as to minimise the consequences on the flight of disruptive passenger behaviour;

(h) 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;

(i) the applicable in-flight fuel/energy management procedures must be used, when relevant.

4. AIRCRAFT PERFORMANCE AND OPERATING LIMITATIONS

4.1. 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.

4.2. Notwithstanding point 4.1., for operations with helicopters a momentary flight through the limiting height velocity envelope may be permitted, provided that ▌ safety is ensured.

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

4.4. 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:

(a) operating procedures;

(b) pressure altitude of the aerodrome;

(c) ***weather conditions (***temperature***, wind, precipitation and visual range);***

▌

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

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

4.5. 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

5.1. 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.

5.2. 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.

5.3. 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 AND ENVIRONMENTAL COMPATIBILITY OF PRODUCTS

6.1. The aircraft must not be operated unless:

(a) the aircraft is ▌ airworthy ***and in a*** condition ***for safe and environmentally compatible operation***;

(b) the operational and emergency equipment necessary for the intended flight is serviceable;

(c) the airworthiness document and, if applicable, the noise certificate of the aircraft is valid; and

(d) the maintenance of the aircraft is performed in accordance with the applicable requirements.

6.2. Before each flight or a series of consecutive flights, the aircraft must be inspected, through a pre-flight check, to determine whether it is fit for the intended flight.

6.3. 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.

6.4. Records necessary to demonstrate the airworthiness and environmental compatibility status of the aircraft must be kept, ***and protected against, unauthorised modification*** for the period of time corresponding to the applicable continuing airworthiness requirements, until the information contained has been superseded by new information equivalent in scope and detail but in any event not less than 24 months.

6.5. All modifications and repairs must comply with the essential requirements for airworthiness and, if applicable, the environmental compatibility of products. The substantiating data supporting compliance with the airworthiness requirements and requirements for the environmental compatibility of products must be retained ***and protected against unauthorised modification***.

6.6. It is the responsibility of the ***aircraft*** operator to ensure that a third party performing the maintenance complies with the operator's safety and security requirements.

7. CREW MEMBERS

7.1. The number and composition of the crew must be determined taking into account:

(a) the certification limitations of the aircraft, including if applicable, the relevant emergency evacuation demonstration;

(b) the aircraft configuration; and

(c) the type and duration of operations.

7.2. 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.

7.3. 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.

7.4. Without prejudice to point 8.12, when other persons are carried on board, emergency or abnormal situations ***may only be simulated if those persons have been duly informed and are aware of the associated risks before boarding the flight***.

7.5. 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. 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.

7.6. 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 COMMERCIAL AIR TRANSPORT AND OTHER OPERATIONS ▌ SUBJECT TO A CERTIFICATION OR DECLARATION REQUIREMENT ***PERFORMED WITH AEROPLANES, HELICOPTERS OR TILT ROTOR AIRCRAFT***

8.1. The operation ▌ must not be undertaken unless the following conditions are met:

(a) the ***aircraft*** operator must have directly or through agreements with third parties the means necessary for the scale and scope of the operations. Those 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;

▌

(b) the ***aircraft*** 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 ***that are necessary to ensure the currency of their certificates, ratings and qualifications;***

▌

(c) as appropriate for the type of activity undertaken and the size of the organisation, the ***aircraft*** operator must implement and maintain a management system to ensure compliance with the essential requirements set out in this Annex, manage safety risks and aim for continuous improvement of this system;

(d) the ***aircraft*** operator shall establish an occurrence reporting system, as part of the management system under point (c), in order to contribute to the aim of continuous improvement of the safety. The occurrence reporting system shall be compliant with ***applicable Union law.***

8.2. The operation must only be undertaken in accordance with an ***aircraft*** 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.

8.3. The ***aircraft*** operator shall establish procedures, as appropriate, so as to minimise the consequences to safe flight operations of disruptive passenger behaviour.

8.4. The ***aircraft*** operator must develop and maintain security programmes adapted to the aircraft and the type of operation including particularly:

(a) security of the flight crew compartment;

(b) aircraft search procedure checklist;

(c) training programmes; and

(d) protection of electronic and computer systems to prevent intentional and non-intentional system interference and corruption**.**

8.5. 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.

8.6. The ***aircraft*** operator must designate one pilot amongst the flight crew as the pilot in command.

8.7. The prevention of fatigue must be managed through a fatigue management system. For a flight, or series of flights, such a system needs to address flight time, flight-duty periods, duty and adapted rest periods. Limitations established within the fatigue management 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.

8.8. The ***aircraft*** operator must ensure that the tasks specified in point 6.1 and those described in points 6.4 and 6.5 are controlled by an organisation responsible for the continuing airworthiness management that must meet requirements of Annex II, point 3.1, and Annex III, points 7 and 8.

8.9. The ***aircraft*** operator must ensure that the release to service required by point 6.3 is issued by an organisation qualified for the maintenance of products, parts and not-installed equipment. This organisation shall meet the requirements of Annex II, point ***3.1.***

8.10. The organisation referred to in 8.8 shall establish an organisation manual providing, for use and guidance of personnel concerned, a description of all continuing airworthiness procedures of the organisation.

8.11 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.***

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

ANNEX VI

Essential Requirements for qualified entities

1. The qualified entity, its Director and the staff responsible for carrying out the certification and oversight tasks, may not be involved, either directly or as authorised representatives, in the design, ***production***, marketing or maintenance of the products, parts, non-installed equipment, 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.

The first subparagraph shall not prevent an organisation created with the aim of promoting aerial sport or leisure aviation from being eligible for accreditation as a qualified entity, on condition that it demonstrates to the satisfaction of the accrediting authority that it has put in place adequate arrangements for the prevention of conflict of interest.

2. The qualified entity and the staff responsible for the certification and oversight 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 ***of any type***, in particular of a financial type, which could affect their judgement ***and decisions*** or the results of their certification and oversight tasks, in particular from persons or groups of persons affected by those results.

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

4. The qualified entity and its staff responsible for investigation must have:

(a) sound technical and vocational training, or sufficient expertise gained through experience of relevant activities;

(b) satisfactory knowledge of the requirements of the certification and oversight tasks they carry out and adequate experience of such processes;

(c) the ability required to draw up statements, records and reports to demonstrate that the certification and oversight tasks have been carried out.

5. The impartiality of the staff responsible for certification and oversight tasks must be guaranteed. Their remuneration must not depend on the number of investigations carried out or on the results of such investigations.

6. The qualified 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 qualified entity must observe professional secrecy with regard to all information acquired in carrying out their tasks under this Regulation.

ANNEX VII

Essential requirements for aerodromes

1. PHYSICAL CHARACTERISTICS, INFRASTRUCTURE AND EQUIPMENT

1.1. Movement area

1.1.1. Aerodromes shall have a designated area for the landing and take-off of aircraft, which satisfies the following conditions:

(a) the landing and take-off area shall have dimensions and characteristics suitable for the aircraft intended to use the facility;

(b) the landing and take-off area, where applicable, shall have a bearing strength sufficient to support repetitive operations of the intended aircraft. Those areas not intended for repetitive operations only need to be capable of supporting the aircraft;

(c) the landing and take-off area shall be designed to drain water and to prevent standing water becoming an unacceptable risk to aircraft operations;

(d) the slope and slope changes of the landing and take-off area shall not create an unacceptable risk to aircraft operations;

(e) the surface characteristics of the landing and take-off area shall be adequate for use by the intended aircraft; and

(f) the landing and take-off area shall be free from objects which might create an unacceptable risk to aircraft operations.

1.1.2. Where there are several designated landing and take-off areas, they shall be such that they do not create an unacceptable risk to aircraft operations.

1.1.3. The designated landing and take-off area shall be surrounded by defined areas. Those areas are intended to protect aircraft flying over them during take-off or landing operations or to mitigate the consequences of undershooting, running off the side or overrunning the take-off and landing area, and shall satisfy the following conditions:

(a) those areas shall have dimensions appropriate to the aircraft operations anticipated;

(b) the slope and slope changes of those areas shall not create an unacceptable risk to aircraft operations;

(c) those areas shall be free from objects which might create an unacceptable risk to aircraft operations. This shall not preclude frangible equipment to be located in those areas, if required to assist aircraft operations; and

(d) each of those areas shall have a bearing strength sufficient to serve its purpose.

1.1.4. Those areas of an aerodrome, with their associated immediate surroundings, that are to be used for taxiing or parking aircraft, shall be designed to permit safe operation of the aircraft expected to use the particular facility under all the conditions planned for, and shall satisfy the following conditions:

(a) those areas shall have a bearing strength sufficient to support repetitive operations of the intended aircraft, except for areas which are expected for only occasional use which only need to be capable of supporting the aircraft;

(b) those areas shall be designed to drain water and to prevent standing water becoming an unacceptable risk to aircraft operations;

(c) the slope and slope changes of those areas shall not create an unacceptable risk to aircraft operations;

(d) the surface characteristics of those areas shall be adequate for use by the intended aircraft; and

(e) those areas shall be free from objects which might create an unacceptable risk to aircraft. This shall not preclude parking equipment required for that area in specifically identified positions or zones.

1.1.5. Other infrastructure intended for use by aircraft shall be so designed that use of that infrastructure does not create an unacceptable risk to aircraft using it.

1.1.6. Constructions, buildings, equipment or storage areas shall be located and designed so as not to create an unacceptable risk for aircraft operations.

1.1.7. Suitable means shall be provided to prevent unauthorised persons, unauthorised vehicles or animals large enough to create an unacceptable risk to aircraft operations from entering the movement area, without prejudice to national and international animal protection provisions.

1.2. Obstacle clearances

1.2.1. To protect aircraft proceeding to an aerodrome for landing or for their departure from an aerodrome, arrival and departure routes or areas shall be established. Such routes or areas shall provide aircraft with the required clearance from obstacles located in the area surrounding the aerodrome taking due account of the local physical characteristics.

1.2.2. Such obstacle clearance shall be appropriate to the phase of flight and type of operation being conducted. It shall also take into account the equipment being used for determining the position of the aircraft.

1.3. ***Safety-related*** aerodrome equipment***, including visual and non-visual aids***

1.3.1. Aids shall be fit for purpose, recognisable and provide unambiguous information to users under all intended operational conditions.

1.3.2. ***Safety-related aerodrome*** equipment shall function as intended under the foreseen operating conditions. Under operating conditions or in case of failure, ***safety-related*** aerodrome equipment shall not cause an unacceptable risk to aviation safety.

1.3.3. The aids and their electrical power supply system shall be so designed that failures do not result in inappropriate, misleading or insufficient information being given to users or in interruption of an essential service.

1.3.4. Suitable means of protection shall be provided to avoid damage or disturbance to such aids.

1.3.5. Sources of radiation or the presence of moving or fixed objects shall not interfere with or adversely affect the performance of aeronautical communications, navigation and surveillance systems.

1.3.6. Information on operation and use of ***safety-related*** aerodrome equipment shall be made available to relevant staff, including clear indications of the conditions which may create unacceptable risks to aviation safety.

1.4. Aerodrome data

1.4.1. Data relevant to the aerodrome and the available services shall be established and kept up to date.

1.4.2. The data shall be accurate, readable, complete and unambiguous. ***Authenticity and appropriate*** integrity levels shall be maintained.

1.4.3. The data shall be made available to the users and the relevant ANS providers in a timely manner, using a sufficiently secure and expeditious method of communication.

2. OPERATIONS AND MANAGEMENT

2.1. Responsibilities of the aerodrome operator

The aerodrome operator is responsible for operation of the aerodrome. The responsibilities of the aerodrome operator are as follows:

(a) the aerodrome operator shall have, directly or through ***arrangements*** with third parties, all the means necessary to ensure safe operation of aircraft at the aerodrome. Those means shall include, but are not limited to, facilities, personnel, equipment and material, documentation of tasks, responsibilities and procedures, access to relevant data and record-keeping;

(b) the aerodrome operator shall verify that the requirements of ***point*** 1 are complied with at all times or take appropriate measures to mitigate the risks associated with non-compliance. Procedures shall be established and applied to make all users aware of such measures in a timely manner;

(c) the aerodrome operator shall establish and implement an appropriate aerodrome wildlife risk management programme ***directly or through arrangements with third parties***;

(d) the aerodrome operator shall ensure, directly or through ***arrangements*** with third parties, that movements of vehicles and persons in the movement area and other operational areas are coordinated with movements of aircraft in order to avoid collisions and damage to aircraft;

(e) the aerodrome operator shall ensure that procedures to mitigate risks related to aerodrome operations in winter operation, adverse weather conditions, reduced visibility or at night, if applicable, are established and implemented;

(f) the aerodrome operator shall establish arrangements with other relevant organisations to ensure continuing compliance with the essential requirements for aerodromes set out in this Annex. Those organisations include, but are not limited to, aircraft operators, ANS providers, groundhandling service providers, AMS providers and other organisations whose activities or products may have an effect on aircraft safety;

(g) the aerodrome operator ▌ shall verify that ***organisations*** involved in storing and dispensing of fuel***/energy for propulsion*** to aircraft have procedures to ensure that aircraft are provided with fuel***/energy for propulsion*** which is uncontaminated and of the correct specification;

(h) manuals for ***operation and*** maintenance of aerodrome equipment shall be available, applied in practice and cover maintenance and repair instructions, servicing information, troubleshooting and inspection procedures;

(i) the aerodrome operator shall establish***, directly or through arrangements with third parties,*** and implement an aerodrome emergency plan, covering emergency scenarios that may occur at the aerodrome or in its surroundings. This plan shall be coordinated, as appropriate, with the ▌ community emergency plan;

(j) the aerodrome operator shall ensure, directly or through ***arrangements*** with third parties, that adequate aerodrome rescue and firefighting services are provided. Such services shall respond to an incident or accident with due urgency and shall include at least equipment, extinguishing agents and a sufficient number of personnel;

(k) the aerodrome operator shall use only trained and qualified personnel for aerodrome operations and maintenance and shall ▌, directly or through ***arrangements*** with third parties, ***implement*** and ***maintain*** training and checking programmes to ensure the continuing competence of all relevant personnel;

(l) the aerodrome operator shall ensure that any person permitted unescorted access to the movement area or other operational areas is adequately trained and qualified for such access;

(m) the rescue and firefighting personnel shall be properly trained and qualified to operate in the aerodrome environment. The aerodrome operator shall***, directly or through arrangements with third parties,*** implement and maintain training and checking programmes to ensure the continuing competence of this personnel; and

(n) all rescue and firefighting personnel potentially required to act in aviation emergencies shall periodically demonstrate their medical fitness to execute their functions satisfactorily, taking into account the type of activity. In this context, medical fitness, comprising both physical and mental fitness, means not suffering from any disease or disability which could make this personnel unable:

– to execute the tasks necessary to operate in aviation emergencies;

– to perform their assigned duties at any time; or

– to perceive their environment correctly.

2.2. Management systems

2.2.1. As appropriate for the type of activity undertaken and the size of the organisation, the aerodrome operator shall implement and maintain a management system to ensure compliance with the essential requirements set out in this Annex, manage safety risks, and aim for continuous improvement of this system.

2.2.2. The aerodrome operator shall establish an occurrence reporting system as part of the management system under point 2.2.1, in order to contribute to the aim of continuous improvement of safety. The analysis of information from this occurrence reporting system shall involve the parties listed in point 2.1(f), as appropriate. The occurrence reporting system shall be compliant with ***the applicable Union law.***

2.2.3. The aerodrome operator shall develop an aerodrome manual and operate in accordance with that manual. Such manuals shall contain all necessary instructions, information and procedures for the aerodrome, the management system and for operations ***and maintenance*** personnel to perform their duties.

3. AERODROME SURROUNDINGS

3.1.1. The airspace around aerodrome movement areas shall be safeguarded from obstacles so as to permit the intended aircraft operations at the aerodromes without creating an unacceptable risk caused by the development of obstacles around the aerodrome. Obstacle monitoring surfaces shall therefore be developed, implemented and continuously monitored to identify any infringing penetration.

3.1.2. Any infringement of those surfaces will require an assessment to identify whether or not the object creates an unacceptable risk. Any object posing an unacceptable risk shall be removed or appropriate mitigating action shall be taken to protect aircraft using the aerodrome.

3.1.3. Any remaining obstacles shall be published and, depending on the need, shall be marked and, where necessary, made visible by means of lights.

3.2. Hazards related to human activities and land use, such as, but not limited to, items on the following list, shall be monitored. The risk caused by them shall be assessed and mitigated as appropriate:

(a) any development or change in land use in the aerodrome area;

(b) the possibility of obstacle-induced turbulence;

(c) the use of hazardous, confusing and misleading lights;

(d) the dazzling caused by large and highly reflective surfaces;

(e) the creation of areas that might encourage wildlife activity in the surroundings of the aerodrome movement area; or

(f) sources of non-visible radiation or the presence of moving or fixed objects which may interfere with, or adversely affect, the performance of aeronautical communications, navigation and surveillance systems.

3.3. ***The Member States shall ensure that an*** emergency plan ***is*** established for aviation emergency situations occurring in the aerodrome local area.

4. GROUNDHANDLING SERVICES

4.1. Responsibilities of the groundhandling services provider

The provider of groundhandling service is responsible for the safe operation of its activities at the aerodrome. The responsibilities of the provider are as follows:

(a) the provider shall have ▌ all the means necessary to ensure safe provision of service at the aerodrome. Those means shall include, but are not limited to, facilities, personnel, equipment and material ▌ ;

(b) the provider shall ***comply with the procedures contained in the aerodrome manual, including those in relation to*** movements of its vehicles***, equipment*** and ***personnel and the risk*** related to aerodrome operations in winter ▌ , ***at night and in*** adverse weather conditions ▌ ;

(***c)*** ***the provider shall provide the groundhandling services in accordance with the procedures and instructions of the aircraft operator it serves***;

▌

(d) the provider shall ensure that manuals for ***the operation and*** maintenance of ***groundhandling*** equipment ***are*** available, applied in practice and cover ***operation,*** maintenance and repair instructions, servicing information, troubleshooting and inspection procedures;

(e) the provider shall use only adequately trained and qualified personnel and shall ensure the implementation and maintenance of training and checking programmes to ensure the continuing competence of all relevant personnel;

(f) the provider shall ensure that its personnel is physically and mentally fit to execute their functions satisfactorily, taking into account the type of activity and in particular its potential safety and safety-related security impact.

4.2. Management systems

4.2.1. As appropriate for the type of activity undertaken and the size of the organisation, the provider shall implement and maintain a management system to ensure compliance with the essential requirements set out in this Annex, manage safety risks and to aim for continuous improvement of this system. ***Such system shall be coordinated with the management system of the aerodrome operator.***

4.2.2. The provider shall establish an occurrence reporting system as part of the management system under point 4.2.1 in order to contribute to the aim of continuous improvement of safety. ***Without prejudice to other reporting obligations, the provider shall transmit all occurrences to the reporting system of the aerodrome operator, the aircraft operator and, if relevant, to that of the air traffic service provider***. The occurrence reporting system shall be compliant with ***the applicable Union law.***

4.2.3. The provider shall develop a groundhandling service manual and operate in accordance with that manual. Such manual shall contain all necessary instructions, information and procedures for the service, the management system and for service personnel to perform their duties.

5. APRON MANAGEMENT SERVICES (AMS)

5.1. The AMS provider shall provide its services in accordance with the operating procedures included in the aerodrome manual.

5.2. As appropriate for the type of activity undertaken and the size of the organisation, the AMS provider shall implement and maintain a management system, including safety management, to ensure compliance with the essential requirements set out in this Annex.

5.3. The AMS provider shall establish formal arrangements with the aerodrome operator and the air traffic services provider describing the scope of the services to be provided.

5.4. The AMS provider shall establish an occurrence reporting system as part of the management system under point 5.2 in order to contribute to the aim of continuous improvement of safety. Without prejudice to other reporting obligations, the provider shall transmit all occurrences to the reporting system of the aerodrome operator, and, if relevant, to that of the air traffic services provider.

5.5. The AMS provider shall participate in the safety programmes established by the aerodrome operator.

6. OTHERS

Without prejudice to the responsibilities of the aircraft operator, the aerodrome operator shall ensure that, except for aircraft emergency situations, when diverting to an alternate aerodrome, or under other conditions specified in each case, an aerodrome or parts thereof shall not be used by aircraft for which the aerodrome design and operating procedures are not normally intended.

ANNEX VIII

Essential requirements for ATM/ANS and air traffic controllers

1. USE OF THE AIRSPACE

1.1. All aircraft, excluding those engaged in the activities referred to in Article 2(3)(a), in all phases of flight or on the movement area of an aerodrome, shall be operated in accordance with common general operating rules and any applicable procedure specified for the use of airspace.

1.2. All aircraft, excluding those engaged in the activities referred to in Article 2(3)(a), shall be equipped with the required constituents and operated accordingly. Constituents used in the ATM/ANS system shall also comply with the requirements in point 3.

2. SERVICES

2.1. Aeronautical information and data for airspace users for the purpose of air navigation

2.1.1. The data used as a source for aeronautical information shall be of sufficient quality, complete, current and provided in a timely manner.

2.1.2. Aeronautical information shall be accurate, complete, current, unambiguous***, from a legitimate source,*** and ▌ of adequate integrity***, as well as*** in a ***format*** suitable ▌ for users.

2.1.3. The dissemination of such aeronautical information to airspace users shall be timely and use sufficiently reliable and expeditious means of communication protected from intentional and unintentional interference and corruption.

2.2. Meteorological information

2.2.1. The data used as a source for aeronautical meteorological information shall be of sufficient quality, complete and current.

2.2.2. To the extent possible, aeronautical meteorological information shall be precise, complete, current, of adequate integrity and unambiguous in order to meet the needs of airspace users. Aeronautical meteorological information shall be from a legitimate source.

2.2.3. The dissemination of such aeronautical meteorological information to airspace users shall be timely and use sufficiently reliable and expeditious means of communication protected from interference and corruption.

2.3. Air traffic services

2.3.1. The data used as a source for the provision of air traffic services shall be correct, complete and current.

2.3.2. ***The provision of air*** traffic services shall be sufficiently precise, complete, current, and unambiguous to meet the safety needs of users.

2.3.3. Automated tools providing information or advice to users shall be properly designed, ***produced*** and maintained to ensure that they are fit for their intended purpose.

2.3.4. Air traffic control services and related processes shall provide for adequate separation between aircraft and, on the aerodrome manoeuvring area, prevent collisions between aircraft and obstructions and, where appropriate, assist in protection from other airborne hazards and shall ensure prompt and timely coordination with all relevant users and adjacent volumes of airspace.

2.3.5. Communication between air traffic services and aircraft and between relevant air traffic services units shall be timely, clear, correct and unambiguous, protected from interference and commonly understood and, if applicable, acknowledged by all actors involved.

2.3.6. Means shall be in place to detect possible emergencies and, when appropriate, to initiate effective search and rescue action. Such means shall, as a minimum, comprise appropriate alerting mechanisms, coordination measures and procedures, means and personnel to cover the area of responsibility efficiently.

2.4. Communication services

Communication services shall achieve and maintain sufficient performance with regard to their availability, integrity, continuity and timeliness. They shall be expeditious and protected from corruption ***and interference***.

2.5. Navigation services

Navigation services shall achieve and maintain a sufficient level of performance with regard to guidance, positioning and, when provided, timing information. The performance criteria include accuracy, integrity, ***legitimacy of the source,*** availability***,*** and continuity of the service.

2.6. Surveillance services

Surveillance services shall determine the respective position of aircraft in the air and of other aircraft and ground vehicles on the aerodrome surface, with sufficient performance with regard to their accuracy, integrity, ***legitimacy of the source,*** continuity and probability of detection.

2.7. Air traffic flow management

The tactical management of air traffic flows at Union level shall use and provide sufficiently precise and current information of the volume and nature of the planned air traffic affecting service provision and shall coordinate and negotiate re-routing or delaying traffic flows in order to reduce the risk of overloading situations occurring in the air or at the aerodromes. Flow management shall be performed with a view to optimising available capacity in the use of airspace and enhancing air traffic flow management processes. It shall be based on safety, transparency and efficiency, ensuring that capacity is provided in a flexible and timely manner, consistent with the European Air Navigation Plan.

The measures referred to in Article ***43***, concerning flow management shall support operational decisions by air navigation service providers, ***aerodrome*** operators and airspace users and shall cover the following areas:

(a) flight planning;

(b**)** use of available airspace capacity during all phases of flight, including en-route slot assignment;

(c) use of routings by general air traffic, including:

– the creation of a single publication for route and traffic orientation,

– options for diversion of general air traffic from congested areas, and

– priority rules regarding access to airspace for general air traffic, particularly during periods of congestion and crisis; and

(d) the consistency between flight plans and airport slots and the necessary coordination with adjacent regions, as appropriate.

2.8. Airspace management

The designation of specific volumes of airspace for a certain use shall be monitored, coordinated and promulgated in a timely manner in order to reduce the risk of loss of separation between aircraft in all circumstances. Taking into account the organisation of military activities and related aspects under the responsibility of the Member States, airspace management shall also support the uniform application of the concept of the flexible use of airspace as described by the ICAO and as implemented under Regulation (EC) No ***551/2004,*** in order to facilitate airspace management and air traffic management in the context of the common transport policy.

2.9. ***Flight procedure*** design

Flight procedures shall be properly designed, surveyed and validated before they can be deployed and used by aircraft.

3. SYSTEMS AND CONSTITUENTS

3.1. General

ATM/ANS systems and ATM/ANS constituents providing related information to and from the aircraft and on the ground shall be properly designed, ***produced***, installed, maintained***, protected against unauthorised interference*** and operated to ensure that they are fit for their intended purpose.

The systems and procedures shall include in particular those required to support the following functions and services:

(a) Airspace management;

(b) Air traffic flow management;

(c) Air traffic services, in particular flight data processing systems, surveillance data processing systems and human-machine interface systems;

(d) Communications including ground-to-ground/space, air-to-ground and air-to-air/space communications;

(e) Navigation;

(f) Surveillance;

(g) Aeronautical information services; and

(h) Meteorological services.

3.2. System and constituent integrity, performance and reliability

The integrity and safety-related performance of systems and constituents whether on aircraft, on the ground or in space, shall be fit for their intended purpose. They shall meet the required level of operational performance for all their foreseeable operating conditions and for their whole operational life.

ATM/ANS systems and ATM/ANS constituents shall be designed, built, maintained and operated using the appropriate and validated procedures, in such a way as to ensure the seamless operation of the European air traffic management network (EATMN) at all times and for all phases of flight. Seamless operation can be expressed, in particular, in terms of information-sharing, including the relevant operational status information, common understanding of information, comparable processing performances and the associated procedures enabling common operational performances agreed for the whole or parts of the EATMN.

The EATMN, its systems and their constituents shall support, on a coordinated basis, new agreed and validated concepts of operation that improve the quality, sustainability and effectiveness of air navigation services, in particular in terms of safety and capacity.

The EATMN, its systems and their constituents shall support the progressive implementation of civil/military coordination, to the extent necessary for effective airspace and air traffic flow management, and the safe and efficient use of airspace by all users, through the application of the concept of the flexible use of airspace.

To achieve those objectives, the EATMN, its systems and their constituents shall support the timely sharing of correct and consistent information covering all phases of flight, between civil and military parties, without prejudice to security or defence policy interests, including requirements on confidentiality.

3.3. Design of systems and constituents

3.3.1. Systems and constituents shall be designed to meet applicable safety and security requirements.

3.3.2. Systems and constituents, considered collectively, separately and in relation to each other, shall be designed in such a way that an inverse relationship exists between the probability that any failure can result in a total system failure and the severity of its effect on the safety of services.

3.3.3. Systems and constituents, considered individually and in combination with each other, shall be designed taking into account limitations related to human capabilities and performance.

3.3.4. Systems and constituents shall be designed in a manner that protects them and the data they convey from ▌ harmful interactions with internal and external elements.

3.3.5. Information needed for ***production,*** installation, operation and maintenance of the systems and constituents as well as information concerning unsafe conditions shall be provided to personnel in a clear, consistent and unambiguous manner.

3.4. Continuing level of service

Safety levels of systems and constituents shall be maintained during service and any modifications to service.

4. QUALIFICATION OF AIR TRAFFIC CONTROLLERS

4.1. General

A person undertaking training as an air traffic controller or as a student air traffic controller, shall be sufficiently mature educationally, physically and mentally to acquire, retain and demonstrate the relevant theoretical knowledge and practical skill.

4.2. Theoretical knowledge

4.2.1. An air traffic controller shall acquire and maintain a level of knowledge appropriate to the functions exercised and proportionate to the risks associated with the type of service.

4.2.2. Acquisition and retention of theoretical knowledge shall be demonstrated by continuous assessment during training, or by appropriate examinations.

4.2.3. An appropriate level of theoretical knowledge shall be maintained. Compliance shall be demonstrated by regular assessments or examinations. The frequency of examinations shall be proportionate to the level of risk associated with the type of service.

4.3. Practical skill

4.3.1. An air traffic controller shall acquire and maintain the practical skills appropriate to exercise his or her functions. Such skills shall be proportionate to the risks associated with the type of service and shall cover at least, if appropriate to the functions exercised, the following items:

(a) operational procedures;

(b) task specific aspects;

(c) abnormal and emergency situations; and

(d) human factors.

4.3.2. An air traffic controller shall demonstrate the ability to perform the associated procedures and tasks with a level of competence appropriate to the functions exercised.

4.3.3. A satisfactory level of competence in practical skill shall be maintained. Compliance shall be verified by regular assessments. The frequency of those assessments shall be proportionate to the complexity and the level of risk associated with the type of service and the tasks performed.

4.4. Language proficiency

4.4.1. An air traffic controller shall demonstrate proficiency to speak and understand English to the extent he/she is able to communicate effectively in voice-only (telephone/radiotelephone) and in face-to-face situations on concrete and work-related topics, including in emergency situations.

4.4.2. Whenever necessary in a defined volume of airspace for Air Traffic Service (ATS) provision purposes, an air traffic controller shall also have proficiency to speak and understand the national language(s) to the extent described above.

4.5. Synthetic training devices (STD)

When an STD is used for practical training on situational awareness and human factors or to demonstrate that skills are acquired or maintained, it shall have a level of performance that allows adequate simulation of the working environment and operational situations appropriate to the training provided.

4.6. Training course

4.6.1. Training shall be given by a training course, which may comprise theoretical and practical instruction, including training on an STD, if applicable.

4.6.2. A course shall be defined and approved for each type of training.

4.7. Instructors

4.7.1. Theoretical instruction shall be given by appropriately qualified instructors. They shall:

(a) have appropriate knowledge in the field where instruction is to be given; and

(b) have demonstrated the ability to use appropriate instructional techniques.

4.7.2. Instruction on practical skills shall be given by appropriately qualified instructors, who have the following qualifications:

(a) meet the theoretical knowledge and the experience requirements appropriate to the instruction being given;

(b) have demonstrated the ability to instruct and to use appropriate instructional techniques;

(c) have practised instructional techniques in those procedures in which it is intended to provide instruction; and

(d) receive regular refresher training to ensure that the instructional competences are maintained up to date.

4.7.3. Instructors on practical skills shall also be or have been entitled to act as an air traffic controller.

4.8. Assessors

4.8.1. Persons responsible for assessing the skill of air traffic controllers shall:

(a) have demonstrated the ability to assess the performance of, and conduct tests and checks on air traffic controllers; and

(b) receive regular refresher training to ensure that the assessment standards are maintained up to date.

4.8.2. Assessors on practical skills shall also be or have been entitled to act as an air traffic controller in those areas in which assessment is to be made.

4.9. Medical fitness of an air traffic controller

4.9.1. All air traffic controllers shall periodically demonstrate medical fitness to satisfactorily execute their functions. Compliance shall be shown by appropriate assessment taking into account the possible mental and physical degradation due to age;

4.9.2. Demonstration of medical fitness, comprising physical and mental fitness, shall include the demonstrated absence of any disease or disability, which makes the person providing an air traffic control (ATC) service unable:

(a) to execute properly the tasks necessary to provide an ATC service,

(b) to perform assigned duties at any time, or

(c) to perceive correctly his/her environment.

4.9.3. Where medical fitness cannot be fully demonstrated, mitigation measures that provide equivalent safety may be implemented.

5. SERVICE PROVIDERS AND TRAINING ORGANISATIONS

5.1. Service provision shall not be undertaken unless the following conditions are met:

(a**)** the service provider shall have directly or through agreements with third parties the means necessary for the scale and scope of the service. Those means shall comprise but are not limited to the following: systems, facilities, including power supply, management structure, personnel, equipment and its maintenance, documentation of tasks, responsibilities and procedures, access to relevant data and record-keeping;

(b) the service provider shall develop and keep up-to-date management and operations manuals relating to the provision of its services and operate in accordance with those manuals. Such manuals shall contain all necessary instructions, information and procedures for the operations, the management system and for operations personnel to perform their duties;

(c) as appropriate for the type of activity undertaken and the size of the organisation, the service provider shall implement and maintain a management system to ensure compliance with the essential requirements set out in this Annex, manage safety risks and aim for continuous improvement of this system;

(d**)** the service provider shall use only suitably qualified and trained personnel and implement and maintain training and checking programmes for the personnel;

(e) the service provider shall establish formal interfaces with all stakeholders which may influence directly the safety of their services to ensure compliance with the essential requirements set out in this Annex;

(f) the service provider shall establish and implement a contingency plan covering emergency and abnormal situations that may occur in relation to its services***, including in the case of events which result in significant degradation or interruption of its operations***;

(g) the service provider shall establish an occurrence reporting system as part of the management system under point (c) in order to contribute to the aim of continuous improvement of safety. The occurrence reporting system shall be compliant with ***the applicable Union law***; and

(h) the service provider shall make arrangements to verify that the safety performance requirements of any system and constituent they operate are met at any time.

5.2. ATC service provision shall not be undertaken unless the following conditions are met:

(a) the prevention of fatigue of personnel providing an ATC service shall be managed through a rostering system. Such a rostering system needs to address duty periods, duty time and adapted rest periods. Limitations established within the rostering system shall take into account relevant factors contributing to fatigue such as, in particular, sleep deprivation, disruption of circadian cycles, night hours, cumulative duty time for given periods of time and also the sharing of allocated tasks between personnel;

(b) the prevention of stress of personnel providing an ATC service shall be managed through education and prevention programmes;

(c) the ATC service provider shall have in place procedures to verify that the cognitive judgement of personnel providing ATC services is not impaired or their medical fitness insufficient; and

(d) the ATC service provider shall take into account operational and technical constraints as well as human factor principles in its planning and operations.

5.3. Communication, navigation and/or surveillance service provision shall not be undertaken unless the following condition is met:

The service provider shall keep relevant airspace users and ATS units informed on a timely basis of the operational status (and changes thereof) of their services provided for ATS purposes.

5.4. Training organisations

A training organisation providing training for personnel providing an ATC service shall meet the following requirements:

(a**)** have all the means necessary for the scope of responsibilities associated with their activity. Those means comprise, but are not limited to, the following: facilities, personnel, equipment, methodology, documentation of tasks, responsibilities and procedures, access to relevant data and record-keeping;

(b) as appropriate for the training provided and the size of the organisation, shall implement and maintain a management system to ensure compliance with the essential requirements set out in this Annex, manage safety risks***, including risks related to deterioration in the standard of training,*** and aim for continuous improvement of this system; and

(c) establish arrangements with other relevant organisations, as necessary, to ensure continuing compliance with the essential requirements set out in this Annex.

6. AEROMEDICAL EXAMINERS AND AEROMEDICAL CENTRES

6.1. Aero-medical examiners

An aero-medical examiner must:

(a) be qualified and licensed in the practice of medicine;

(b) have received training in aviation medicine and regular refresher training in aviation medicine to ensure that assessment standards are maintained up to date; and

(c) have acquired practical knowledge and experience with regard to the conditions in which air traffic controllers carry out their duties.

6.2. Aero-medical centres

Aero-medical centres must meet the following conditions:

(a) have all the means necessary for the scope of responsibilities associated with their privileges. Those 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;

(b) as appropriate for the type of activity undertaken and the size of the organisation, implement and maintain a management system to ensure compliance with the essential requirements set out in this Annex, manage safety risks and aim for continuous improvement of this system; and

(c) establish arrangements with other relevant organisations, as necessary, to ensure continuing compliance with the requirements set out in this Annex**.**

ANNEX IX

Essential requirements for unmanned aircraft

1. ESSENTIAL REQUIREMENTS FOR THE DESIGN, PRODUCTION, MAINTENANCE AND OPERATION OF UNMANNED AIRCRAFT

1.1. ***The operator and the remote pilot of an*** unmanned aircraft must be aware of the applicable Union and national rules relating to the intended operations, in particular with regard to safety, privacy, data protection, liability, insurance, security ***and*** environmental protection. The ***operator and the remote pilot*** must be able to ensure the safety of operation and safe separation of the unmanned aircraft from people on the ground and from other airspace users. This includes ***good knowledge of*** the operating instructions provided by the ***producer, of safe and environmentally-friendly use of unmanned aircraft in the airspace, and of*** all relevant functionalities of the unmanned aircraft and applicable rules of the air and ATM/ANS procedures.

1.2. An unmanned aircraft must be designed and constructed so that it is ***fit*** for its ***intended*** function, and can be operated, adjusted and maintained without putting persons at risk ▌.

1.3. If necessary to mitigate risks pertaining to safety, privacy, protection of personal data, security or the environment, arising from the operation, the unmanned aircraft must have the corresponding and specific features and functionalities which take into account the principles of privacy and protection of personal data by design and by default. According to the needs those features and functionalities must ensure easy identification of the aircraft and of the nature and purpose of the operation; and must ensure that applicable limitations, prohibitions or conditions be complied with, in particular with respect to the operation in particular geographical zones, beyond certain distances from the operator or at certain altitudes.

1.4 The organisation responsible for the production or for the marketing of the unmanned aircraft must provide information to the operator of an unmanned aircraft and, where relevant, to the maintenance organisation on the kind of operations for which the unmanned aircraft is designed together with the limitations and information necessary for its safe operation, including operational and environmental performance, airworthiness limitations and emergency procedures. This information shall be given in a clear, consistent and unambiguous manner. The operational capabilities of unmanned aircraft that can be used in operations that do not require a certificate or declaration must allow the possibility to introduce limitations which meet airspace rules applicable to such operations.

2. ADDITIONAL ESSENTIAL REQUIREMENTS FOR THE DESIGN, PRODUCTION, MAINTENANCE AND OPERATION OF UNMANNED AIRCRAFT REFERRED TO ARTICLE 56(1) AND (5)

Taking in account the objectives set out in Article 1, the following requirements must be met to ensure ▌ safety for people on the ground and other airspace users during the operation of the unmanned aircraft, taking into account the level of risk of the operation as necessary:

2.1. Airworthiness

2.1.1. Unmanned aircraft must ***be designed in a way that, or contain*** features or details that***, the safety of the person operating the unmanned aircraft or of*** third parties ***in the air or*** on the ground***, including property, can be satisfactorily demonstrated***.

2.1.2. Unmanned aircraft must provide product integrity that is proportionate to the risk in all anticipated flight conditions.

2.1.3. Unmanned aircraft must be safely controllable and manoeuvrable, as necessary under all anticipated operating conditions including following the failure of one or, if appropriate, more systems. Due account must be taken of human-factor considerations, in particular available knowledge about factors conducive to safe operation of technology by humans.

2.1.4. Unmanned aircraft ***and their engines, propellers, parts,*** non-installed equipment, ***and*** equipment to control the unmanned aircraft remotely must function as intended under any foreseeable operating conditions, throughout, and sufficiently beyond, the operation for which the aircraft was designed.

2.1.5. Unmanned aircraft ***and their engines, propellers, parts,*** non-installed equipment, ***and*** equipment to control the unmanned aircraft remotely, considered separately and in relation to each other, must be designed such that the probability of a failure condition and the severity of its effect on people on the ground and other airspace users are ***mitigated*** on the basis of the principles laid down in Article 4(2).

2.1.6. Any equipment to control the unmanned aircraft remotely involved in the operation must be so as to facilitate flight operations, including means providing situational awareness, and management of any expected situation and emergencies.

▌

2.1.7. Organisations involved in the design of unmanned aircraft, engines and propellers ***must*** take precautions so as to minimise the hazards arising from conditions, both internal and external to the unmanned aircraft and their systems, that experience has shown to have a safety impact. This includes protection against interference by electronic means.

2.1.8. The manufacturing processes, materials and components used to produce the unmanned aircraft must result in adequate and reproducible properties and performance that are compliant with the design properties.

2.2. Organisations

Organisations involved in unmanned aircraft design, production, maintenance, operations, related services and training shall meet the following conditions:

(a) The organisation must have all the means necessary for the scope of its work and ensure compliance with the essential requirements and the ***delegated act referred to in Article 58 and the implementing acts referred to in Article 57,*** relevant for its activity.

(b) The organisation must implement and maintain a management system to ensure compliance with the relevant essential requirements, manage safety risks and aim for continuous improvement of this system. Such management system must be ***proportionate*** to the organisation's type of activity and size.

(c) The organisation must establish an occurrence reporting system, as part of the safety management system, in order to contribute to the continuous improvement of safety. ▌Such reporting system must be ***proportionate*** to the organisation's type of activity and size.

(d) The organisation must establish arrangements, where relevant, with other organisations to ensure continuing compliance with the relevant essential requirements.

2.3. Persons ***involved in operation of*** unmanned aircraft

Any person ***involved in the operation of*** an unmanned aircraft, ***including the remote pilot,*** shall possess the required knowledge and skills necessary to ensure the safety of the operation and proportionate to the risk associated with the type of operation. This person shall also demonstrate medical fitness, if this is necessary to mitigate the risks involved in the operation concerned.

2.4. Operations

2.4.1. The operator of an unmanned aircraft is responsible for the operation and must take any appropriate actions to ensure the safety of the operation.

2.4.2. A flight must be performed in accordance with the applicable laws, regulations and procedures, pertinent to the performance of their duties, prescribed for the area, airspace, aerodromes or sites planned to be used and, where applicable, related ATM/ANS systems.

2.4.3. Operations with unmanned aircraft must ensure the safety of third parties on the ground and of other airspace users and minimise the risks resulting from adverse external and internal conditions, including environmental conditions, through maintaining appropriate separation distance during all phases of the flight.

2.4.4. Unmanned aircraft must be operated only if it is in airworthy condition and where the equipment and the other components and services necessary for the intended operation are available and serviceable.

2.4.5. ***Unmanned aircraft and operations with unmanned aircraft must comply with relevant rights guaranteed under Union law.***

2.4.6. The operator of an unmanned aircraft must ensure that the aircraft has the necessary navigation, communication, surveillance, detect and avoid equipment, as well as any other equipment deemed necessary for the safety of the intended flight, taking account of the nature of the operation, air traffic regulations and rules of the air applicable during any phase of the flight.

2.5. Essential requirements relating to electromagnetic compatibility and radio spectrum, for unmanned aircraft, as well as associated engines, propellers, parts and non-installed equipment, the design of which is certified in accordance with Article 56(1) and which are intended to operate only on frequencies allocated by the Radio Regulations of the International Telecommunication Union for protected aeronautical use

2.5.1 Those unmanned aircraft, engines, propellers, parts and non-installed equipment shall be designed and produced in such a manner, having regard to the state of the art, as to ensure that:

(a) the electromagnetic disturbance which they generate does not exceed the level above which radio and telecommunications equipment or other equipment cannot operate as intended; and

(b) they have a level of immunity to the electromagnetic disturbance which allows them to operate without unacceptable degradation of their intended use.

2.5.2. Those unmanned aircraft, engines, propellers, parts and non-installed equipment shall be designed and produced in such a manner, having regard to the state of the art, as to ensure that they effectively use and support the efficient use of radio spectrum in order to avoid harmful interference.

3. ESSENTIAL ENVIRONMENTAL REQUIREMENTS FOR UNMANNED AIRCRAFT

Unmanned aircraft shall comply with the environmental performance requirements set out in Annex III.

4. ESSENTIAL REQUIREMENTS FOR REGISTRATION OF UNMANNED AIRCRAFT AND THEIR OPERATORS AND MARKING OF UNMANNED AIRCRAFT

4.1. Without prejudice to obligations of Member States under the Chicago Convention unmanned aircraft the design of which is subject to certification pursuant to Article 56(1) shall be registered in accordance with the implementing acts referred to in Article 57.

4.2. Operators of unmanned aircraft shall be registered in accordance with the implementing acts referred to in Article 57, where they operate any of the following:

(i) unmanned aircraft which, in the case of impact, can transfer, to a human, kinetic energy above 80 Joules;

(ii) unmanned aircraft the operation of which presents risks to privacy, protection of personal data, security or the environment;

(iii) unmanned aircraft the design of which is subject to certification pursuant to Article 56(1);

4.3. Where a requirement of registration applies pursuant to point 4.1 or 4.2, the unmanned aircraft concerned shall be individually marked and identified, in accordance with the implementing acts referred to in Article 57.

ANNEX X

Correlation table

Regulation (EC) No 216/2008	This Regulation
Article 1(1)	Article 2(1) and (2)
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