



Brussels, 7.12.2015
COM(2015) 613 final

2015/0277 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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

(Text with EEA relevance)

{SWD(2015) 262 final}

{SWD(2015) 263 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

This initiative is part of the 2015 European Commission's 'Aviation Strategy to Enhance the Competitiveness of the EU Aviation Sector'. Its objective is to prepare the EU aviation safety regulatory framework for the challenges of the next ten to fifteen years and thus to continue to ensure safe, secure and environmentally friendly air transport for passengers and the general public. This initiative builds on over twelve years of experience in the implementation of Regulation (EC) No 216/2008¹ and its predecessor².

Safety and consideration for environmental protection are pre-requisites for a competitive aviation sector. With the aviation traffic in Europe predicted to reach 14.4 million flights in 2035 (50% more than in 2012), the Commission's objective is to make sure that the system continues to maintain the current low number of accidents, allowing the EU aviation sector to safely grow in the future and thus to contribute to its competitive edge. For this purpose the present initiative proposes to introduce a risk and performance based approach to safety regulation, close existing safety gaps, and better take into account interdependencies between aviation safety and other technical domains of regulation such as aviation security or environmental protection.

While aviation safety is the principal objective of this proposal, it is not the only one. This proposal must also be seen in the context of the Commission priorities of fostering jobs and growth, developing the internal market and strengthening Europe's role as a global actor. This initiative aims at contributing to a competitive European aviation industry and aeronautical manufacturing which generates high value-jobs and drives technological innovation. It will create an effective regulatory framework for the integration of new business models and emerging technologies. In particular this initiative proposes to create a Union framework for safe integration of unmanned aircraft into the European airspace.

This proposal also responds to the calls from the Member States, industry and airspace users for a more proportionate and flexible approach to safety regulation and to eliminate rules which can stifle entrepreneurship with too prescriptive requirements. It notably proposes to introduce a scalable framework which recognises the differences existing between the various sectors of civil aviation and the risks involved therein. This approach is expected to benefit the whole aviation sector in the Union and will be particularly suited to the needs of small and medium sized enterprises (SMEs).

With the transition to a risk and performance based approach to regulation and oversight, Member States and the European Union Aviation Safety Agency (EASA) will need to develop new skills and competences, as well as to be continuously abreast with the latest technologies developed by the industry. This initiative supports the achievement of these

¹ Regulation (EU) No 216/2008 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). This regulation was subsequently modified by Regulation (EC) No 1108/2009, which extended its scope to safety of aerodromes and safety aspects of Air Traffic Management and Air Navigation Services.

² Regulation (EC) No 1592/2002 of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency', (OJ L 240, 7.9.2002).

objectives by proposing better arrangements for coordination and development of aviation research and training.

Finally the present proposal addresses the challenges that some national authorities face in maintaining and financing the resources necessary for accomplishing the required certification and oversight work. To this end the present initiative proposes a framework for pooling and sharing of technical resources between the national authorities and the European Union Aviation Safety Agency, and which includes the possibility of transferring responsibilities for implementation of Union legislation on a voluntary basis.

- **Consistency with existing policy provisions in the policy area**

The present initiative builds on the existing Union provisions dealing with civil aviation safety as currently contained in Regulation (EC) No 216/2008.

The proposal is consistent with the 2013 Commission initiative on accelerating the implementation of the Single European Sky (SES II + initiative)³. When preparing the present proposal the Commission has taken into account the Commission's proposal COM(2013)409 of 11.06.2013 and the results of the discussions so far in the European Parliament and in the Council on the proposed SES II+ amendments to Regulation (EC) No 216/2008. In order to avoid two legislative proposals related to Regulation (EC) No 216/2008 being discussed in parallel and this proposal being the more comprehensive one, the proposed SES II+ amendments to Regulation (EC) No 216/2008 have been subsumed into this new proposal, while adapting them to the new structure and drafting style of this proposal. As a result the Commission will not pursue further discussions on the proposal COM(2013)409 of 11.6.2013, which was presented as part of the SES II + initiative.

Where changes proposed by this initiative have impact on other Union legislation adopted by the European Parliament and the Council related to air transport (which is the case for accident investigation, occurrence reporting and licensing of air carriers), appropriate amendments to other Union acts are proposed to ensure consistency of approach.

- **Consistency with other Union policies**

This initiative is linked and fully consistent with the 2014-2019 strategic objectives of the Commission with respect to the promotion of 'Jobs and Growth' and of a 'Deeper and Fairer Internal Market with a Strengthened Industrial Base'.

The present proposal is also consistent with the 'Common Approach on decentralised agencies' agreed in 2012 between the Commission, the European Parliament and the Council, and aligns, where relevant, the provisions dealing with the European Union Aviation Safety Agency with the standard clauses recommended in this common approach.

The initiative also intends to make the design and operations of unmanned aircraft more consistent with the wider aviation policy framework. Unmanned aircraft will become another

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Accelerating the implementation of the Single European Sky of 11.6.2013, COM(2013)408 final, accompanied by a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services, COM(2013)409 final, and by a proposal for a Regulation of the European Parliament and of the Council on the implementation of the Single European Sky, COM(2013)410 final.

type of aerial vehicle to provide a range of new services in the European aviation market within the context of Regulation (EC) 1008/2008 on common rules for the operation of air services in the Community. As unmanned aircraft share the same airspace with other aircraft, the safety of their operations must remain coherent with the overall aviation safety policy. Finally, unmanned aircraft operations must also be consistent with air traffic rules as laid down in the Common Rules of the Air.⁴

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The proposal is based on Article 100(2) of the Treaty on the Functioning of the European Union, which is the legal basis for the adoption of Union measures relating to air transport.

- **Subsidiarity (for non-exclusive competence)**

Pursuant to Regulations No (EC) 1592/2002 and No (EC) 216/2008, the Union has been made responsible for tasks regarding the airworthiness and environmental compatibility of aeronautical products, flight operations, aircrew licensing, aerodromes and air traffic management and air navigation services (ATM/ANS), as well as safety of third country operators. Civil aviation safety has therefore now been regulated at Union level for over a decade. This results from the fact that air transport and aeronautical production are, to a large extent, activities of transnational character which can be better addressed at Union level.

Under the present initiative a limited number of specific areas are proposed to be added to this overall Union aviation safety framework, namely unmanned aircraft, safety of ground handling services and security aspects of aircraft and aviation systems' design, including cybersecurity.

Unmanned aircraft manufacturing has a cross-border dimension since many unmanned aircraft are bought online, are imported or at least have imported parts. Mutual recognition in the internal market is difficult to achieve in the presence of detailed and diverging national standards and rules. Also with regard to unmanned aircraft services, many operators are developing cross-border activities. For instance, infrastructure inspections, from oil rigs to rail tracks, are being organised at an international level. Even if operations have a limited scope, operators should be in a position to use the same unmanned aircraft and the same operating requirements with the same pilot at different places in the Union to develop their businesses, especially if they operate in niche markets. Large delivery companies have expressed their intentions to organise their services at European level which requires common rules. Subsidiarity applies at the level of the implementation of the common operational rules, e.g. Member State authorities will carry out local risk assessments and decide which airspace shall be open or closed to unmanned aircraft operations, and under which conditions. Most of the light unmanned aircraft operations have a local dimension and it should be for the local authorities to assess the level of risk and authorise the specific type of operation.

As regards ground handling services, the need for action at Union level is necessary given the fact that accidents related to ground handling constitute the fourth biggest accident category in the period of the last ten years, while the voluntary initiatives at Member State level have as

⁴ Commission Implementing Regulation No 923/2012 of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation

yet not produced satisfactory results to address this risk. There are at present no safety requirements at Union level which address directly the providers of ground handling services. As ground handling is part of the overall aviation system and interlinks with other domains which are covered by Union competence (such as aerodrome and flight operations), regulating it at Union level will assure a consistent approach in all Member States. In order to ensure a proportionate approach, it is proposed that there is no need for certification of service providers as a condition to start operations. It is also the Commission's view that the common requirements for ground handling should be based on recognised industry standards and best practices. At the same time Member States should be given the necessary regulatory tools to ensure effective oversight with respect to the providers of such services.

With respect to security aspects of aircraft and systems' design, it has to be pointed out that the Union is already involved in some of these issues. The interaction between 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 2320/2002⁵ and the current Regulation (EC) No 216/2008 is not always clear, however, including on the role of the European Union Aviation Safety Agency. This initiative proposes to clarify the role of the Union in this regard, taking account of the fact that these security aspects are closely linked with safety of aircraft design and flight operations, where the Union is already responsible pursuant to Regulation (EC) No 216/2008.

- **Proportionality**

Proportionality is one of the primary objectives of the present initiative, and measures aiming at making the current regulatory framework for aviation safety more proportional are an integral element of the final package of policy measures proposed, as explained in the accompanying Impact Assessment Report (Chapter 6.6). This initiative proposes to introduce a risk based approach to the regulation of aviation safety, which should benefit the whole aviation sector and which is particularly suited to regulating small and medium sized enterprises.

- **Choice of the instrument**

The present proposal does not change the type of instrument used. Since 2002, when Regulation (EC) No 1592/2002 was adopted, civil aviation safety in the Union has been regulated by means of regulations. The Commission sees no reason to change that.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable

- **Stakeholder consultations**

Stakeholders were consulted in parallel by the Commission and by the European Aviation Safety Agency. The two consultations were complementary. In addition, the services of the Commission conducted a number of meetings with Member States and aviation stakeholders to supplement the public consultations with additional information. The [summary of the](#)

⁵ OJ L 97, 9.4.2008, p. 72.

[results of the Commission public consultation has been published on the Europa website](#). The main findings of the public consultation are as follows:

- There is a strong agreement that the Union has achieved a very high level of safety. Over 90% of contributors agreed or strongly agreed with a statement that it is, at present, safe to travel by plane in the Union;
- At the same time it was recognised that, when it comes to safety, there is no place for complacency. Over 70% of Member States and industry organisations which contributed to the Commission's on-line survey believe that the ability to identify and mitigate safety risks has to be improved;
- Beyond maintaining the current safety performance, the main concern of Member States and stakeholders is the efficiency and proportionality of the present system. The vast majority of the organisations which contributed to the Commission's on-line survey (82%), and in particular the SMEs, argue that existing rules are too detailed and prescriptive, and that the current safety levels could be maintained with lower compliance cost (83%). This view is largely shared by Member States;
- There is a concern amongst Member States and industry that the current way the technical resources are being used by the aviation authorities is inefficient, and that some national aviation authorities experience shortages of resources. The majority (63%) of Member States and of the organisations which submitted replies to the Commission's on-line survey believe that some of the national aviation authorities do not have sufficient financial or human resources to carry out their oversight tasks;
- The aircraft manufacturing industry has advocated a much more active role of the Union in promoting European civil aviation safety standards internationally, including in the International Civil Aviation Organisation (ICAO), and expressed concern about long-term availability of resources at the European Aviation Safety Agency for product certification;
- 73% of organisations which contributed to the Commission's on-line survey pointed towards possible inconsistencies, gaps and overlaps in the application of the law, in particular stemming from varying interpretations of law by Member States.

The Union social partners (representing both employers and employees) have contributed to the consultations conducted by the Commission and the European Aviation Safety Agency. The organisations representing the aviation personnel pointed in particular to the fact that the performance based approach to aviation safety should complement but not replace the current system of prescriptive regulations. Organisations representing the employees were also concerned about the future availability of resources dedicated by Member States to safety oversight and pointed to the need to pay particular attention to ensuring a high level of training and competency of staff both at the authorities and in the aviation sector at large. Organisations representing the pilots in particular expressed concern about potential negative impact on safety stemming from certain airline employment practices and other innovative business models.

On the other hand organisations representing the employers drew the Commission's attention to differences in application of law by Member States, overregulation and inefficient use of resources dedicated to certification and oversight. Employers pointed in particular to the fact that, while the aviation industry operates freely within the internal market, oversight is still organised based on the principle of individual Member State responsibility. Level playing field, standardisation and stability in the implementation of rules are considered to be of

particular importance for the employers. Some of the organisations representing employers advocated the creation of a single civil aviation authority for the Union.

The Commission largely agrees with the results of the public consultations and has reflected them in the formulation of the present proposal. The ability of the Union to identify and mitigate safety risks should be enhanced by the provisions of the proposal dealing with safety management, the European Plan for Aviation Safety, and national safety programmes. The introduction of a risk and performance based approach to regulation should allow achieving a more proportionate regulatory framework which better takes into account the differences between the different types of aviation activities and the risks involved therein. The proposed framework for pooling and sharing of resources between the national aviation authorities and the European Union Aviation Safety Agency is expected to increase the efficiency in the use of resources.

A separate public consultation was organised for unmanned aircraft, which endorsed the need for urgent action at the Union level to tap the potential of unmanned aircraft. The contribution of these technologies to jobs and growth was confirmed. The consultation confirmed the view that the full range of unmanned aircraft is ready for development and that legal and technological uncertainty impedes a swift expansion. Specific authorizations and fragmentation are a real burden. Respondents identified safety and privacy as the most important concerns which could be managed with an appropriate regulatory framework that keeps rules proportionate to risk and with a strong role for national authorities.

The current division of competence between Union and Member States regarding regulation of unmanned aircraft, which is based on a threshold of 150 kg, is generally deemed obsolete. The rules for unmanned aircraft should evolve towards an operation centric approach, where risk of a particular operation is made dependent on a range of factors. Concerning security and privacy aspects of unmanned aircraft operations, the consultation does not point to the need for new rules, but more to a better application of existing rules, with a closer collaboration between national aviation authorities and national data protection authorities.

- **Collection and use of expertise**

The Commission has sought an [Opinion from the European Aviation Safety Agency, which was delivered on 16 March 2015](#). The opinion is based on over 6 000 comments submitted by Member States and stakeholders, and suggests a variety of changes to the different areas of technical regulation of aviation, including safety, security, research, environmental protection, and efficient use of resources within the European aviation safety system.

The Commission has also relied on the following expertise and advice:

1. Two studies were contracted to support the impact assessment process:
 - The first study analysed the availability, efficiency of utilisation and evolution of human resources of aviation authorities, as well as the financing of the European aviation safety system (support study on resources). This study concluded that the resource to workload balance has deteriorated over the last ten years. Furthermore, according to the study, existing resources could be better allocated across the system. Shortcomings were also identified as regards qualifications of staff. The study argues that, combined, these aspects prevent aviation authorities from performing up to their potential. Finally, the study concluded that differences in working methods between national aviation authorities and differences in the way these authorities are financed impact on a level playing field within the common aviation market.

- The second study, on performance schemes and performance based approach, explored possibilities of introducing performance elements in the management of aviation safety (support study on performance). This study concluded that introducing a safety performance scheme for civil aviation is feasible, but cautioned against its rapid introduction for a number of technical reasons. With respect to a performance based approach to regulation of aviation safety, the study concluded that this approach should have a positive impact on aviation safety and innovation, but the impact of this approach can only be described qualitatively and is very much depending on the specific rules that will be converted from prescriptive to performance based. This makes it impossible to quantify upfront the benefits of a performance based approach to safety regulation in the aviation sector. This study was also subject to a peer review by industry and Member States' experts.
- 2. The Commission took into account recommendations of the [sub-group on the future EU aviation regulatory system](#) set up by the Management Board of the European Aviation Safety Agency, which was made up of the Directors-General of Civil Aviation of 14 EU/EFTA countries, as well as of representatives from EASA and the Commission⁶. Finally the results of the independent external [evaluation conducted in accordance with Article 62](#) of Regulation (EC) No 216/2008 on the implementation of this Regulation were taken into account (Article 62 evaluation)⁷. In both of these evaluations it was recommended, amongst other, that Regulation (EC) No 216/2008 be amended in a number of respects. The summary of the recommendations made by these evaluations are contained in the impact assessment report accompanying this proposal.

- **Impact assessment**

This proposal is accompanied by two Impact Assessment Reports which can be accessed at [link]. The Impact Assessment Report on the Review of Regulation (EC) 216/2008 has been reviewed by the Impact Assessment Board, which has issued a positive opinion [link] on 19 June 2015. The Regulatory Scrutiny Board reviewed the Impact Assessment Report on the Safe Development of Drone Operations in the EU and has issued a positive opinion [link] on 5 November 2015.

- **Regulatory fitness and simplification**

The proposal exempts manned aircraft which are of very simple design or operate mainly on a local basis, and those that are home-built or particularly rare or only exist in a small number. The initiative also exempts aerodromes which are not open to public use, which do not serve commercial air transport, or which do not meet certain minimum technical characteristics related to the size or scope of operations.

Microenterprises and SMEs are not excluded from the scope of the proposal, which is also the case under the current Regulation (EC) No 216/2008. The proposal introduces however a more proportionate and scalable regime which will allow to better take into account the differences which exist between the different sizes of businesses. The introduction of such a scalable regime is one of the primary objectives of the present proposal. More specifically, as regards SMEs and light aviation, a number of measures would reduce the administrative

⁶ EASA Management Board sub-group, 'Final Report' (2015), <http://easa.europa.eu/the-agency/governance/management-board/meetings/mb-032014>.

⁷ Article 62 evaluation, Final Report (2013), <http://easa.europa.eu/system/files/dfu/Article%2062%20Report.pdf>.

burden for these sectors and make the regulation more favourable for small entrepreneurs. In the domain of aircraft design approval, an alternative procedure to a type certification is proposed for light aircraft used in low risk operations. Manufacturers of ultralight aircraft which are normally excluded from EU rules, would be also allowed - if they wish so - to have their products regulated under EU law and thus benefit from free circulation within the internal market. Aeroclubs and specialised light aviation associations would be allowed to act - within established conditions - as qualified entities on behalf of national aviation authorities.

The proposal will also facilitate the electronic exchange of information and further introduction of digital technologies. The Commission in particular proposes the establishment of an electronic repository of information relevant for certification, oversight and enforcement activities to which all the aviation authorities of the Member States and EASA would have access. Certain information collected in the repository will also be made available to the general public. It is proposed that the Agency is empowered to enter into arrangements with undertakings or associations of undertakings regarding data gathering, exchange and analysis, which would pave the way for the introduction of big data technologies in aviation safety analysis.

- **Fundamental rights**

The present proposal does not have direct consequences for the protection of fundamental rights, except for the particular articles concerning operations of unmanned aircraft. The rules developed for the safe operations of unmanned aircraft will contribute to the more effective application of existing rules on privacy and data protection. So will the safety requirement to equip the unmanned aircraft with an identification device, like an electronic identification chip, also help detecting persons who did not respect privacy or data protection rules.

4. BUDGETARY IMPLICATIONS

The proposal has budgetary implications with regard to the budget of the European Union Aviation Safety Agency set out under article 06 02 02 of the Union budget, as further explained in the Legislative Financial Statement.

The proposal introduces a number of new tasks for the Agency with consequences for its need for posts financed from the Union contribution. The additional staff requests mainly relate to (1) the coordination at Union level of the gathering, exchange and analysis of data and information (known as “big data”), (2) the creation and management of a Union repository of information relevant for certification, oversight and enforcement, (3) new tasks related to rule-making and implementation in the areas of ground handling, environment and security, as well as (4) the creation of a framework for the transfer of responsibilities within the European aviation safety system aiming at better use of available resources Union-wide.

The identified human resources required will partially be met by present staff through their redeployment, thus reducing the need of the Agency for additional staff financed from budget related to the Union contribution to 5 posts and 4 contract agents.

In Annex X to the Impact Assessment Report a proposal has been made, based on re-attributing charges paid for ATM/ANS-related authority tasks from Eurocontrol to the Agency, without increasing the costs for operators. If the Agency were enabled to finance its activities related to ATM/ANS authority tasks through those charges, budget from its Union contribution would become available to finance additional posts. The proposed Regulation therefore establishes en-route charges as a revenue for the Agency in Article 109(1)(f). Attributing en-route charges to EASA would in addition require an amendment to

Commission Implementing Regulation 391/2013 of 3 May 2013 on laying down a common charging scheme for air navigation services.

Furthermore, the proposal aims at introducing a mechanism that would allow better adjusting the Agency's staffing levels financed from budget related to fees and charges to the identified needs.

In this context it is important to note that the European Union Aviation Safety Agency is a Union agency that is partially self-financed from fees and charges. The Union contribution together with contributions from third countries constitutes about one third of its budget, while about two thirds are generated through the collection of fees and charges from industry for certification and other services. The budget from the Union contribution is distinct from the fees and charges budget and the Agency's accounting system strictly distinguishes between Union contribution related activities and fees and charges related activities avoiding any cross financing. In the case of this Agency, the Union contribution therefore does not constitute a "balancing" contribution, as is the case for other partially self-financed agencies, based on the decision of the legislator that fees and charges should reflect real costs.

The Commission proposes to examine the possibility of introducing more flexibility in adjusting the Agency's establishment plan related to fees and charges from industry for certification and other services, based on fluctuations in industry demand for services. Such flexibility should, however, be conditional upon the development of solid indicators to measure workload and the efficiency of the Agency. This is to ensure that increased flexibility does not lead to an additional burden on industry. Those indicators could take into account elements such as average timeliness of certification activities, response time to industry applications, average effort per certificate and ratio of overhead costs over total activity costs. In case of decreasing demand the Agency has to adjust fee-financed staffing levels downwards. Necessary staff reduction would be achieved making use of fixed-term contracts and natural turn-over in posts underpinned by a sound planning of future tasks.

There are a number of factors that may impact the need for staff financed through fees. Factors that may influence market demand in the next five years include:

- Demand for new aircraft with a focus on Asia-Pacific, where the fleet is expected to grow by a factor of three. This demand will partly be satisfied by new types from manufacturers from these regions which will also be subject to the EASA certification process.
- Global traffic that is expected to rise by an annual rate of 3% having a direct impact on the Agency's continuing airworthiness activities (safety critical oversight) as the work per type certificate is directly proportionate to the usage of the type by airlines.
- New technologies such as the development of unmanned aircraft, electric aircraft or new airship technology.

Factors that may influence the development of new tasks at the agency include:

- Big data project
- Transfer of responsibilities from Member States to the Agency according to the proposed Articles 53, 54 and 55 on a basis of a fee-financed system.
- Security threats including to cyber security are increasing and may require new approaches to certification.

The Commission intends to discuss the merits of introducing a new model of flexibility to respond to fluctuations in workload from industry, while guaranteeing efficiency through the

use of indicators, with the European Parliament and the Council in the context of the inter-institutional working group (IIWG) on resources of decentralised agencies, whose next meeting is tentatively scheduled for March 2016.

In parallel, together with the Agency the Commission will continue working on a set of indicators to measure the Agency's workload and efficiency in relation to fees and charges to set out in detail how a system of flexibility for posts related to fees and charges would work in practice, and what the corresponding impact on the Agency's establishment plan would be.

The request for increased flexibility in adjusting staffing levels for posts related to fees and charges is closely linked to the Commission priority of boosting jobs, growth and investment. With respect to the activities financed from fees and charges industry is expecting a timely and market-driven response to its needs considered essential for the competitiveness of the European aviation industry.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

The monitoring, evaluation and reporting framework for the present initiative is described in Chapter 7 of the accompanying Impact Assessment Report. Ample mechanisms for monitoring and evaluation already exist and can be used, due to the fact that in the field of aviation safety the monitoring of performance is an integral element of the Union regulatory framework. The effectiveness of the proposed measure, once adopted, will be subject to a mandatory evaluation every five years, as is the case under the current Regulation (EC) No 216/2008.

• Explanatory documents (for directives)

Not applicable

• Detailed explanation of the specific provisions of the proposal

The whole text of the proposed Regulation has undergone a thorough quality of legislation check, as a result of which the Commission is proposing a new, clearer structure for the Regulation and standardised language, especially in Chapter III, which deals with the different domains of aviation safety.

All the provisions dealing with activities of national competent authorities and of the Agency with respect to exercise of their certification, oversight and enforcement tasks have been now concentrated in Chapter IV. Chapter III of the proposed Regulation contains exclusively provisions which are applicable to the legal and natural persons subject to the provisions of the Regulation (that is pilots, organisations responsible for aircraft manufacturing, aerodrome operators etc.).

Chapter I 'Principles':

Article 1: Additional objectives and means to achieve these objectives are added to the proposed Regulation, as compared to the current Regulation (EC) No 216/2008.

Article 2: This article merges Articles 1 and 4 of Regulation (EC) No 216/2008. The text has been simplified. The main change is the introduction of the possibility for Member States to apply certain provisions of the new Regulation to activities and services performed by state aircraft, such as customs, police, search and rescue, firefighting, coastguard or similar

activities or services, as well as to ATM/ANS provided by the military. The opt-in is modular, meaning that for example a Member State may use it for one or more activities or services concerned. It is also up to the Member State concerned to decide in which domains of aviation regulation (airworthiness, aircrew, operations etc.) it wishes to use the opt-in. Where a Member State makes use of the opt-in for an activity, it will have to comply with the relevant provisions of the new Regulation and the acts adopted on the basis thereof. Member States will also be able to decide at any moment to stop the application of the provisions of the Regulation to state aircraft or ATM/ANS provided by the military, subject to providing an adequate transition period.

In addition, the list of aircraft excluded from the scope of the Regulation (Annex I aircraft) has been revised (for example small aircraft with electric engines have been added). It is also proposed that the Commission be authorised to adjust by means of a delegated act the weight limits and other technical criteria of aircraft listed in Annex I. Finally, it is proposed that manufacturers of aircraft listed in Annex I may request to have individual types of such aircraft regulated under the provisions of the Regulation. This opt-in has been designed specifically for aircraft that are built in serial production and that could benefit from free circulation in the single market and under common requirements.

In all cases, these opt-in and opt-out possibilities are subject to certain conditions, including a prior Commission decision, meant to ensure, in particular, the correct application of the new Regulation, respect for the objectives set out in its Article 1 and transparency and legal certainty for all parties concerned.

Article 3: A number of definitions are amended and new definitions added as required by the changes in the substantive provisions of the proposed Regulation. Definitions of 'complex motor powered aircraft' and of 'commercial operation' have been removed in line with the risk based approach. The specific criteria to which these definitions refer can be better laid down in the delegated acts. Transitional provisions have been added at the end of the proposed Regulation (Article 126) in order to ensure an orderly transition where a definition has been changed or removed.

Article 4: A new Article dealing with basic principles is added, as compared to Regulation (EC) No 216/2008. It introduces in particular the principle of proportionality, reflecting also the position taken by the Council on the SESII+ initiative proposed earlier by the Commission, and criteria that should be taken into account in the conduct of risk assessments leading to the formulation and implementation of the measures taken under the new Regulation.

Chapter II 'Aviation Safety Management':

Articles 5-8: A new chapter dealing with safety management is introduced, which requires the adoption of the European Aviation Safety Programme and the European Plan for Aviation Safety, and transposes ICAO Annex 19 standards and recommended practices related to State Safety Programmes. Article 6, dealing with the European Plan for Aviation Safety, introduces the concept of acceptable level of safety performance at Union level. The introduction of this concept does not result however in establishing any binding safety targets for the Union or its Member States.

Chapter III 'Substantive Requirements':

Articles 9-18: The provisions of the Regulation (EC) No 216/2008 dealing with airworthiness have been revised taking into account existing experience and to reflect the new concept of non-installed equipment. The scope of the provisions dealing with airworthiness certification is also extended to environmental compatibility of aeronautical products. The environmental standards for products should continue to be based on ICAO Annex 16, but the Union would now be given the flexibility to adapt the ICAO standards to its specific needs, as already is the case for safety. Finally, for low risk operations, the possibility of assessing the airworthiness and environmental compatibility of the design of products and parts without the need to issue a certificate is being proposed. This possibility could be implemented especially for certain aircraft used in the general aviation sector. It is also expected that the manufacturers of aircraft listed in Annex I to the Regulation would make use of this flexibility when opting into the Union regulatory system under Article 2.

Environmental compatibility of products, as set out in Article 6 of Regulation (EC) No 216/2008, is now also dealt with in Articles 9-18 of the proposed Regulation (Airworthiness and environmental protection). New provisions on environmental protection have been also added under Article 75.

Articles 19-25: Article 7 of Regulation (EC) No 216/2008 has been restructured into Articles 19 to 25. The scope of the articles is extended to include cabin crew and the relevant provisions on cabin crew from Article 10 of Regulation (EC) No 216/2008 are moved to this section. The text concerning the leisure pilot licence has been simplified and the text concerning the general medical practitioner has been moved to Chapter IV which deals with certification activities.

Articles 26-28: Article 8 of Regulation (EC) No 216/2008 has been restructured into Articles 26-28. The certification requirement is now limited to commercial air transport operations. Other types of operations to be subject to a certification or declaration requirement are to be defined in the delegated acts based on a risk assessment.

Articles 29-34: Article 8a of Regulation (EC) No 216/2008 has been restructured into Articles 29-34. Ground handling services have been added to the scope of this section. It is also proposed that providers of apron management services are allowed to declare their compliance with the applicable requirements instead of being certified.

Articles 35-39: Article 8b of Regulation (EC) No 216/2008 has been restructured into Articles 35-39. The text is based on the compromise reached in the Council on the SES II+ initiative. In particular the provisions dealing with declarations by organisations involved in the design, manufacture and maintenance of ATM/ANS systems and constituents have been added.

Article 40-44: Article 8c of Regulation (EC) No 216/2008 has been restructured into Articles 40-44. The substance of the provisions has not changed as compared to the Regulation (EC) No 216/2008.

Articles 45-47: These Articles create the legal basis to provide for more detailed rules on unmanned aircraft, in view of the extended scope of the proposed Regulation.

More specifically:

Article 45 refers to the relevant Annex IX which contains the essential requirements concerning the design, production, operation and maintenance of unmanned aircraft that need to be complied with to ensure safe operations.

Article 46 describes the range of means to demonstrate that the essential requirements are complied with. As unmanned aircraft are able to perform operations that were not possible with manned aircraft, the range of risks associated with unmanned aircraft operations is very wide - ranging from the traditional high risk operations similar to 'manned aviation risks' to very low risk. In order to keep the rules and procedures proportionate to the risk of the operation, it is necessary to move towards an operation centric approach that assesses the exact risk of an operation or of a type of operations.

For mass produced unmanned aircraft which pose a low risk, it is proposed to use existing market surveillance mechanisms, as governed by Regulation 765/2008 and Decision 768/2008, which are specifically devised for the production and marketing of such type of products. However even in this case, aviation authorities remain indirectly involved, as the operational capability limitations that would be imposed (e.g. that the unmanned aircraft should not fly higher as, for instance, 50m to keep risks low) will have to stem directly from traditional aviation requirements. While the Agency would not be responsible for the oversight of the market surveillance mechanisms, the Commission is always entitled to verify if the Member States fulfil their responsibilities. Moreover, the market surveillance mechanism relies on justified complaints from citizens or undertakings to detect non-compliant products. Findings of non-compliance in one particular Member State are then communicated throughout the common market.

Articles 48-50: Article 9 of Regulation (EC) No 216/2008 has been restructured into Articles 48-50. The authorisation requirement is now limited to third country operators engaged in commercial air transport. Other categories of third country operations to be subject to an authorisation or declaration requirement are to be defined in the delegated acts based on a risk assessment. It has also been clarified, in line with the current practice, that the requirement of an authorisation for a third country operator does not apply to overflights.

Chapter IV 'Joint Oversight and Enforcement System':

Article 51: All the provisions of the present Regulation (EC) No 216/2008 concerning the certification, oversight and enforcement tasks of the national competent authorities and of the Agency have been concentrated in this Article. Furthermore a clear legal basis is being proposed to empower the Commission to adopt, by means of delegated acts, requirements with respect to management systems of authorities, qualification of inspectors, conditions for conducting the inspections and other oversight activities, ramp inspections, and grounding of aircraft in case of non-compliances.

Articles 52-54: A set of new provisions has been added as compared to Regulation (EC) No 216/2008, concerning the cooperation between the competent authorities of the Member States, the Commission and the European Union Aviation Safety Agency as regards certification, oversight and enforcement. A mechanism for pooling and sharing of aviation inspectors and other experts is introduced, along with a dedicated financing mechanism to assist Member States in cooperative oversight. Furthermore, the possibility to transfer responsibilities from Member States to the Agency (which today exists for production facilities and flight simulation training devices) is extended to all types of activities. Similarly a framework is introduced for transfers of responsibilities between Member States. Article 54

introduces possibility for organisations operating multi-nationally to opt for the Agency as their competent authority. Most of the measures proposed under these Articles are of voluntary nature.

Article 55: A new provision for mitigating possible systemic safety oversight deficiencies identified at Member State level is proposed. This emergency oversight mechanism is to be used as a measure of last resort of temporary nature and it is proposed that it can be activated/deactivated by a decision taken by the Commission based on clear criteria established in law.

Article 56: Declarations are added to the scope of this provision.

Article 57: The possibility of accepting foreign certificates and similar documentation on the basis of conditions specified in delegated acts is added to this Article. It is further proposed that the provisions of the current Regulation (EC) No 216/2008 dealing with national bilateral aviation safety agreements are deleted.

Article 58: The provisions on accreditation of qualified entities have been clarified. It is proposed that qualified entities may be granted a privilege to issue, revoke, and suspend certificates on behalf of the Agency or national competent authority. The principle of recognition of accreditations of qualified entities is introduced. This is without prejudice to the rights of Member States to decide to which qualified entity they wish to allocate certification and oversight tasks. It is also proposed that Member States may accredit a qualified entity jointly.

Articles 59 and 60: Article 14 of Regulation (EC) No 216/2008 has been split into two separate articles. Article 59 deals with measures of urgent nature, while Article 60 deals with flexibility measures. In line with the risk-based approach, it is proposed that the Agency and the Commission assess only those measures which last longer than one airline scheduling season (eight months).

Articles 61-63: These articles deal with information, including data, relevant for the implementation of the proposed new Regulation. The new elements concern the role of the Agency in coordinating the gathering, exchange and analysis of information at Union level. The provisions on protection of information and information sources are aligned with Regulation (EU) No 376/2014 on occurrence reporting. A legal basis is created for a new repository of information relevant for certification, oversight and enforcement activities, to be managed by the Agency. It is proposed that this repository is also used by the Member States for the purpose of exchanging information concerning medical fitness of pilots.

Chapter V 'The European Union Aviation Safety Agency':

Articles 64-65: Three new functions of the Agency have been added in Article 64 (assistance to national competent authorities, support to the Commission in the implementation of aviation performance schemes, and cooperation with other Union bodies, such as the European Chemicals Agency or the European Defence Agency on technical matters related to civil aviation). Articles 18 and 19 of Regulation (EC) No 216/2008 on Agency measures have been merged into Article 65.

Articles 66-67: These articles have been aligned with the changes made in Sections I and II of Chapter III of the proposed Regulation. The responsibility of the Agency to approve organisations not established in the Union has been limited to organisations located outside

the territory for which a Member State is responsible under the Chicago Convention. This clarifies the issue of competent authority for approval of organisations located in Member State overseas countries and territories. Changes have also been made, based on experience gained, with respect to the responsibility of the Agency to approve flight simulation training devices.

Article 22 of Regulation (EC) No 216/2008: Its provisions on flight time limitations have been added to Articles 28(1)(f) and 65(7), while its provisions on the measures to be taken by the Agency in case of urgency have been moved to Article 65(6).

Article 68: The changes are largely based on the compromise reached in the Council on the SES II+ initiative. In particular the concept of declarations of conformity is reflected in this Article. For the sake of clarity this article proposes a new structure, where paragraph 1 deals with organisations and paragraph 2 deals with systems and constituents. With respect to the systems and constituents, the competence of the Agency is conditional – the Agency will be responsible for certification of systems and constituents only if the delegated acts adopted by the Commission so provide.

Article 69: The responsibility of the Agency to approve organisations not established in the Union has been limited to organisations located outside the territory for which a Member State is responsible under the Chicago Convention. This clarifies the issue of competent authority for approval of organisations located in Member State overseas countries and territories.

Article 70: As compared to the corresponding provision of Regulation (EC) No 216/2008, a new paragraph has been added concerning the assistance the Agency provides to the Commission in the implementation of Regulation (EC) No 2111/2005.

Article 71: This provision corresponds to Article 55 of the Regulation (EC) No 216/2008. The language of this Article has been updated to reflect the latest approach of the Commission to investigations conducted by Union institutions and bodies in the territories of the Member States. In particular it has been further clarified that the investigative powers of the Agency must be exercised in compliance with the applicable provisions of national law of the Member State where the investigation takes place.

Article 72: The Article has been adapted based on experience from implementation so far. In particular, it has been clarified that fines are in principle to be imposed only if other enforcement measures would be inadequate or disproportionate.

Article 73: Article 24 and Article 54 of Regulation (EC) No 216/2008 have been merged into this article. The language of this Article has been updated to reflect the latest approach of the Commission to investigations conducted by EU institutions and bodies in the territories of the Member States. In particular it has been further clarified that the investigative powers of the Agency must be exercised in compliance with the applicable provisions of national law of the Member State where the investigation takes place. A provision has been also added obliging the Agency to include in its Annual Safety Review a summary of information about the application by each of the Member States of the provisions of the new regulation and of the detailed rules adopted on the basis thereof.

Article 74: The existing article has been expanded by mandating the Agency to assist the Commission in identifying key research themes related to the areas covered by the Regulation. The Agency is furthermore given a supporting role in the preparation and

implementation of Union research programmes. In addition, the Article gives the Agency the possibility to participate in research projects in the area of its expertise on the basis of ad hoc grants under the Union Framework Programme for research and innovation or other funding programmes.

Article 75: A new article has been added dealing with environmental protection in civil aviation. While not extending the current scope of Union action, this article focuses on interdependencies which may exist between environmental measures (e.g. banning certain chemical substances) and other technical domains of aviation regulation. It also mandates the Agency to assist the Commission in the definition and coordination of aviation environmental protection policies, and it creates a legal basis for an aviation environmental review to be published by the Agency every three years.

Article 76: A new article has been added concerning technical aspects of aviation security directly linked with safety. The article first of all deals with interdependencies which may exist between aviation security measures (e.g. cockpit door locking systems) and aviation safety. The article also opens the possibility for the Commission to rely on the Agency's expertise when implementing Regulation (EC) No 300/2008. Finally, the article proposes to establish a process allowing the Agency to take measures which are within the scope of its competence, such as airworthiness directives or safety information bulletins, to protect civil aviation against acts of unlawful interference. It is proposed that such measures be taken by the Agency in agreement with the Commission and following consultation of the Member States. Prior to granting its agreement to the measure envisaged by the Agency, the Commission could seek the opinion of the aviation security committee established under Regulation (EC) No 300/2008.

Article 77: The new provisions in this article propose in paragraph 4 to establish a repository of information on differences between ICAO standards and recommended practices on the one hand, and the provisions of this proposed Regulation and the delegated and implementing acts to be adopted on the basis thereof on the other hand. A provision on the collaboration of the Commission, the Agency and the national competent authorities through a network of experts is proposed in paragraph 5. Finally paragraph 6 clarifies the possibility for the Agency to engage in technical cooperation with and assistance to third countries on the basis of ad hoc grants.

Articles 78-80: These three new articles are proposed dealing with the role of the Agency in crisis management, provision of aviation training and the implementation of the Single European Sky.

Articles: 81-103: The changes proposed as compared to Regulation (EC) No 216/2008 reflect the experience to date and the standard clauses for Union Agencies introduced on the basis of the 2012 'Common Approach on decentralised agencies'. In particular, the creation of an Executive Board assisting the Management Board of the Agency is proposed. The establishment of local offices has been made dependent upon the approval of the Commission, the Management Board and the Member State concerned. The rules for the Board of Appeal have been clarified.

Articles 104-105: The provisions on the Agency's working methods have been revised, taking into account the existing practice.

Articles 106-108: The changes proposed as compared to Regulation (EC) No 216/2008 reflect the experience to date and the standard clauses for Union Agencies introduced on the basis of the 2012 'Common Approach on decentralised agencies' as well as Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 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 of the Council⁸. In addition, the provisions on translation of documents by the Agency have been simplified (translation will be done taking into account the safety relevance of the document).

Article 109-114: The changes proposed as compared to Regulation (EC) No 216/2008 reflect the experience to date and the standard clauses for Union Agencies introduced on the basis of the 2012 'Common Approach on decentralised agencies' as well as Commission Delegated Regulation (EU) No 1271/2013. Furthermore, under Article 109(1), it is proposed to authorise the Agency to receive ad hoc grants by introducing grants as additional source of revenue of the Agency. Air navigation charges for authority tasks related to ATM/ANS are identified as a further source of revenue. Those two additional sources of funding as well as the possibility to adjust the staffing levels financed from fees and charges according to market demand were also elements suggested by the European Parliament in the context of the discussion of the Commission's SESII+ initiative. Article 109(5) sets out that the Agency has to have a staff planning and management of resources related to fees and charges that enable it to swiftly respond to fluctuation in revenue from fees and charges. This should be read in connection with Article 109(6) which sets out that the draft establishment plan with regard to the Agency's staff financed from budget related to fees and charges proposed by the Agency on the basis of workload and efficiency indicators, reflects the resources required to meet industry demand for certification and other services in an efficient and timely manner, thus contributing to the competitiveness of the European aviation sector. This approach should also apply to possible transfers of responsibilities from Member States to the Agency as proposed under Articles 53 to 55. Finally, resources required to meet market demand should also be taken into account in the preparation of the draft general budget.

Article 115: The article has been modified to more clearly describe which activities are to be financed from fees and charges. Furthermore, the article clarifies that fees and charges have to be adapted where significant positive or negative budget results become recurrent.

Chapter VI 'Final Provisions':

Articles 116-117: These provisions concern the Commission's empowerments to adopt the delegated and implementing acts necessary under the new Regulation and they establish the conditions for the exercise of this delegation.

Article 118: The article has been modified to clarify participation of European third countries in the work of the Agency as well as the role of the Agency in establishing working arrangements with these countries.

Article 119: This is a new article stemming from the 2012 'Common Approach on decentralised agencies' which establishes the requirement for a Headquarters Agreement between the Agency and the host Member State.

⁸ OJ L 328, 7.12.2013, p. 42.

Article 120: This article refers to penalties laid down by Member States for infringement of rules and corresponds to Article 68 of Regulation (EC) No 216/2008.

Article 121: This article sets out the applicable rules on the processing of personal data.

Article 122: This article repeals the current Regulation (EC) No 216/2008.

Article 123: This article introduces amendments to Regulation (EC) No 1008/2008 which are necessary to enable the transfers of competences for Air Operator Certificates (AOC) between a Member State and the Agency, as well as between Member States. Furthermore, it is proposed to remove the requirement of prior approval for wet leasing arrangements which do not involve a third country operator. Finally, the amendment clarifies that an aircraft used by a Union air carrier can also be registered in a third country in case of a dry leasing.

Article 124: This article introduces amendments to the Union rules on accident investigation laid down in Regulation (EU) No 996/2010, to avoid that the competent bodies have to initiate a full accident investigation for accidents occurred between small unmanned aircraft, which would not have system wide implications.

Article 125: This article amends the Union rules on occurrence reporting as laid down in Regulation (EU) No 376/2014 to avoid that occurrences with small unmanned aircraft having a negligible impact on the safety of the aviation system would create a bottle neck for the lines of occurrence reporting.

Article 126: This article provides for transitional arrangements with respect to the definitions which are being removed from or altered by the Regulation that is now proposed, but which are still reflected in the implementing regulations adopted on the basis of Regulation (EC) No 216/2008.

Annex I: It is proposed to add to the scope of the Annex light electric aircraft (change of the propulsion system and addition of batteries increases the mass of the aircraft for an equivalent type of aircraft). It is also proposed to exclude from the scope of the new Regulation small, single occupancy hot air balloons and to adjust the weight limits for sail planes. Unmanned aircraft have been moved to Annex IX.

Annex II: The main change as compared to Regulation (EC) No 216/2008 concerns clarification that cyber-security aspects are to be taken into account in the design of the aircraft (1.3.5). Furthermore, experience gained through the practical implementation of that Regulation is reflected and the concept of non-installed equipment is introduced (including essential requirements for non-installed equipment).

Annex III: A new Annex with essential requirements for environmental compatibility related to products was added, as provided in Article 9.

Annex IV: The main change concerns introduction of additional essential requirements for cabin crew. Furthermore, experience gained through the practical implementation of Regulation (EC) No 216/2008 is reflected.

Annex V: The environmental compatibility aspects are included in Section 6. Essential requirements for cabin crew included in Regulation (EC) No 216/2008 have been deleted, as they are now comprehensively addressed in Annex IV of the new Regulation. Section 8, dealing with additional essential requirements for certain more complex categories of operations, has been aligned with the wording used in Article 27 of the new Regulation.

Cyber-security aspects have been added in Section 8.4. Finally, experience gained through the practical implementation of Regulation (EC) No 216/2008 is reflected.

Annex VI: Clarification has been added concerning conditions under which an organisation created with the aim of promoting aerial sport or leisure aviation can be accredited as a qualified entity. These conditions concern management and prevention of conflict of interest.

Annex VII: Essential requirements for ground handling services have been added (Section 4). Furthermore, experience gained through the practical implementation of Regulation (EC) No 216/2008 has been reflected.

Annex VIII: Cyber-security aspects have been added in the essential requirements dealing with aeronautical information and data (Point 2.1.3) and system and constituent integrity (Point 3.3). Furthermore, the changes reflect the compromise reached in the Council on the SES II+ initiative proposed earlier by the Commission.

Annex IX: This annex, referred to in Articles 45, 46 and 47, contains the essential requirements to cover unmanned aircraft with regard to airworthiness, operations and undertakings involved. The essential requirements also provide the basis for developing more detailed rules that would constitute the 'Community harmonisation legislation' within the meaning of Regulation (EC) 765/2008.

Annex X: The cross-reference table includes correlation between the provisions of Regulation (EC) No 216/2008 and the provisions contained in the present proposal for a new Regulation.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee⁹,

Having regard to the opinion of the Committee of the Regions¹⁰,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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

⁹ OJ C , , p. .

¹⁰ OJ C , , p. .

Regulation, especially those which are produced in an industrial manner and which could draw benefits from free circulation within the Union. Therefore, organisations involved in the design of such aircraft should be allowed to request the Commission to decide that Union requirements regarding design, manufacture and maintenance of aircraft apply to new types of aircraft which are to be put on the market by such organisations.

- (5) It would not be appropriate to subject all aerodromes to common rules. Aerodromes which are not open to public use and aerodromes mainly used for recreational flying or serving commercial air transport other than in accordance with instrument flight procedures and with paved runways of less than 800 metres should remain under the regulatory control of the Member States, without any obligation under this Regulation on other Member States to recognise such national arrangements.
- (6) Member States should be allowed to exempt from the provisions of this Regulation aerodromes with low volumes of traffic, subject to a prior authorisation by the Commission, provided that the aerodromes concerned nevertheless meet the minimum common safety objectives laid down in the relevant essential requirements. When a Member State grants such exemptions, those exemptions should also apply to the equipment used at the aerodrome concerned and to the providers of ground handling and apron management services operating at the exempted aerodromes. Exemptions granted by Member States to aerodromes before the entry into force of this Regulation should remain valid, while it should be ensured that information about these exemptions is made available to the public.
- (7) Member States may consider it preferable, notably with a view to achieving safety, interoperability or efficiency gains, to apply the provisions of this Regulation, instead of their national law, to state aircraft and air traffic management ('ATM') and air navigation services ('ANS') provided by the military. They should be allowed to do so. The Commission should be given the necessary implementing powers to decide on such requests. Member States making use of this possibility should cooperate with the European Union Aviation Safety Agency (hereinafter 'the Agency'), in particular by providing all the information necessary for confirming that the aircraft and activities concerned comply with the relevant provisions of this Regulation.
- (8) The measures taken in accordance with this Regulation to regulate civil aviation in the Union, including the delegated and implementing acts adopted on the basis thereof, should correspond to and be proportionate to the nature and risks associated with the different types of operations and activities they address. They should also, in as far as possible, be formulated in a manner which focuses on objectives to be achieved, while allowing different means of achieving those objectives. This should contribute to a more cost-efficient achievement of required safety levels and to stimulating technical and operational innovation. Use should be made of recognised industry standards and practices, where it has been found that they ensure compliance with the essential requirements set out in this Regulation.
- (9) Application of sound safety management principles is essential for continuous improvement of civil aviation safety in the Union, anticipating emerging safety risks, and making best use of limited technical resources. It is therefore necessary to establish a common framework for planning and implementing safety improvement actions. To that end a European Plan for Aviation Safety and a European Aviation Safety Programme should be drawn up at Union level. Each Member State should also draw up a National Aviation Safety Programme in accordance with the requirements

contained in Annex 19 to the Chicago Convention. That programme should be accompanied by a plan describing the actions to be taken by the Member State to mitigate the identified safety risks.

- (10) In accordance with the provisions laid down in Annex 19 to the Chicago Convention, Member States are to establish an acceptable level of safety performance in relation to the aviation activities under their responsibility. In order to assist the Member States in meeting this requirement in a coordinated manner, the European Plan for Aviation Safety should lay down an acceptable level of safety performance for the Union in respect to the different categories of aviation activities. That acceptable level of safety performance should not have a binding character but express the ambition of the Union and of the Member States with regard to civil aviation safety.
- (11) The Chicago Convention provides for minimum standards to ensure the safety of civil aviation and environmental protection relating thereto. The Union's essential requirements and further rules for their implementation established in this Regulation should ensure that Member States fulfil, in a uniform manner, the obligations laid down in the Chicago Convention, including those vis-à-vis third countries. Where Union rules differ from the minimum standards established by the Chicago Convention, Member States should notify the International Civil Aviation Organization accordingly.
- (12) In line with standards and recommended practices set by the Chicago Convention, essential requirements applicable to aeronautical products, parts, non-installed equipment, aerodromes and the provision of ATM/ANS should be established. Furthermore, essential requirements applicable to persons and organisations involved in the operation of aircraft, the operation of aerodromes and in the provision of ATM/ANS, and essential requirements applicable to persons and products involved in the training and medical examination of aircrew and air traffic controllers should also be established.
- (13) The essential requirements concerning environmental compatibility of the design of aeronautical products should address both aircraft noise as well as emissions, and allow the Union to set detailed technical standards which are necessary to protect the environment and human health from harmful effects of aviation operations. Those requirements should be based on the standards and recommended practices set by the Chicago Convention.
- (14) The Union should also lay down essential requirements for the safe provision of ground handling services.
- (15) In view of the increasing reliance of civil aviation on modern information and communication technologies essential requirements should be laid down to ensure the security of information used by the civil aviation sector.
- (16) Aeronautical products, parts and non-installed equipment, aerodromes and their equipment, operators of aircraft and aerodromes, ATM/ANS systems and providers, as well as pilots, air traffic controllers and persons, products and organisations involved in their training and medical examination, should be certified or licensed once they have been found to comply with relevant essential requirements or, where relevant, the other requirements established in or pursuant to this Regulation. The Commission should be empowered to adopt the necessary detailed rules for the issuance of those certificates and where relevant, the declarations to be made to this effect, taking into

account the objectives of the Regulation and the nature and risk of the particular activity concerned.

- (17) The possibility should be given to the organisations involved in the design and manufacture of aeronautical products and parts to declare the compliance of the design of products and parts with the relevant industry standards, where this is considered to ensure an acceptable level of safety. This possibility should be limited to products used in light and sport aviation, and under appropriate limitations and conditions to ensure safety.
- (18) Since unmanned aircraft also operate within the airspace alongside with traditional aircraft, this Regulation should cover such aircraft, regardless of their operating mass. Technologies for unmanned aircraft now allow for a wide range of operations possible that should be subject to rules that are proportionate to the risk of the particular operation or type of operations.
- (19) The rules regarding unmanned aircraft should as much as possible contribute to achieving compliance with relevant rights guaranteed under Union law, in particular the right to respect for private and family life, as set out in Article 7 of the Charter of Fundamental Rights of the European Union, and with the right to protection of personal data, as set out in Article 8 of that Charter and in Article 16 of the Treaty on the Functioning of the European Union ('TFUE') and as regulated in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹¹.
- (20) For some types of unmanned aircraft, the application of the provisions of this Regulation related to certification, oversight and enforcement, as well as the provisions regarding the Agency is not necessary for the purpose of reaching adequate levels of safety. Market surveillance mechanisms provided by Union product harmonisation legislation should be made applicable to those cases.
- (21) In order to achieve the objectives of this Regulation, the Commission, the Agency and the competent authorities of the Member States should, by sharing resources and working jointly, act as a single European aviation safety system.
- (22) The Agency and the national competent authorities should work in partnership in order to better detect unsafe conditions and take remedial measures as appropriate. Member States should in particular be able to transfer 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. It is also necessary, according to the case, to support the Member States in performing those tasks, in particular cooperative and cross-border oversight, by establishing an efficient framework for pooling and sharing of aviation inspectors and other specialists with relevant expertise.
- (23) An emergency oversight mechanism, to be activated by the Commission when verified evidence points to 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, should be established. Accordingly, where such situation endangers safety

¹¹ Directive 95/46/EC of the European Parliament and the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

and is not adequately resolved by the Member State concerned, the Agency should be able to temporarily exercise the responsibility for the tasks in question.

- (24) In order to achieve the main objectives of this Regulation, as well as objectives related to the free movement of goods, persons, services and capital, the certificates issued and declarations made in accordance with this Regulation and the delegated and implementing acts adopted on the basis thereof, should be valid, without further requirements or evaluation, in all Member States.
- (25) When issuing certificates pursuant to this Regulation, account may need to be taken of certificates, or other relevant documentation attesting compliance, issued in accordance with the laws of third countries. That should be done where the relevant international agreements concluded by the Union with third countries or the delegated acts adopted by the Commission pursuant to this Regulation so provide, and in accordance with those agreements or delegated acts.
- (26) In light of the rules on the acceptance of certificates and other relevant documentation attesting compliance, issued in accordance with the laws of third countries, for which this Regulation provides, any international agreements concluded between a Member State and third countries should be terminated or adjusted where such agreements are not compatible with those rules.
- (27) A degree of flexibility should be provided for with respect to the application of the rules set out in this Regulation or adopted on the basis thereof, in order to allow Member States to take the necessary measures to react immediately to problems relating to civil aviation safety or to grant exemptions in the event of certain urgent unforeseeable circumstances or 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 measures or exemptions in question with a view to issuing a recommendation or taking a decision, respectively, where their duration exceeds the duration of one airline scheduling season, that is, eight months, without prejudice to the powers of the Commission under Article 258 of the TFEU. Where the Agency is the competent authority with respect to the issuing of certain certificates in accordance with this Regulation, it should also be empowered to grant such exemptions, in the same situations and subject to the same conditions as those that apply with respect to the Member States. In this connection provision should also be made for possible amendments, where appropriate, of the relevant rules as laid down in delegated or implementing acts adopted on the basis of this Regulation, in particular so as to allow other means of compliance while still ensuring an acceptable level of civil aviation safety in the Union.
- (28) With a view to ensuring the proper application of this Regulation and having regard to the need to identify, assess and mitigate the risks for civil aviation safety, the Commission, the Agency and the national competent authorities should exchange any information available to them in the context of the application of this Regulation. For this purpose, the Agency should be allowed to organise a structured cooperation on gathering, exchange and analysis of relevant safety-related information. To this end it should be allowed to enter into the necessary administrative arrangements.
- (29) In order to facilitate the exchange between the Member States, the Commission and the Agency of information, including data, which is relevant for certification, oversight and enforcement activities, an electronic repository of such information

should be established and managed by the Agency in cooperation with the Member States and the Commission.

- (30) Directive 95/46/EC of the European Parliament and the Council applies to the processing of personal data carried out in application of this Regulation. Pursuant to that Directive, Member States may provide for exemptions and restrictions in respect of some of the rights and obligations provided for therein, including as regards the processing of medical and health data. The processing of personal data, and in particular medical and health data, in the context of the repository pursuant to Article 63 of this Regulation is necessary to enable effective cooperation between the Member States in certification and oversight of medical fitness of pilots. Exchange of personal data should be subject to strict conditions, and limited to what is absolutely necessary for achieving the objectives of this Regulation. In view of the above, the principles set out in Directive 95/46/EC should be supplemented or clarified in this Regulation, where necessary.
- (31) Regulation (EC) No 45/2001 of the European Parliament and of the Council¹² and in particular the provisions thereof concerning confidentiality and security of processing, apply to the processing of personal data by the Agency when carrying out its responsibilities in application of this Regulation and more specifically in the management of the repository pursuant to Article 63 of this Regulation. In view of the above, the principles set out in Regulation (EC) No 45/2001 should be supplemented or clarified in this Regulation, where necessary.
- (32) The Agency has been established by Regulation (EC) No 1592/2002 of the European Parliament and the Council¹³ 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.
- (33) Under the institutional system of the Union, implementation of Union law is primarily the responsibility of the Member States. Certification, oversight and enforcement tasks required by this Regulation, and by the 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 be empowered to conduct those tasks as specified in this Regulation. In those cases the Agency should also be allowed to take the necessary measures related to the operation of aircraft, the qualification of aircrew or the use of third-country aircraft, where this is the best means to ensure uniformity and facilitate the functioning of the internal market.
- (34) The Agency should provide the technical expertise to the Commission in the preparation of the necessary legislation and assist, where appropriate, the Member States and industry in its implementation. It should be able to issue certification

¹² 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).

¹³ 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).

specifications and guidance material and to make technical findings and issue certificates or register declarations as required.

- (35) Global navigation satellite systems, and in particular the Union Galileo programme, will play a pivotal role in the implementation of a European air traffic management system. In this regard, the Agency should be empowered to develop the necessary technical specifications and to certify organisations providing pan-European ATM/ANS to ensure a high, uniform level of safety, interoperability and operational efficiency.
- (36) Regulation (EC) No 2111/2005 of the European Parliament and of the Council¹⁴ imposes a duty on the Agency to communicate all information that could be relevant for the updating of the list of air carriers which, for safety reasons, are subject to an operating ban in the Union. The Agency should also assist the Commission in the implementation of Regulation (EC) No 2111/2005, by conducting the necessary evaluations of third country operators and authorities responsible for their oversight, and making appropriate recommendations to the Commission.
- (37) In order to ensure compliance with this Regulation, it should be possible to impose fines or periodic penalty payments, or both, on holders of certificates issued by the Agency and on undertakings that made declarations to the Agency, where they infringed the rules applicable to them pursuant to this Regulation. Such fines and periodic penalty payments should be imposed by the Commission acting upon a recommendation of the Agency. In this regard, the Commission should, in light of the circumstances of each individual case, respond to such infringements in a proportionate and adequate manner, taking account of other possible measures such as the withdrawal of a certificate.
- (38) With a view to contributing to the uniform application of this Regulation, the Agency should be empowered to monitor such application by Member States, including by conducting inspections.
- (39) On the basis of its technical expertise, the Agency should assist the Commission in the definition of research policy and to 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.
- (40) Having regard to the existing interdependencies between safety and security in civil aviation, the Agency should take part in the cooperation concerning the area of aviation security, including cyber-security. It should contribute its expertise to the implementation, by the Commission and by Member States, of Union rules in that area.
- (41) The Agency should, on request, assist the Member States and Commission in the field of international relations relating to matters covered by this Regulation, in particular as regards the harmonisation of rules and the mutual recognition of certificates. It should be entitled to establish the appropriate relations, through working arrangements, with

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

the authorities of third countries and international organisations competent in matters covered by this Regulation, subject to the Commission's prior approval. In order to promote safety at the worldwide level, in light of the high standards applied within the Union, the Agency should be allowed to engage, within its field of competence, in ad hoc technical cooperation, research and assistance projects with third countries and international organisations. The Agency should also assist the Commission in the implementation of Union legislation in other technical domains of civil aviation regulation, such as security or the Single European Sky, where the Agency has the relevant expertise.

- (42) In order to promote best practices and a uniform implementation of Union aviation safety legislation, the Agency may provide training.
- (43) The Agency should be governed and operated in line with the principles of the Joint Statement of the European Parliament, the Council and the European Commission on decentralised agencies of 19 July 2012.
- (44) The Member States and the Commission should be represented within the Management Board of the Agency in order to effectively control its functions. That Management Board should be entrusted with the necessary powers notably to appoint the Executive Director, and to adopt the consolidated annual activity report, the programming document, the annual budget, and the financial rules applicable to the Agency.
- (45) In the interests of transparency, interested parties should be given observer status within the Management Board of the Agency.
- (46) In order for the Management Board to properly fulfil its tasks, it should be assisted by an Executive Board, which should notably prepare decisions of the Management Board and advise the Executive Director of the Agency on the implementation of those decisions.
- (47) 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 to obtain advice and to organise the internal functioning of the Agency.
- (48) It is necessary to ensure that parties affected by decisions made by the Agency enjoy the necessary remedies in a manner which is suited to the special character of the field of aviation. Therefore, an appropriate appeal mechanism should be set up so that decisions of the Agency can be subject to appeal to a specialised Board of Appeal, the decisions of which can be subject to action before the Court of Justice of the European Union (the 'Court of Justice') in accordance with the TFEU.
- (49) All decisions taken by the Commission under this Regulation are subject to review by the Court of Justice in accordance with the TFEU. The Court of Justice should, in accordance with Article 261 of the TFEU, be given unlimited jurisdiction in respect of decisions by which the Commission imposes fines or periodic penalty payments.
- (50) When the Agency develops draft rules of a general nature to be implemented by national authorities, Member States should be consulted. Furthermore, where rules could have important social implications, stakeholders, including Union social partners, should be appropriately consulted when the Agency prepares corresponding draft rules.

- (51) With a view to effectively carrying out its tasks under this Regulation, the Agency should cooperate, as necessary, with other Union institutions, bodies, offices and agencies in areas where their activities affect technical aspects of civil aviation. In particular, the Agency should collaborate with the European Chemicals Agency in the exchange of information on the safety of chemical substances, their impact on aviation safety and related scientific and technical aspects. When consultation relating to military aspects is required, the Agency should involve the European Defence Agency.
- (52) It is necessary to provide the public with adequate information pertaining to the level of civil aviation safety and environmental protection relating thereto, taking into account Regulation (EC) No 1049/2001 of the European Parliament and of the Council and relevant national legislation.
- (53) In order to guarantee the full autonomy and independence of the Agency, it should be granted an autonomous budget principally funded from a contribution from the Union and from fees and charges paid by the users of the European aviation safety system. Any financial contribution received by the Agency from Member States, third countries, or other entities or persons should not compromise its independence and impartiality. The Union budgetary procedure should be applicable as far as the Union contribution and any other subsidies chargeable to the general budget of the European Union are concerned, while the auditing of accounts should be carried out by the Court of Auditors. In order to enable the Agency to participate in all relevant future projects, it should be provided with the possibility to receive grants. The revenue of the Agency should include charges paid in accordance with Regulation (EU) No XXXX/XXXX on the implementation of the Single European Sky, so as to reflect the 'user pays' principle.
- (54) In order to ensure that the Agency can respond to demand for the activities it carries out, in particular as regards certification and activities related to possible transfers 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 transfers of responsibility in accordance with Articles 53, 54 and 55. To this end, a set of indicators should be established to measure the Agency's workload and efficiency in relation to activities financed through fees and charges. Having regard to those indicators the Agency should adapt its staff planning and management of resources related to fees and charges so as to be able to adequately respond to such demand and to any fluctuations in revenue from fees and charges.
- (55) It is necessary to establish appropriate measures to ensure the necessary protection of sensitive safety-related information.
- (56) The fees and charges levied by the Agency should be set in a transparent, fair, non-discriminatory and uniform manner. They should not jeopardize the competitiveness of the Union's industry concerned. Furthermore, they should be established on a basis which takes due account of the ability of the legal or natural persons concerned to pay, in particular regarding small and medium-sized enterprises.
- (57) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should

be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁵.

- (58) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to exemptions from the provisions of this Regulation, the emergency oversight mechanism, corrective action and safeguard measures, imperative grounds of urgency so require.
- (59) In order to take into account technical, scientific, operational or safety needs, by amending or supplementing the provisions on airworthiness, environmental protection, air crew, air operations, aerodromes, ATM/ANS, air traffic controllers, third-country operators, unmanned aircraft, oversight and enforcement, flexibility provisions, fines and periodic penalty payments, and fees and charges, as well as requirements set out in annexes to this Regulation, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (60) The involvement of European third countries should be pursued to ensure the improvement of civil aviation safety throughout Europe. Those countries that have concluded international agreements with the Union to adopt and apply the Union *acquis* in the field covered by this Regulation should be associated with the work of the Agency in accordance with conditions set in the framework of those agreements.
- (61) This Regulation sets common rules in the field of civil aviation and maintains the establishment of the Agency. Regulation (EC) No 216/2008 of the European Parliament and of the Council¹⁶ should therefore be repealed.
- (62) The changes brought about by this Regulation have an impact on the implementation of other Union legislation. Regulation (EC) No 1008/2008 of the European Parliament and of the Council¹⁷, Regulation (EU) No 996/2010 of the European Parliament and of the Council¹⁸, and Regulation (EU) No 376/2014 of the European Parliament and of the Council¹⁹, should therefore be amended accordingly.
- (63) Regulation (EC) No 1008/2008 should be amended to take due account of the possibility established by this Regulation that the Agency may become the competent authority for the issuance and oversight of air operator certificates. Moreover, given

¹⁵ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

¹⁶ Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (OJ L 240, 7.9.2002, p. 1).

¹⁷ Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3).

¹⁸ 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).

¹⁹ 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).

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.

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

HAVE ADOPTED THIS REGULATION:

CHAPTER I

PRINCIPLES

Article 1

Subject matter and objectives

1. The principal objective of this Regulation is to establish and maintain a high uniform level of civil aviation safety in the Union, while ensuring a high uniform level of environmental protection.
2. This Regulation further aims at:
 - (a) contributing to the wider Union aviation policy and to the improvement of the overall performance of the civil aviation sector;
 - (b) facilitating, in the fields covered by this Regulation, the free movement of goods, persons, services and capital, providing a level playing field for all actors in the internal aviation market, and improving the competitiveness of the Union's aviation industry;
 - (c) promoting cost-efficiency and effectiveness in the regulatory and certification processes as well as an optimal use of resources at national and Union level;
 - (d) contributing, in the fields covered by this Regulation, to establishing and maintaining a high uniform level of civil aviation security;
 - (e) assisting Member States in fulfilling their obligations under the Chicago Convention, by ensuring a common interpretation and uniform implementation of its provisions;
 - (f) promoting, worldwide, the views of the Union regarding civil aviation standards and civil aviation rules by establishing appropriate cooperation with third countries and international organisations;
 - (g) promoting research and innovation, amongst others in regulatory and certification processes;

- (h) promoting, in the fields covered by this Regulation, technical and operational interoperability.
- 3. The objectives set out in paragraphs 1 and 2 shall be achieved by, inter alia:
 - (a) the preparation, adoption and uniform application of all necessary acts;
 - (b) ensuring that the declarations and certificates issued in accordance with this Regulation and its delegated and implementing acts are valid throughout the Union, without any additional requirements;
 - (c) the development, with the involvement of standardisation and other industry bodies, of detailed technical standards to be used as means of compliance with this Regulation and the delegated and implementing acts adopted on the basis thereof, where appropriate;
 - (d) the establishment of an independent European Union Aviation Safety Agency (the 'Agency');
 - (e) the uniform implementation of all necessary acts by the national competent authorities and the Agency within their respective areas of responsibility;
 - (f) the gathering, analysis and exchange of information to inform evidence-based decision making;
 - (g) the undertaking of awareness and promotion initiatives, including training, communication and dissemination of relevant safety information.

Article 2

Scope

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

- (ii) serve commercial air transport;
 - (iii) serve operations using instrument approach or departure procedures; and
 - (iv) have a paved runway of 800 metres or more, or exclusively serve helicopters;
 - (f) without prejudice to Union and national legislation on environment and land-use planning, the safeguarding of surroundings of the aerodromes referred to in point (e);
 - (g) the provision of air traffic management and air navigation services ('ATM/ANS') in the Single European Sky airspace, and the design, production, maintenance and operation of systems and constituents used in the provision of those ATM/ANS;
 - (h) the design, production, maintenance and operation of unmanned aircraft, their engines, propellers, parts and non-installed equipment, as well as the equipment to control unmanned aircraft remotely, where such aircraft are operated within the Single European Sky airspace by an operator established or residing within the territory to which the Treaties apply.
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) state aircraft, and their products, parts and non-installed equipment, and the personnel and organisations involved in the activities and services performed by state 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.

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

As regards point (d), the Commission shall be empowered to adopt delegated acts in accordance with Article 117 in order to adjust, where this is necessary in light of technical or operational developments, in particular the introduction of new manufacturing techniques or new technologies, and in as far as this is justified in light of the low risk for aviation safety involved in the operation of the aircraft concerned, the following criteria set out in Annex I:

- (i) the dates referred to in point (a)(i) of that Annex;
 - (ii) the weight, speed, and hot air volume limits referred to in points (e), (f), (g), (h), (i) and (j) of that Annex.
4. An organisation responsible for the design of an aircraft type may request the Commission to decide that the provisions of Section I of Chapter III apply to the design, production and maintenance of that aircraft type and to the personnel and organisations involved in those activities, where:

- (a) the aircraft type concerned falls within the scope of points (e), (f), (g), (h) (i), or (j) of Annex I;
- (b) that aircraft type is intended for serial production; and
- (c) the design of that aircraft type has not been approved in accordance with the national laws of a Member State.

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

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

5. Without prejudice to Article 8 of Regulation (EU) No XXX/XXXX on the implementation of the Single European Sky (recast), Member States shall ensure that the military facilities referred to in paragraph 3(b) of this Article that are open to general air traffic and the ATM/ANS referred to in paragraph 3(c) of this Article that are provided or made available by the military to general air traffic offer a level of safety that is equivalent to that resulting from the application of the essential requirements set out in Annexes VII and VIII of this Regulation.
6. Member States may decide to apply the provisions of any of the Sections I, II, III, V, VI or VII of Chapter III to some or all activities referred to in paragraph 3(a) and 3(c) of this Article and to the personnel and organisations involved in those activities.

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

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

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

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

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

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

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

In such a case, the Member State concerned shall notify, through a reasoned submission, the Commission and the Agency of its intention to take such a decision. That submission shall contain all relevant information relating to the intended decision.

The Commission shall decide, after having consulted the Agency, whether the conditions of the first subparagraph have been fulfilled. The Commission decision, taken by means of an implementing act, shall be adopted in accordance with the advisory procedure referred to in Article 116(2) and shall be published in the *Official Journal of the European Union*. The Agency shall include that decision in the repository referred to in Article 63.

The Member State concerned shall only adopt the intended decision after a positive Commission decision. In that case, from the date specified in the Member State's decision, the design, maintenance and operation of the aerodrome concerned, and its equipment, shall no longer be regulated by the provisions of this Regulation and of the delegated and implementing acts adopted on the basis thereof.

Member States shall, on an annual basis, examine the traffic figures of the aerodromes that they have exempted pursuant to this paragraph. Where that examination demonstrates that, over three consecutive years, one of those aerodromes handles more than 10 000 passengers per year and 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 decision revoking the exemption shall be published in the *Official Journal of the European Union* and the Agency shall include it in the repository referred to in Article 63.

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

Article 3

Definitions

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

- (1) ‘oversight’ means the verification, by or on behalf of the competent authority, on a continuous basis that the requirements on the basis of which a certificate has been issued or the requirements in respect of which a declaration has been made, continue to be complied with;
- (2) ‘Chicago Convention’ means the Convention on International Civil Aviation and its Annexes, signed in Chicago on 7 December 1944;
- (3) ‘product’ means an aircraft, an engine or a propeller;
- (4) ‘part’ means any part of an aircraft other than an engine or a propeller;
- (5) ‘ATM/ANS constituent’ means any constituent as defined in Article 2(19) of Regulation (EU) No XXX/XXXX²⁰;
- (6) ‘certification’ means any form of recognition in accordance with this Regulation, based on an appropriate assessment, that an organisation or person, product, part, non-installed equipment, aerodrome, 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;
- (7) ‘declaration’ means any written statement made in accordance with this Regulation under the sole responsibility of a legal or natural person subject to this Regulation and which confirms that the applicable requirements of this Regulation and of the delegated and implementing acts adopted on the basis thereof relating to an organisation or a person, product, part, non-installed equipment, aerodrome equipment, ATM/ANS system, or ATM/ANS constituent are complied with;
- (8) ‘qualified entity’ means an accredited legal or natural person which may be charged with certain certification or oversight tasks under this Regulation by and under the control and the responsibility of the Agency or a national competent authority;
- (9) ‘certificate’ means any certificate, approval, licence, authorisation, attestation or other document issued as the result of a certification attesting compliance with the applicable requirements;
- (10) ‘operator’ means any legal or natural person operating or proposing to operate one or more aircraft or one or more aerodromes;

²⁰

Regulation (EU) No XXX/XXXX of the European Parliament and of the Council of [.....] on the implementation of the Single European Sky..... (OJ, p. ...).

- (11) 'flight simulation training device' means any type of device in which flight conditions are simulated on the ground, including flight simulators, flight training devices, flight and navigation procedures trainers and basic instrument training devices;
- (12) 'aerodrome' means a defined area, on land or on water, on a fixed, fixed offshore or floating structure, including any buildings, installations and equipment thereon, used either wholly or in part for the arrival, departure and surface movement of aircraft;
- (13) 'aerodrome equipment' means any equipment, apparatus, appurtenance, software or accessory that is used or intended to be used to contribute to the operation of aircraft at an aerodrome;
- (14) 'apron' means a defined area of an aerodrome intended to accommodate aircraft for purposes of loading or unloading passengers, mail or cargo, fuelling, parking or maintenance;
- (15) 'apron management service' means a service provided to regulate the activities and the movement of aircraft and vehicles on an apron;
- (16) 'ATM/ANS' means the air traffic management functions and services as defined in Article 2(10) of Regulation (EU) No XXX/XXXX, the air navigation services defined in Article 2(4) of that Regulation, including the network management functions and services referred to in Article 17 of that Regulation, 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 safety-critical air navigation;
- (17) 'ATM/ANS system' means any combination of systems, as defined in Article 2(33) of Regulation (EU) No XXX/XXXX;
- (18) 'ATM Master Plan' means the document referred in Article 2(14) of Regulation (EU) No XXX/XXXX;
- (19) 'flight information service' means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights;
- (20) 'general air traffic' means all movements of civil aircraft and state aircraft carried out in conformity with the procedures of the International Civil Aviation Organisation ('ICAO');
- (21) 'international standards and recommended practices' means the international standards and recommended practices adopted by ICAO in accordance with Article 37 of the Chicago Convention;
- (22) 'ground handling service' means any service provided at aerodromes comprising safety related activities in the areas of ground administration and supervision, passenger handling, baggage handling, freight and mail handling, ramp handling, aircraft services, fuel and oil handling, aircraft maintenance, flight operations and crew administration, surface transport and catering;
- (23) 'commercial air transport' means an aircraft operation to transport passengers, cargo or mail for remuneration or other valuable consideration between two different aerodromes;
- (24) 'safety performance' means a Member State's, the Union's or an organisation's safety achievement, as defined by its safety performance targets and safety performance indicators;

- (25) 'safety performance indicator' means a parameter used for monitoring and assessing safety performance;
- (26) 'safety performance target' means a planned or intended objective for complying with safety performance indicators over a given period of time;
- (27) 'aircraft' means any machine that can derive support in the atmosphere from the reactions of the air other than reactions of the air against the earth's surface;
- (28) 'non-installed equipment' means any equipment carried on board of an aircraft but not installed in the aircraft and which may have an impact on safety;
- (29) 'unmanned aircraft' means any aircraft operated or designed to be operated without a pilot on board;
- (30) 'equipment to control unmanned aircraft remotely' means any equipment, apparatus, appurtenance, software or accessory that is necessary for the safe operation of an unmanned aircraft;
- (31) 'aircraft registered in a Member State' or 'aircraft registered in a third country' means aircraft registered in accordance with the international standards and recommended practices relating to Annex 7 to the Chicago Convention entitled "Aircraft Nationality and Registration Marks";
- (32) 'state aircraft' means aircraft when carrying out military, customs, police, search and rescue, firefighting, coastguard or similar activities or services under the control and responsibility of a Member State, undertaken in the public interest by a body vested with public authority powers;
- (33) 'Single European Sky airspace' means airspace of the territory to which the Treaties apply, as well as any other airspace where Member States apply Regulation (EU) No XXX/XXXX in accordance with Article 1(4) 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 the delegated and implementing acts adopted on the basis thereof.

Article 4

Principles for measures under this Regulation

1. When taking measures under this Regulation the Member States, the Commission and the Agency shall:
 - (a) reflect the state of the art and best practices in the field of aviation, and take into account worldwide aviation experience and scientific and technical progress in the respective fields;
 - (b) build on the best available evidence and analysis;
 - (c) allow for immediate reaction to established causes of accidents, serious incidents and intentional security breaches;
 - (d) take into account interdependencies between the different domains of aviation safety, and between aviation safety and other technical domains of aviation regulation;

- (e) lay down, where possible, requirements in a manner which focuses on objectives to be achieved, while allowing different means of achieving compliance with these objectives;
 - (f) promote cooperation and efficient use of resources between authorities at Union and Member State level;
 - (g) take non-binding measures, including safety promotion actions, where possible;
 - (h) take into account the international obligations in the field of civil aviation of the Union and of the Member States.
2. The measures taken under this Regulation shall correspond and be proportionate to the nature and risk of each particular activity to which they relate. In preparing and enacting such measures, the Member States, the Commission and the Agency shall take into account, as appropriate for the activity concerned:
- (a) whether persons other than flight crew are carried on board, and in particular whether the operation is open to members of the public;
 - (b) to what extent third parties or property on the ground could be endangered by the activity;
 - (c) the complexity and performance of the aircraft involved;
 - (d) the purpose of the flight and type of airspace used;
 - (e) the type, scale, and complexity of the operation or activity, including, where relevant, the size and type of the traffic handled by the responsible organisation or person;
 - (f) the extent to which the persons affected by the risks involved in the operation are able to assess and exercise control over those risks;
 - (g) the results of past certification and oversight activities.

CHAPTER II

AVIATION SAFETY MANAGEMENT

Article 5

European Aviation Safety Programme

1. The Commission shall, after consulting the Agency, 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 a description of, at least:
 - (a) European aviation safety policy, objectives and resources;
 - (b) European aviation safety risk management;
 - (c) European aviation safety assurance;
 - (d) European aviation safety promotion.

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

Article 7

National Aviation Safety Programme

1. Each Member State shall establish a national aviation safety programme for the management of civil aviation safety in relation to the aviation activities under its responsibility (the 'National Aviation 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 National Aviation Safety Programme shall include, at least, the following components:
 - (a) aviation safety policy, objectives and resources;
 - (b) aviation safety risk management;
 - (c) aviation safety assurance;
 - (d) aviation safety promotion.
3. The National Aviation Safety Programme shall specify, taking into account the objectives set out in Article 1 and the acceptable level of safety performance referred to in Article 6(3), an acceptable level of safety performance to be achieved at national level in respect of the aviation activities under the responsibility of the Member State concerned.

Article 8

National Plan for Aviation Safety

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

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

CHAPTER III

SUBSTANTIVE REQUIREMENTS

SECTION I

Airworthiness and environmental protection

Article 9

Essential requirements

Aircraft referred to in Article 2(1)(a) and (b) and their engines, propellers, parts and non-installed equipment shall comply with the essential requirements for airworthiness set out in Annex II and, as regards noise and emissions, the essential requirements for the environmental compatibility of products set out in Annex III.

Article 10

Compliance

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

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 type certificate shall also be subject to certification and shall be issued with a certificate of changes, including supplemental type certificates. Repair designs shall be subject to certification and shall be issued with an approval.

That type certificate, that certificate of changes and that approval of repair designs shall be issued upon application when the applicant has demonstrated that the design of the product complies with the type-certification basis established in accordance with the delegated act referred to in Article 18(1)(a)(i) 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 and that approval of repair design may be also 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 Article 18(1)(k), when that organisation has determined that the design of the product complies with the conditions established in the second subparagraph.

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 adopted pursuant to Article 18, 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 Article 18(1)(a)(ii).

That certificate may be also 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 Article 18(1)(k), when that organisation has determined that the design of the part complies with the certification basis established in accordance with Article 18(1)(a)(ii).

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 adopted pursuant to Article 18 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 Article 18(1)(a)(ii).

That certificate may be also 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 Article 18(1)(k), when that organisation has determined that the design of the non-installed equipment complies with the certification basis established in accordance with Article 18(1)(a)(ii).

Article 14

Individual aircraft

Individual aircraft shall be subject to certification and shall be issued with a certificate of airworthiness and, where the delegated acts adopted pursuant to Article 18 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.

Article 15

Organisations

1. Unless otherwise established by the delegated acts adopted pursuant to Article 18, organisations responsible for the design and manufacture 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 adopted pursuant to Article 18 to ensure compliance with the essential requirements referred to in Article 9. The approval shall specify the privileges granted to the organisation and the scope of the approval.

2. Unless otherwise established by the delegated acts adopted pursuant to Article 18, organisations responsible for the maintenance and continuing airworthiness management 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 adopted pursuant to Article 18 to ensure compliance with the essential requirements referred to in Article 9. The approval shall specify the privileges granted to the organisation and the scope of the approval.

3. Where the delegated acts adopted pursuant to Article 18 so provide, organisations involved in the training of the personnel referred to in Article 16 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 adopted pursuant to Article 18 to ensure compliance with the essential requirements referred to in Article 9. The approval shall specify the privileges granted to the organisation and the scope of the approval.

Article 16

Personnel

Where the delegated acts adopted pursuant to Article 18 so provide, personnel responsible for the release of a product, a part or non-installed equipment after maintenance shall be subject to certification and shall be issued with a licence.

That licence shall be issued upon application, when the applicant has demonstrated its capability to discharge the responsibilities associated with its privileges in

accordance with the essential requirements referred to in Article 9. The licence shall specify the privileges granted to the personnel and the scope of the licence.

Article 17

Derogations

1. By way of derogation from Articles 9, 10, 11 and 12, as appropriate:
 - (a) the compliance with the applicable essential requirements referred to in Article 9 of the design of products and the design of parts may be assessed without the issuance of a certificate, where the delegated acts adopted pursuant to Article 18 so provide. In that case, those delegated acts shall define the conditions and procedures for such assessment. Those delegated acts may provide that the organisation responsible for the design and manufacture of those products and parts shall be allowed to declare the compliance of the design of the products and the design of the parts with those essential requirements and with the detailed specifications established in accordance with the delegated acts adopted pursuant to Article 18(1)(i) 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 specific airworthiness specifications established in accordance with the delegated acts adopted pursuant to Article 18(1)(a)(iii) 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 adopted pursuant to Article 18, 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 paragraph 1(a) or for which a restricted type certificate has been issued in accordance with paragraph 1(b). 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 adopted pursuant to Article 18, a permit to fly may be issued to allow operation of an aircraft which does not have a valid certificate of airworthiness or valid restricted certificate of airworthiness. In that case, such permit to fly shall be issued upon application, where the applicant has demonstrated that the aircraft is capable of performing safely a basic flight.

The permit to fly may be also issued without such application, by an organisation approved in accordance with Article 15 which has been granted a privilege to issue those permits to fly in accordance with the delegated act referred to in Article 18(1)(k), when that organisation has determined that the aircraft is capable of performing safely a basic flight.

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

Article 18

Delegated powers

1. For the aircraft referred to in Article 2(1)(a) and (b) and their engines, propellers, parts and non-installed equipment, the Commission shall be empowered to adopt delegated acts in accordance with Article 117 to lay down detailed rules with regard to:
 - (a) the conditions for establishing and notifying to an applicant by the Agency in accordance with Article 66:
 - (i) the type-certification basis applicable to a product for the purposes of the type-certification referred to in Articles 11 and 17(1)(b);
 - (ii) the certification basis applicable to a part or non-installed equipment for the purposes of the certification referred to in Articles 12 and 13;
 - (iii) the specific airworthiness and environmental compatibility specifications applicable to aircraft eligible for a restricted certificate of airworthiness or restricted noise certificate referred to in Article 17(2)(a);
 - (b) the conditions for issuing and disseminating mandatory information by the Agency, in accordance with Article 66, to ensure the continuing airworthiness and environmental compatibility of products and conditions for approval of alternative means of compliance to that mandatory information;
 - (c) the specific conditions for compliance of aircraft referred to in Article 2(1)(b)(ii) with the essential requirements referred to in Article 9;
 - (d) the conditions for issuing, maintaining, amending, suspending or revoking the certificates referred to in Articles 11, 12, 13, 14, 17(1)(b) and 17(2), 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 shall be required or shall not be required, as applicable;
 - (ii) the conditions on the duration of those certificates and on the renewal of those certificates where their duration is limited;
 - (iii) the conditions for the issuing and use of the restricted certificates of airworthiness and restricted noise certificates referred to in Article 17(2)(a);
 - (iv) the conditions for the issuing and use of the permits to fly referred to in Article 17(2)(b);
 - (v) the operational suitability data, including:
 - the minimum syllabus of maintenance certifying staff type rating training;
 - the minimum syllabus of pilot type rating and the reference data for the objective qualification of associated simulators;
 - the master minimum equipment list, as appropriate;
 - aircraft type data relevant to cabin crew;
 - additional specifications to ensure compliance with Section III of this Chapter;
 - (vi) the conditions for the maintenance of products, parts and non-installed equipment;

- (vii) the conditions for the continuing airworthiness management of aircraft;
 - (e) 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;
 - (f) the conditions for issuing, maintaining, amending, suspending or revoking the approvals referred to in Article 15, including 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 approvals shall be required or shall not be required, as applicable;
 - (g) the conditions for issuing, maintaining, amending, suspending or revoking the licences referred to in Article 16, including 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 licences shall be required;
 - (h) the privileges and responsibilities of the holders of the certificates issued pursuant to this Section and of the organisations that made declarations in accordance with Article 17(1)(a);
 - (i) the conditions for establishing the detailed specifications applicable to the design of products and design of parts which are subject to a declaration in accordance with Article 17(1)(a);
 - (j) the conditions and procedures to assess, in accordance with Article 17(1)(a), the airworthiness and environmental compatibility of the design of products and the design of parts without a need to issue a certificate, including the conditions and limitations for operations;
 - (k) the conditions under which organisations that have been issued an organisation approval in accordance with Article 15 may be granted the privilege to issue the certificates referred to in Articles 11, 12, 13 and 17(2)(b);
 - (l) the conditions for acceptance of certificates, continuing airworthiness information and other airworthiness related documentation, issued in accordance with the laws of a third country, for the purpose of applying Article 57.
2. As regards the airworthiness and environmental compatibility of aircraft referred to in Article 2(1)(a) and (b), and their engines, propellers, parts and non-installed equipment, the Commission shall be empowered, by means of delegated acts adopted in accordance with Article 117, to amend or supplement Annex II and Annex 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 laid down in Article 1.

SECTION II

Aircrew

Article 19

Essential requirements

Pilots and cabin crew involved in the operation of aircraft referred to in Article 2(1)(b), as well as flight simulation training devices, persons and organisations

involved in the training, testing, checking or medical assessment of those pilots and cabin crew, shall comply with the essential requirements set out in Annex IV.

Article 20

Pilots

1. Unless otherwise established by delegated acts adopted pursuant to Article 25, pilots shall be subject to certification and shall be issued with a pilot licence and a pilot medical certificate appropriate to the operation to be performed.
2. A pilot licence shall be issued upon application, when the applicant has demonstrated that he or she complies with the rules established by delegated acts adopted pursuant to Article 25 to ensure compliance with the essential requirements referred to in Article 19 on theoretical knowledge, practical skill, language proficiency and experience.
3. A pilot medical certificate shall be issued upon application, when the applicant has demonstrated that he or she complies with the rules established by delegated acts adopted pursuant to Article 25 to ensure compliance with the essential requirements referred to in Article 19 on medical fitness.
4. The pilot licences and the pilot medical certificates shall specify the privileges granted to the pilot.

Article 21

Cabin crew

Cabin crew involved in commercial air transport operations shall be subject to certification and shall be issued with an attestation.

Where the delegated acts adopted pursuant to Article 25 so provide, cabin crew involved in operations other than commercial air transport shall also be subject to certification and shall be issued with an attestation.

Those attestations shall be issued upon application, when the applicant has demonstrated that he or she complies with the rules established by delegated acts adopted pursuant to Article 25 to ensure compliance with the essential requirements referred to in Article 19 on theoretical knowledge, practical skill and medical fitness.

Article 22

Training organisations and aero-medical centres

Unless otherwise established by the delegated acts adopted pursuant to Article 25, pilot and cabin crew training organisations and aero-medical centres 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 adopted pursuant to Article 25 to ensure compliance with the essential requirements referred to in Article 19.

The approval shall specify the privileges granted to the organisation.

Article 23

Flight simulation training devices

Unless otherwise established by the delegated acts adopted pursuant to Article 25, each flight simulation training device used for the training of pilots 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 device complies with the rules established by the delegated acts adopted pursuant to Article 25 to ensure compliance with the essential requirements referred to in Article 19.

Article 24

Instructors and examiners

Unless otherwise established by the delegated acts adopted pursuant to Article 25, persons responsible for providing flight training, flight simulation training or cabin crew training, or for assessing pilots' or cabin crew's skill, as well as aero-medical examiners, 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 he or she complies with the rules established by the delegated acts adopted pursuant to Article 25 to ensure compliance with the essential requirements referred to in Article 19.

The certificate shall specify the privileges granted.

Article 25

Delegated powers

1. For pilots and cabin crew involved in the operation of aircraft referred to in Article 2(1)(b), as well as flight simulation training devices, persons and organisations involved in the training, testing, checking or medical assessment of those pilots and cabin crew, the Commission shall be empowered to adopt delegated acts in accordance with Article 117 to lay down detailed rules with regard to:
 - (a) the different ratings for the pilot licences and pilot medical certificates referred to in Article 20 adequate for the different types of activities performed;
 - (b) the conditions for recognition of training and experience on aircraft not subject to this Regulation for the purposes of obtaining pilot licences referred to in Article 20(2);
 - (c) the conditions for the conversion of national pilot licences and of national flight engineer licences issued on the basis of the laws of the Member States into the pilot licences referred to in Article 20(2) as well as the conditions for the conversion of national medical certificates issued on the basis of the laws of the Member States into the pilot medical certificates referred to in Article 20(3);
 - (d) the privileges and responsibilities of the holders of licences, ratings for licences, medical certificates, approvals, attestations and certificates referred to in Articles 20, 21, 22, 23 and 24;
 - (e) the conditions for issuing, maintaining, amending, suspending or revoking licences, ratings, medical certificates, approvals, attestations and certificates referred to in

Articles 20, 21, 22, 23 and 24, including 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 licences, ratings, medical certificates, approvals, attestations and certificates shall be required or shall not be required, as applicable;

- (f) the conditions for the acceptance of pilot licences, pilot medical certificates and cabin crew attestations, issued in accordance with the laws of a third country, for the purpose of applying Article 57;
 - (g) the conditions under which the activities regulated in this Section shall be prohibited, limited or subject to certain conditions in the interest of safety.
2. As regards pilots and cabin crew involved in the operation of aircraft referred to in Article 2(1)(b), as well as flight simulation training devices, persons and organisations involved in the training, testing, checking or medical assessment of those pilots and cabin crew, the Commission shall be empowered, by means of delegated acts adopted in accordance with Article 117, to amend or supplement 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 laid down in Article 1.
 3. The rules referred to in paragraph 1 and 2 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 26

Essential requirements

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

Article 27

Operators

1. Operators with a principal place of business in the territory to which the Treaties apply and engaged in commercial air transport operations 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 rules established by the delegated acts adopted pursuant to Article 28 to ensure compliance with the essential requirements referred to in Article 26. The certificate shall specify the privileges granted to the operator and the scope of the operations.
2. Where the delegated acts adopted pursuant to Article 28 so provide, operators established, residing or with a principal place of business in the territory to which the

Treaties apply and engaged in operations other than commercial air transport shall be subject to certification and be issued with a certificate.

That certificate shall be issued upon application, when the applicant has demonstrated that it complies with the rules established by the delegated acts adopted pursuant to Article 28 to ensure compliance with the essential requirements referred to in Article 26. The certificate shall specify the privileges granted to the operator and the scope of the operations.

By way of derogation from the first subparagraph, where the delegated acts adopted pursuant to Article 28 so provide, operators established, residing or with a principal place of business in the territory of the Member States to which the Treaties apply and engaged in operations other than commercial air transport shall be permitted to declare their capability and the availability of the means to discharge the responsibilities associated with the operation in compliance with the essential requirements referred to in Article 26.

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

Article 28

Delegated powers

1. For the operation of aircraft referred to in Article 2(1)(b), the Commission shall be empowered to adopt delegated acts in accordance with Article 117 to lay down detailed rules with regard to:
 - (a) the specific conditions for the operation of aircraft in compliance with the essential requirements referred to in Article 26;
 - (b) the conditions for issuing, maintaining, amending, suspending or revoking the certificates referred to in Article 27(1) and (2), including 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 shall be required or declarations shall be permitted, as applicable;
 - (c) the privileges and responsibilities of the holders of the certificates referred to in Article 27(1) and (2) and of the operators issuing declarations pursuant to the detailed rules referred to in point (b);
 - (d) the conditions to be met by the operators referred to in Article 27(1) and (2) and their aircrew members with regard to flight and duty time limitations, as well as rest requirements for aircrew members;
 - (e) the additional requirements necessary to ensure compliance with the essential requirements referred to in Article 26 applicable to operators established, residing or with a principal place of business in the territory to which the Treaties apply where those operators enter into code sharing agreements or wet lease agreements with operators established, residing or with a principal place of business outside that territory;

- (f) the conditions and procedures necessary to ensure compliance with the essential requirements referred to in Article 26 regarding the approval by national competent authorities of individual flight time specification schemes and the issuance of Agency opinions on those schemes in accordance with Article 65(7);
 - (g) the conditions under which the operation of aircraft shall be prohibited, limited or subject to certain conditions in the interest of safety.
2. As regards the operation of aircraft referred to in Article 2(1)(b), the Commission shall be empowered, by means of delegated acts adopted in accordance with Article 117, to amend or supplement 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 laid down in Article 1.

SECTION IV

Aerodromes

Article 29

Essential requirements

Aerodromes, aerodrome equipment, the operation of aerodromes and the provision of ground handling services and apron management services at aerodromes shall comply with the essential requirements set out in Annex VII and, if applicable, Annex VIII.

Article 30

Aerodrome certification

1. Aerodromes shall be subject to certification and shall be issued with a certificate. Changes to that certificate shall be also subject to certification and shall be issued with a certificate of changes.
- That certificate and that certification of changes shall be issued upon application, when the applicant has demonstrated that the aerodrome complies with the aerodrome certification basis set out in paragraph 2 and that the aerodrome has no feature or characteristic making it unsafe for operation.
- Those certificates shall cover the aerodrome and its safety-related equipment.
2. The certification basis for an aerodrome shall consist of the following:
- (a) the applicable certification specifications related to the type of aerodromes;
 - (b) the provisions for which an equivalent level of safety has been accepted;
 - (c) the special detailed technical specifications necessary when the design features of a particular aerodrome or the experience in operation render any of the certification specifications referred to in point (a) inadequate or inappropriate to ensure conformity with the essential requirements referred to in Article 29.

Article 31

Safety-critical aerodrome equipment

1. Where the delegated acts adopted pursuant to Article 34 so provide, safety-critical aerodrome equipment used or intended for use at aerodromes subject to this Regulation shall be subject to certification and shall be issued with a certificate.

The certificate for such equipment shall be issued upon application, when the applicant has demonstrated that the equipment complies with the detailed specifications established in accordance with Article 34 to ensure compliance with the essential requirements referred to in Article 29.

2. By way of derogation from paragraph 1, where the delegated acts adopted pursuant to Article 34 so provide, organisations involved in the design, manufacture and maintenance of safety-critical aerodrome equipment shall be permitted to declare the compliance of that safety-critical equipment with the essential requirements referred to in Article 29.

Article 32

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 rules established by the delegated acts adopted pursuant to Article 34 to ensure compliance with the essential requirements referred to in Article 29.

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

2. Organisations responsible for the provision of ground handling services and apron management services at aerodromes subject to this Regulation shall declare their capability and the availability of the means to discharge the responsibilities associated with the services provided in compliance with the essential requirements referred to in Article 29.

Article 33

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 32(1) shall monitor activities and developments which may cause unacceptable safety risks to aviation in the surroundings of the aerodrome for the operation of which they are responsible. They shall take the necessary measures to mitigate those risks in as far as this lies within their control and, where that is not the case, bring those risks to the attention of the competent authorities of the Member State where the aerodrome is located.

Article 34

Delegated powers

1. For aerodromes, safety-critical aerodrome equipment, the operation of aerodromes and the provision of ground handling and apron management services at aerodromes, the Commission shall be empowered to adopt delegated acts in accordance with Article 117 to lay 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 29;
 - (b) the conditions for establishing, in accordance with Article 30(2), and for notifying to an applicant the certification basis applicable to an aerodrome for the purpose of certification in accordance with Article 30(1);
 - (c) the conditions for establishing and for notifying to an applicant the detailed specifications applicable to safety-critical aerodrome equipment for the purposes of certification in accordance with Article 31(1);
 - (d) the conditions for issuing, maintaining, amending, suspending or revoking the aerodrome certificates referred to in Article 30, including operating limitations related to the specific design of the aerodrome;
 - (e) the conditions for issuing, maintaining, amending, suspending or revoking the certificates for safety-critical aerodrome equipment referred to in Article 31, including 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 shall be required or declarations shall be permitted, as applicable;
 - (f) the conditions for issuing, maintaining, amending, suspending or revoking the certificates referred to in Article 32(1);
 - (g) the privileges and responsibilities of the holders of the certificates referred to in Articles 30, 31(1) and 32(1), and of the organisations making declarations in accordance with Article 31(2);
 - (h) the conditions and procedures for the declaration by organisations providing ground handling services and by organisations providing apron management services in accordance with Article 32(2);
 - (i) the privileges and responsibilities of the organisations providing ground handling services and by organisations providing apron management services which have made declarations in accordance with Article 32(2);
 - (j) the conditions for the acceptance and the conversion of national aerodrome certificates issued on the basis of national laws of the Member States into the aerodromes certificates referred to in Article 30, including measures which are already authorised by the Member State concerned on the basis of notified differences when compared to Annex 14 of the Chicago Convention;
 - (k) the conditions under which the operation of aerodromes, or activities of organisations referred to in Article 32(2), shall be prohibited, limited or subject to certain conditions in the interest of safety;

- (l) the conditions for issuing and disseminating mandatory information by the Agency in accordance with Article 65(6) and by the national competent authorities, in order to ensure the safety of aerodrome operations and aerodrome equipment.
2. As regards aerodromes, aerodrome equipment, the operation of aerodromes, and ground handling and apron management services the Commission shall be empowered, by means of delegated acts adopted in accordance with Article 117, to amend or supplement 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 laid down in Article 1.

SECTION V

ATM/ANS

Article 35

Essential requirements

The provision of ATM/ANS shall comply with the essential requirements set out in Annex VIII and, if applicable, Annex VII.

Article 36

ATM/ANS providers

1. Providers of ATM/ANS 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 rules established by the delegated acts adopted pursuant to Article 39 to ensure compliance with the essential requirements referred to in Article 35.

The certificate shall specify the privileges granted and the scope of the services provided.

2. By way of derogation from paragraph 1, in accordance with the delegated acts adopted pursuant to Article 39, Member States may decide that providers of flight information services shall be allowed to declare their capability and the availability of the means to discharge the responsibilities associated with the services provided in compliance with the essential requirements referred to in Article 35.

In that case, the Member State concerned shall inform the Commission, the Agency and the other Member States of its decision. That decision shall be published in the *Official Journal of the European Union* and the Agency shall include it in the repository referred to in Article 63.

Article 37

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

1. Where the delegated acts adopted pursuant to Article 39 so provide, organisations involved in the design, manufacture or maintenance of ATM/ANS systems and

constituents, upon which safety or interoperability is dependent, 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 rules established by the delegated acts adopted pursuant to Article 39 to ensure compliance with the essential requirements referred to in Article 35.

The certificate shall specify the privileges granted.

2. By way of derogation from paragraph 1, where the delegated acts adopted pursuant to Article 39 so provide, organisations involved in the design, manufacture or maintenance of ATM/ANS systems and constituents, upon which safety or interoperability is dependent, shall be permitted to declare their capability and the availability of the means to discharge the responsibilities associated with the activities performed in compliance with the essential requirements referred to in Article 35.

Article 38

ATM/ANS systems and constituents

1. Where the delegated acts adopted pursuant to Article 39 so provide, the providers of ATM/ANS referred to in Article 36 shall be required to declare that the ATM/ANS systems and constituents upon which safety or interoperability is dependent and which are to be put into operation by those service providers comply with the detailed specifications established by the delegated acts adopted pursuant to Article 39 to ensure compliance with the essential requirements referred to in Article 35.
2. Where the delegated acts adopted pursuant to Article 39 so provide, ATM/ANS systems and constituents, upon which safety or interoperability is dependent, 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 systems and constituents comply with the detailed specifications established by the delegated acts adopted pursuant to Article 39 to ensure compliance with the essential requirements referred to in Article 35.

By way of derogation from the first subparagraph, where the delegated acts adopted pursuant to Article 39 so provide, the organisation involved in the design, manufacture or maintenance of ATM/ANS systems and constituents, upon which safety or interoperability is dependent, shall be permitted to declare that those systems and constituents comply with the detailed specifications established in accordance with Article 39 to ensure compliance with the essential requirements referred to in Article 35 and that those systems and constituents are suitable for use.

Article 39

Delegated powers

1. For the provision of ATM/ANS, the Commission shall be empowered to adopt delegated acts in accordance with Article 117 to lay down detailed rules with regard to:

- (a) the specific conditions for the provision of ATM/ANS in compliance with the essential requirements referred to in Article 35;
 - (b) the conditions for establishing and notifying to an applicant the detailed specifications applicable to ATM/ANS systems and constituents for the purposes of certification in accordance with Article 38(2);
 - (c) the conditions for issuing, maintaining, amending, suspending or revoking the certificates referred to in Article 36, including 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, declarations shall be permitted, as applicable;
 - (d) the conditions for issuing, maintaining, amending, suspending or revoking the certificates referred to in Articles 37(1) and 38(2), including 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 shall be required or declarations shall be permitted, as applicable;
 - (e) the privileges and responsibilities of the holders of certificates referred to in Article 36 and, where appropriate, Articles 37 and 38;
 - (f) the privileges and responsibilities of the organisations issuing declarations in accordance with Articles 36(2), 37(2) and 38(2);
 - (g) the conditions and procedures for the declaration by ATM/ANS providers, in accordance with Article 38(1), including 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 declarations shall be required;
 - (h) the conditions under which the provision of ATM/ANS shall be prohibited, limited or subject to certain conditions in the interest of safety;
 - (i) the conditions for issuing and disseminating mandatory information by the Agency in accordance with Article 65(6) and by the national competent authorities, in order to ensure the safety in the provision of ATM/ANS;
 - (j) the operating rules related to the use of airspace and ATM/ANS systems and constituents required for the use of airspace.
2. As regards the provision of ATM/ANS, the Commission shall be empowered, by means of delegated acts adopted in accordance with Article 117, to amend or supplement Annex VIII and if applicable 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 laid down in Article 1.
3. The rules referred to in paragraph 1 shall, where appropriate:
- (a) be consistent with the ATM Master Plan;
 - (b) be developed on the basis of the relevant provisions of Regulation (EU) No XXX/XXXX and provide for transitional mechanisms to ensure the continuity of certificates granted under that Regulation.

SECTION VI

Air traffic controllers

Article 40

Essential requirements

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, shall comply with the essential requirements set out in Annex VIII.

Article 41

Air traffic controllers

1. Air traffic controllers shall be subject to certification and shall be issued with an air traffic controller licence and a medical certificate appropriate for the service to be provided.
2. The air traffic controller licence referred to in paragraph 1 shall be issued upon application, when the applicant for the licence has demonstrated that he or she complies with the rules established by delegated acts adopted pursuant to Article 44 to ensure compliance with the essential requirements referred to in Article 40 regarding theoretical knowledge, practical skill, language proficiency and experience.
3. The medical certificate referred to in paragraph 1 shall be issued upon application, when the air traffic controller has demonstrated that he or she complies with the rules established by delegated acts adopted pursuant to Article 44 to ensure compliance with the essential requirements referred to in Article 40 on medical fitness.
4. The air traffic controller licence and the medical certificate shall specify the privileges granted to the air traffic controller and the scope of the licence and the medical certificate.

Article 42

Air traffic controller training organisations, aero medical examiners and aero medical centres

Air traffic controller training organisations, aero medical examiners and aero medical centres 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 rules established by delegated acts adopted pursuant to Article 44 to ensure compliance with the essential requirements referred to in Article 40.

The certificate shall specify the privileges granted.

Article 43

Instructors and examiners

Persons responsible for providing practical training or for assessing the practical skills of air traffic controllers 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 he or she complies with the rules established by delegated acts adopted pursuant to Article 44 to ensure compliance with the essential requirements referred to in Article 40.

The certificate shall specify the privileges granted.

Article 44

Delegated powers

1. For air traffic controllers, as well as persons and organisations involved in the training, testing, checking or medical assessment of air traffic controllers, the Commission shall be empowered to adopt delegated acts in accordance with Article 117 to lay down detailed rules with regard to:
 - (a) the different ratings and endorsements for the air traffic controller licences referred to in Article 41;
 - (b) the conditions for issuing, maintaining, amending, suspending or revoking licences, ratings and endorsements for the air traffic controller licences and medical certificates referred to in Article 41 and the certificates referred to in Articles 42 and 43;
 - (c) the privileges and responsibilities of the holders of air traffic controller licences, ratings and endorsements for licences, medical certificates and the certificates referred to in Articles 41, 42 and 43;
 - (d) the conditions for the acceptance and for the conversion of national air traffic controller licences and national medical certificates issued on the basis of the laws of the Member States into the air traffic controller licences and medical certificates referred to in Article 41;
 - (e) the conditions for the acceptance of air traffic controller licences issued in accordance with the laws of a third country for purpose of applying Article 57;
 - (f) the conditions under which the provision of on-the-job training shall be prohibited, limited or subject to certain conditions in the interest of safety;
 - (g) the conditions for issuing and disseminating mandatory information by the Agency in accordance with Article 65(6) and by the national competent authorities, in order to ensure the safety in the provision of on-the-job training.
2. 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 shall be empowered, by means of delegated acts adopted in accordance with Article 117, to amend or supplement 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 laid down in Article 1.

SECTION VII

Unmanned aircraft

Article 45

Essential Requirements for Unmanned Aircraft

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

Article 46

Compliance of Unmanned Aircraft

1. Where the delegated acts adopted pursuant to Article 47 so provide with a view to achieving adequate levels of safety, having regard to the principles laid down in Article 4(2), the design, production, maintenance and operation of unmanned aircraft shall be subject to certification. Certificates shall be issued upon application, where the applicant has demonstrated that it complies with the rules established by the delegated acts adopted pursuant to Article 47 to ensure compliance with the essential requirements referred to in Article 45. The certificate shall specify the safety-related limitations, operating conditions and privileges.
2. Where the delegated acts adopted pursuant to Article 47 so provide with a view to achieving adequate levels of safety, having regard to the principles laid down in Article 4(2), the design, production, maintenance and operation of unmanned aircraft shall be subject to a declaration. The declaration shall be made when the essential requirements referred to in Article 45 and the corresponding detailed rules established in accordance with Article 47 to ensure compliance with these essential requirements are complied with.
3. Where the delegated acts adopted pursuant to Article 47 so provide, given that adequate levels of safety can be achieved without the application of Chapters IV and V of this Regulation, those Chapters shall not apply to the essential requirements referred to in Article 45 and the corresponding detailed rules established in accordance with Article 47 to ensure compliance with these essential requirements. In such cases, those requirements and rules shall constitute 'Community harmonisation legislation' within the meaning of Regulation (EC) 765/2008 of the European Parliament and Council of 9 July 2008 setting out the requirement for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) N° 339/93, and Decision 768/2008/EC of the European Parliament and Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC.

Article 47

Delegated Powers

1. For the design, production, maintenance and operation of unmanned aircraft and their engines, propellers, parts, non-installed equipment and equipment to control the aircraft remotely, the Commission shall be empowered to adopt delegated acts in accordance with Article 117 in order to lay down detailed rules with regard to:

- (a) the conditions and procedures for issuing, maintaining, amending, suspending, or revoking the certificates for the design, production, maintenance and operation of unmanned aircraft referred to in Article 46 (1) and (2), including 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 shall be required or declarations shall be permitted, as applicable;
 - (b) the conditions and procedures under which an operator of an unmanned aircraft shall rely on the certificates or declarations issued in accordance with Sections I, II, III and VIII;
 - (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, shall not be subject to Chapters IV and V of this Regulation, for the purpose of Article 46(3);
 - (d) the privileges and responsibilities of the holders of certificates and operators making declarations;
 - (e) the marking and identification of unmanned aircraft;
 - (f) the conditions under which operations of unmanned aircraft shall be prohibited, limited or subject to certain conditions in the interest of safety.
2. As regards the design, production, maintenance and operation of unmanned aircraft and their engines, propellers, parts, non-installed equipment and equipment to control the aircraft remotely, the Commission shall be empowered, by means of delegated acts adopted in accordance with Article 117, to amend or supplement Annex IX and, if applicable, Annex III, where necessary for reasons of technical, operational or scientific developments or safety evidence related to air operations, in order and to the extent required to achieve the objectives laid down in Article 1.

SECTION VIII

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

Article 48

Applicable rules

Aircraft referred to in Article 2(1)(c), as well as their aircrew and their operations, shall comply with the applicable ICAO standards. To the extent that there are no such standards, those aircraft as well as their aircrew and their operations shall comply with the essential requirements set out in Annexes II, IV, V and, if applicable, Annex VIII, provided those requirements are not in conflict with the rights of third countries under international conventions.

Article 49

Compliance

1. The operation of the aircraft referred to in Article 2(1)(c) 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 of the means to discharge the responsibilities associated with the operation of that aircraft in compliance with the requirements specified in Article 48.

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

2. Where the delegated acts adopted pursuant to Article 50 so provide, the operation of aircraft referred to in Article 2(1)(c) 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 of the means to discharge the responsibilities associated with the operation of that aircraft in compliance with the requirements specified in Article 48.

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

By way of derogation from the first subparagraph, where the delegated acts adopted pursuant to Article 50 so provide, the operators of the aircraft referred to in Article 2(1)(c) engaged in operations other than commercial air transport shall be permitted to declare their capability and the availability of the means to discharge the responsibilities associated with the operation of that aircraft in compliance with the requirements specified in Article 48.

3. The authorisations and declarations referred to in paragraphs 1 and 2 shall only be required in respect of the operation of aircraft into, within or out of the territory to which the Treaties apply, with the exception of the operation of aircraft only overflying that territory.

Article 50

Delegated powers

1. For the aircraft referred to in Article 2(1)(c), as well as their aircrew and their operations, the Commission shall be empowered to adopt delegated acts in accordance with Article 117 to lay 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 the provisions of Article 48;
 - (c) alternative conditions for cases where compliance with the standards and requirements referred to in Article 48 is not possible or involves a disproportionate effort from the operator, while ensuring that the objectives of the standards and requirements concerned are met;
 - (d) the conditions for issuing, maintaining, amending, suspending or revoking the authorisations referred to in Article 49, including 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 authorisations shall be required or declarations shall be permitted, as applicable.

These conditions shall take into account the certificates issued by the state of registry or the state of the operator, and be without prejudice to Regulation (EC) No 2111/2005 and its implementing rules;

- (e) the privileges and responsibilities of the holders of the authorisations referred to in Article 49(1) and (2), and, where relevant, operators that made declarations in accordance with Article 49(2);
 - (f) the conditions under which the operation of the aircraft referred to in Article 2(1)(c), shall be prohibited, limited or subject to certain conditions in the interest of safety.
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 Article 2(1)(b)(i) and from the aircrew and operators of such aircraft;
 - (c) the process through which the authorisations referred to in Article 49(1) 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 adopted pursuant to Article 51(10);
 - (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 51

Certification, oversight and enforcement

1. The Member States, the Commission and the Agency shall cooperate within a single European aviation safety system to ensure compliance with this Regulation and the delegated and implementing acts adopted on the basis thereof.
2. To ensure compliance with the provisions of this Regulation and of the delegated and implementing acts adopted on the basis thereof, the Agency and the national competent authorities shall in accordance with this Regulation:
 - (a) receive and assess the applications made to them, issue, and, where applicable, renew the certificates and receive declarations made to them, in accordance with the provisions of Chapter III;

- (b) perform oversight of holders of certificates, of legal and natural persons that made declarations, and of products, parts, equipment, ATM/ANS systems, ATM/ANS constituents, flight simulation training devices and aerodromes subject to the provisions of Chapter III;
- (c) conduct the necessary investigations, inspections, audits and other monitoring activities to identify possible infringements by the persons referred to in point (b) of the requirements set out in this Regulation and in the delegated and implementing acts adopted on the basis thereof that are applicable to them;
- (d) take all necessary enforcement measures, including amending, suspending or revoking certificates issued by them, grounding of aircraft and imposing penalties, in order to terminate identified infringements.

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

The Agency shall be responsible where those tasks have been attributed to it pursuant to Articles 53, 54, 55, 66, 67, 68, 69 and 70.

The national competent authority of the Member State where the aerodrome is located shall be responsible for those tasks with respect to the aerodrome certificate referred to in Article 30(1) and the certificate for an organisation responsible for the operation of an aerodrome referred to in Article 32(1). The certificate for an organisation responsible for the operation of an aerodrome may be either combined with the certificate for an aerodrome or issued separately.

In all other cases, the national competent authority of the Member State where the natural person applying for the certificate or making the declaration resides, or, in case of legal persons, where the person has its primary establishment, shall be responsible for those tasks, unless the delegated acts adopted pursuant to paragraph 10 provide otherwise.

However, where the delegated acts adopted pursuant to paragraph 14 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 20(3) and the air traffic controller medicals certificates referred to in Article 41(1);
 - (b) pilot and cabin crew training organisations that have been issued an approval in accordance with Article 22 and operators that have been issued a certificate in accordance with Article 27 shall be responsible for issuing the cabin crew attestations referred to in Article 21.
- 4. The oversight conducted by the Agency and national competent authorities shall be continuous and based on priorities set in the light of the risks to civil aviation.
 - 5. The Agency shall manage and operate the tools and procedures necessary for the collection, exchange and analysis of safety-related information obtained from ramp inspection programmes established by the delegates acts adopted pursuant to paragraph 10.
 - 6. In order to facilitate the exercise of their tasks related to certification, oversight and enforcement, the Commission, the Agency and national competent authorities, shall exchange information, including on possible or identified infringements.

7. The Agency shall promote a common understanding and application of the requirements contained in this Regulation and in the delegated and implementing acts adopted on the basis thereof, *inter alia* by developing the guidance material referred to in Article 65(3) in consultation with the national competent authorities.
8. Any legal or natural person subject to this Regulation may bring to the attention of the Agency any alleged differences in the application of the rules between the Member States. Where such differences seriously hamper the operation of those persons, or otherwise lead to substantial difficulties, the Agency and the national competent authorities of the Member States concerned shall cooperate to eliminate those differences without undue delay. Where those differences cannot be eliminated, the Agency shall present the matter to the Commission.
9. The Agency and the national competent authorities shall undertake the necessary actions to increase and promote awareness of civil aviation safety and disseminate safety-related information relevant for the prevention of accidents and incidents.
10. With regard to the tasks of the Agency and the national competent authorities related to certification, oversight and enforcement under this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 117 in order to lay down detailed rules concerning:
 - (a) the conditions for the gathering, exchange and dissemination of information between the Agency and the national competent authorities for the performance of their tasks;
 - (b) the conditions for conducting certification and for conducting the investigations, inspections, audits and other monitoring activities necessary to ensure effective oversight of the legal and natural persons, products, parts, equipment, ATM/ANS systems, ATM/ANS constituents, flight simulation training devices and aerodromes subject to this Regulation;
 - (c) the conditions for the qualifications of inspectors and of the organisations involved in their training;
 - (d) the conditions for conducting ramp inspections and for the grounding of aircraft when the aircraft, its operator or its aircrew do not comply with the requirements of this Regulation or the delegated and implementing acts adopted on the basis thereof;
 - (e) the conditions for the administration and management systems of the Agency and of the national competent authorities relating to the exercise of the certification, oversight and enforcement tasks;
 - (f) in respect of paragraph 3, the conditions 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;
 - (g) in respect of paragraph 3, the conditions 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 shall be given such responsibilities, with a view to ensuring effective performance of the tasks related to medical certification of pilots and air traffic controllers;
 - (h) in respect of paragraph 3, the conditions for allocation of responsibilities to pilot and cabin crew training organisations for the purpose of issuing cabin crew attestations, with a view to ensuring effective performance of the tasks related to certification of cabin crew.

Article 52

European aviation inspectors

1. The Agency shall establish, in cooperation with the national competent authorities, a mechanism for the 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 define and communicate to the national competent authorities the required qualification and experience profiles on the basis of which those authorities 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 European aviation inspectors in the performance of oversight and certification activities. The Agency shall coordinate 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 designated by national competent authorities shall be covered by fees. To that end, the Agency shall invoice, on behalf of the national competent authority that incurred the costs, the legal or natural person which was subject to the certification and oversight activities performed by those inspectors. The Agency shall transfer the amount collected from that person to the national competent authority concerned.
5. As regards the mechanism for the pooling and sharing referred to in paragraph 1, the Commission shall be empowered to adopt delegated acts in accordance with Article 117 in order to lay down detailed rules with regard to:
 - (a) the rights and obligations of the Agency and the national competent authorities that request, receive or provide assistance through that mechanism;
 - (b) the authorisations of and the rules applicable to the European aviation inspectors when they are providing such assistance;
 - (c) the fixing and collection of the fees referred to in paragraph 4.

Article 53

Transfer of responsibility

1. Member States may transfer to the Agency the responsibility for the certification, oversight and enforcement with respect to any or all organisations, operators, personnel, aircraft, flight simulation training devices or aerodromes for which the Member State concerned is responsible under this Regulation.

Upon such transfer, the Agency shall become the competent authority for the purposes of the transferred responsibility and the Member State concerned shall be relieved of that responsibility. In relation to the exercise of that responsibility by the Agency, the provisions of Chapters IV and V shall apply.
2. Member States may, subject to mutual consent, transfer to another Member State the responsibility for the certification, oversight and enforcement with respect to any or

all organisations, operators, personnel, aircraft, flight simulation training devices or aerodromes for which they are responsible under this Regulation.

Upon such transfer, the national competent authority of the Member State to which the responsibility is transferred shall become the competent authority for the purposes of the transferred responsibility and the Member State transferring the responsibility shall be relieved of that responsibility.

In relation to the exercise of that responsibility, the provisions of Chapters II and IV and Articles 120 and 121, as well as the applicable provisions of the national law of the Member State to which the responsibility is transferred shall apply.

3. The Agency or a Member State, as applicable, shall only agree to the transfer of responsibilities referred to in paragraphs 1 or 2 when it is satisfied that it can effectively exercise the transferred responsibility in compliance with this Regulation and the delegated and implementing acts adopted on the basis thereof.
4. When a Member State intends to transfer certain responsibilities in accordance with paragraphs 1 or 2, it shall establish jointly with the Agency or with the other Member State, as applicable, a transition plan that ensures an orderly transfer of those responsibilities. The legal and natural persons concerned by the transfer and, in case of a transfer referred to in paragraph 2, the Agency shall be consulted on that transition plan before it is finalised.

The Agency and the Member State or Member States concerned, as applicable, shall ensure that the transfer of the responsibilities is carried out in accordance with the transition plan.

5. The Agency shall make available, through the repository established under Article 63, a list of Member States that have transferred certain responsibilities in accordance with this Article. That list shall include details about the responsibilities transferred, allowing for the clear identification of the responsibilities after the transfer and of the affected organisations, operators, personnel, aircraft, flight simulation training devices or aerodromes, as applicable.

The Agency shall take account of the transferred responsibilities when conducting inspections and other monitoring activities in accordance with Article 73.

6. This Article shall be without prejudice to the rights and obligations of the Member States under the Chicago Convention. When a Member State transfers responsibilities in accordance with this Article which are attributed to it by the Chicago Convention, it shall notify the ICAO about the fact that the Agency or another Member State acts as its authorised representative for the fulfilment of its obligations under the Chicago Convention.

Article 54

Organisations operating multi-nationally

1. An organisation may request the Agency to act as the competent authority responsible for the certification, oversight and enforcement with respect to that organisation, in deviation from Article 51(3), where that organisation holds or is eligible to apply for a certificate in accordance with the provisions of Chapter III to the national competent authority from one Member State, but it has or it intends to have substantial 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, each of which has a principal place of business in a different Member State and each of which holds or is eligible to apply for a certificate in accordance with the provisions of Chapter III for the same type of aviation activity.

Where the organisations referred to in the first and second subparagraph make such a request, they shall inform the national competent authorities of the Member States in which they have their principal places of business.

2. Where the Agency considers that it can effectively exercise the responsibilities for the certification, oversight and enforcement, as requested, in compliance with this Regulation and the delegated acts adopted on the basis thereof, it shall establish, jointly with the Member State or Member States concerned, as applicable, a transition plan that ensures an orderly transfer of those responsibilities. The organisations that requested the transfer shall be consulted on this transition plan before it is finalised.

The Agency and the Member State or Member States concerned, as applicable, shall ensure that the transfer of the responsibilities is carried out in accordance with the transition plan.

3. Upon the transfer of responsibility pursuant to paragraphs 1 and 2, the Agency shall become the competent authority for the purposes of the transferred responsibility and the Member State or Member States concerned shall be relieved of that responsibility. In relation to the exercise of that responsibility by the Agency, the provisions of Chapters IV and V shall apply.
4. The provisions of Article 53(5) and (6) shall apply accordingly to any transfer of responsibility pursuant to this Article.

Article 55

Emergency oversight mechanism

1. The Agency shall recommend to a Member State the transfer of responsibilities in accordance with Article 53, 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 73 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.
2. Where the Member State concerned did not either give effect to the Agency's recommendation or remedy the deficiencies within 3 months from the date of that recommendation, the Commission may decide, when it considers that the conditions of paragraph 1 are met, that the responsibility for the certification, oversight and enforcement tasks concerned shall be temporarily transferred to the Agency. That decision shall be taken by means of implementing acts which shall be adopted in accordance with the advisory procedure referred to in Article 116(2). On duly

justified imperative grounds of urgency relating to aviation safety, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 116(4).

3. From the date at which the implementing decision referred to in paragraph 2 takes effect, the Agency shall assess on a regular basis whether the condition of paragraph 1(c) continues to be met. Where it considers that that condition is no longer met, it shall issue a recommendation to the Commission to terminate the temporary transfer of responsibilities.
4. When the Commission considers, taking into account that recommendation, that the condition of paragraph 1(c) is no longer met, the Commission shall decide that the temporary transfer of responsibilities to the Agency shall be terminated.

That decision shall be taken by means of implementing acts which shall be adopted in accordance with the advisory procedure referred to in Article 116(2). On duly justified imperative grounds of urgency relating to aviation safety, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 116(4).
5. Upon the transfer of responsibility pursuant to paragraph 2, the Agency shall become the competent authority for the purposes of the transferred responsibility and the Member State concerned shall be relieved of that responsibility. In relation to the exercise of that responsibility by the Agency, the provisions of Chapters IV and V shall apply.
6. The provisions of Article 53(5) and (6) shall apply accordingly to any transfer of responsibility pursuant to this Article. The Agency shall also include in the repository established under Article 63 the Commission implementing decisions referred to in paragraphs 2 and 4.

Article 56

Validity of certificates and declarations

1. Certificates issued and declarations made in accordance with this Regulation and the delegated and implementing acts adopted on the basis thereof shall be valid in all Member States, without further requirements or evaluation.
2. In case 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.

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

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

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

Article 57

Acceptance of third-country certification

The Agency and the national competent authorities may either issue the certificates provided for in this Regulation and 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; or
- (b) the delegated acts adopted on the basis of Articles 18(1)(l), 25(1)(f) and 44(1)(e).

Article 58

Qualified entities

1. The Agency and the national competent authorities may allocate their tasks related to certification and oversight under this Regulation to qualified entities that have been accredited as being compliant with the criteria set out in Annex VI. 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 revoke or suspend the accreditation of a qualified entity that they granted, when that entity no longer complies with the criteria set out in Annex VI.
3. The Agency or the competent national authority or authorities accrediting a qualified entity may grant it a privilege to issue, amend, 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 recognise privileges granted to a qualified entity by another competent authority in accordance with paragraph 3.

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

Article 59

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 the provisions of this Regulation and 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 63, of the measures taken and the reasons for taking them.

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

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

The Member State concerned shall immediately terminate the measures taken pursuant to paragraph 1 upon the notification of that implementing decision.

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

longer needed. Where the Agency considers that the problem can be addressed in that manner, it shall take the appropriate decision to that effect. Where it considers that the problem cannot be addressed in that manner, it shall issue a recommendation to the Commission as regards the amendment of the delegated acts or implementing acts adopted on the basis of this Regulation that it considers necessary in light of the application of paragraph 1.

4. Where necessary in light of the application of paragraph 1, the Commission shall, without delay, and taking account of the Agency recommendation, consider amending any of the delegated acts adopted pursuant to Articles 18(1), 25(1), 28(1), 34(1), 39(1), 44(1), 47(1) and 50(1).

Article 60

Flexibility provisions

1. Member States may grant exemptions to any natural or legal person subject to this Regulation from the requirements applicable to that person pursuant to the provisions of Chapter III, other than the essential requirements laid down in those provisions, or to the delegated or implementing acts adopted on basis of those provisions 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) an acceptable level of safety and environmental protection and compliance with the applicable essential requirements is ensured, where necessary through the application of mitigation measures;
 - (c) the Member State has mitigated any possible distortion of market conditions as a consequence of the granting of the exemption as far as possible; and
 - (d) the exemption is limited in scope and duration to the extent strictly necessary and it is applied in a non-discriminatory manner.

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

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

In that case, the Commission shall, taking account of that recommendation, assess whether those conditions have been met. Where the Commission considers that those conditions have not been met or where it departs from the outcome of the assessment by the Agency, it shall adopt, within 3 months from the date of the reception of that

recommendation, an implementing decision to that effect, which shall be published in the *Official Journal of the European Union* and entered into the repository established under Article 63.

The Member State concerned shall immediately revoke the exemption granted pursuant to paragraph 1 upon the notification of that implementing decision.

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 63, 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 of the first subparagraph.

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

Article 61

Information gathering, exchange and analysis

1. The Commission, the Agency and the national competent authorities shall exchange any information available to them in the context of the application of this Regulation and the 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 delegated acts referred to in paragraph 4.
2. The Agency shall coordinate at Union level the gathering, exchange and analysis of information on matters falling within the scope of this Regulation. For that purpose, the Agency may enter into administrative arrangements with legal and natural persons subject to this Regulation, or associations of such persons, on information gathering, exchange and analysis.
3. Upon a request by the Commission, the Agency shall analyse urgent or important issues falling within the scope of this Regulation. Where relevant, the national competent authorities shall cooperate with the Agency for the purpose of conducting such analysis.
4. The Commission shall adopt detailed rules on the modalities of the exchange of the information referred to in paragraph 1 between the Commission, the Agency and the national competent authorities and the dissemination of such information to interested parties. Those rules shall be contained in implementing acts which shall be adopted in accordance with the examination procedure referred to in Article 116(3).

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

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

Article 62

Protection of the source of information

1. When the information referred to in Article 61(1) and (2) has been provided to a national competent authority, the source of such information shall be protected in accordance with the applicable Union and national legislation on the protection of the source of information relating to civil aviation safety. Where such information is provided by a natural person to the Commission or the Agency, the 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 the delegated and implementing acts adopted on the basis thereof.
- The provisions of the first subparagraph shall not apply in cases of wilful misconduct or in cases where there has been a manifest, severe and serious disregard of an obvious risk and profound failure of professional responsibility to take such care as is evidently required in the circumstances, causing foreseeable damage to a person or property, or which seriously compromises the level of civil aviation safety.
3. Member States may retain or adopt measures to strengthen the protection of sources of information referred to in paragraph 1.
4. Employees and contracted personnel who provide information in application of this Regulation and the 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 provisions of the first subparagraph shall not apply in cases of wilful misconduct or in cases where there has been a manifest, severe and serious disregard of an obvious risk and profound failure of professional responsibility to take such care as is evidently required in the circumstances, causing foreseeable damage to a person or property, or which seriously compromises aviation safety.

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

Article 63

Repository of information

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

That repository shall include information about:

- (a) certificates issued and declarations received by the Agency and by national competent authorities in accordance with the provisions of Chapter III and Articles 53, 54, 55, 66, 67, 68, 69 and 70;
- (b) certificates issued and declarations received by qualified entities on behalf of the Agency and national competent authorities in accordance with Article 58(3);
- (c) accreditations granted by the Agency and by national competent authorities to qualified entities in accordance with Article 58, including information about the scope of the accreditation;
- (d) the measures taken by Member States pursuant to Article 2(6) and (7), as well as the corresponding Commission decisions;
- (e) Commission decisions taken pursuant to Article 2(4);
- (f) Member States decisions taken pursuant to Article 36(2);
- (g) the transfers by Member States of responsibilities to the Agency or to another Member State in accordance with Articles 53 and 54, including details about the responsibilities transferred;
- (h) Commission decisions taken in accordance with Article 55, including details about the responsibilities transferred to the Agency pursuant to those decisions;
- (i) Commission decisions taken in accordance with Article 56;
- (j) notifications by national competent authorities concerning individual flight time specification schemes submitted to the Agency on the basis of the delegated acts adopted in accordance with Article 28(1)(f), and the corresponding Agency opinions issued in accordance with Article 65(7);

- (k) notifications by Member States concerning the measures taken to react immediately to a problem relating to civil aviation safety and concerning the granting of exemptions, and the corresponding Agency recommendations and Commission decisions, pursuant to Articles 59(1) and 60(1);
 - (l) requests by Member States concerning other means of compliance, and the corresponding Agency recommendations pursuant to Article 60(3);
 - (m) notifications by the Agency and the corresponding Commission decisions pursuant to Article 65(4);
 - (n) other information that may be necessary for ensuring the effective cooperation referred to in the first subparagraph.
2. The national competent authorities, aeromedical examiners and aeromedical centres shall also exchange through the repository information concerning medical fitness of pilots. Any such information which constitutes personal data, including health data, shall be limited to what is strictly necessary for ensuring effective certification and oversight of pilots in accordance with Article 20.
 3. Any personal data, including health data, included in the repository shall be stored for no longer than is necessary for the purposes for which the data were collected or for which they are further processed.
 4. Member States and the Agency shall ensure that data subjects whose personal data are processed in the repository are informed, *ex ante*, thereof.
 5. Member States and the Agency may restrict the scope of the rights of the data subject to access, rectify and erase personal data included in the repository to the extent that it is strictly necessary to safeguard civil aviation safety, in accordance with Article 13 of Directive 95/46/EC and Article 20 of Regulation (EC) 45/2001.
 6. Without prejudice to paragraph 7, the Commission, the Agency, national competent authorities and any competent authority of the Member States entrusted with the investigation of civil aviation accidents and incidents shall, for the exercise of their tasks, have on-line, secure access to all information included in the repository.

Where relevant, the Commission and the Agency may disseminate certain information included in the repository, other than information referred to in paragraph 2, to interested parties or make it publicly available.
 7. The information included in the repository shall be protected from unauthorised access by appropriate tools and protocols. The access to and disclosure of the information referred to in paragraph 2 shall be restricted to persons who are responsible for the certification and oversight of the medical fitness of pilots, for the purpose of fulfilling their tasks under this Regulation. Limited access to this information may also be granted to other authorised persons for the purpose of ensuring the proper functioning of the repository, in particular for its technical maintenance. Persons authorised to have access to information which contains personal data shall receive prior training on the applicable personal data protection legislation and related safeguards.
 8. The Commission shall adopt the necessary rules for the functioning and management of the repository. Those rules shall be contained in implementing acts which shall be adopted in accordance with the examination procedure referred to in Article 116(3) and lay down detailed requirements with regard to:

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

CHAPTER V

THE EUROPEAN UNION AVIATION SAFETY AGENCY

SECTION I

TASKS

Article 64

Establishment and functions of the Agency

1. A European Union Aviation Safety Agency is hereby established.
2. For the purposes of ensuring the proper functioning and development of civil aviation in the Union in accordance with the objectives set out in Article 1, the Agency shall:
 - (a) undertake any task and formulate opinions on all matters covered by this Regulation;
 - (b) assist the Commission by preparing measures to be taken under this Regulation. Where those measures comprise technical rules, the Commission may not change their content without prior coordination with the Agency;

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

Article 65

Agency measures

1. The Agency shall, upon request, assist the Commission in the preparation of proposals for amendments to this Regulation and of delegated and implementing acts to be adopted on the basis of this Regulation. The documents that the Agency submits to the Commission for those purposes shall take the form of opinions.
2. The Agency shall issue recommendations addressed to the Commission for the application of Articles 59 and 60.
3. The Agency shall, in accordance with Article 104 and the applicable delegated and implementing acts adopted on the basis of this Regulation, issue certification specifications, acceptable means of compliance and guidance material for the application of this Regulation and the delegated and implementing acts adopted on the basis thereof.
4. The Agency shall take the appropriate decisions for the application of Articles 53, 54, 55, 66, 67, 68, 69, 70, 71 and 73.

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

5. The Agency shall issue reports on the inspections and other monitoring activities conducted pursuant to Article 73.
6. The Agency shall react without undue delay to an urgent safety problem falling within the scope of this Regulation by determining corrective action to be taken by national competent authorities or legal and natural persons subject to the provisions of this Regulation and by disseminating related information to those national competent authorities and persons, including directives or recommendations, where this is necessary to safeguard the objectives set out in Article 1.
7. The Agency shall issue opinions on the individual flight time specification schemes proposed by the Member States pursuant to the delegated acts adopted in accordance with Article 28(1)(f) which deviate from the certifications specifications adopted by the Agency.

Article 66

Airworthiness and environmental certification

1. With regard to the products, parts and non-installed equipment referred to in Article 2(1)(a) and 2(1)(b)(i), the Agency shall, where applicable and as specified in the Chicago Convention or the Annexes thereto, carry out on behalf of Member States the functions and 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 for which a type certificate, certificate of changes, including a supplemental type certificate, or an approval of a repair design, has been applied for in accordance with Article 11, establish and notify to the applicant the type-certification basis;
 - (b) for each product for which a restricted certificate of airworthiness or a restricted noise certificate has been applied for in accordance with Article 17(2)(a), establish and notify to the applicant the specific airworthiness specifications or the specific code for environmental compatibility of products;
 - (c) for each design of a part or non-installed equipment for which a certificate has been applied for in accordance with Articles 12 or 13 respectively, establish and notify to the applicant the certification basis;
 - (d) for aircraft for which a permit to fly has been applied for in accordance with Article 17(2)(b), issue the approval for associated flight conditions related to the design;
 - (e) establish and make available the airworthiness and environmental compatibility specifications applicable to the design of products and parts which are subject to a declaration in accordance with Article 17(1)(a);
 - (f) be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 51(3) with respect to the type certificates, restricted type certificates, certificates of changes, including supplemental type certificates, and approvals of repair designs for the design of products in accordance with Articles 11 and 17(1)(b);
 - (g) be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 51(3) with respect to the certificates for the design of parts and for non-installed equipment in accordance with Articles 12 and 13;

- (h) issue the appropriate environmental data sheets on the design of products which it certifies in accordance with Article 11;
 - (i) ensure the continuing airworthiness functions associated with the design of products, the design of parts and non-installed equipment it has certified and in respect of which it performs oversight, including reacting without undue delay to a safety or security problem and issuing and disseminating the applicable mandatory information;
- 2. The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 51(3) with respect to:
 - (a) the approvals of the organisations responsible for the design of products, parts and non-installed equipment, in accordance with Article 15(1);
 - (b) the approvals of the organisations responsible for the manufacture, maintenance and continuing airworthiness management of products, parts and non-installed equipment and to the organisations involved in the training of personnel, in accordance with Article 15, where those organisations have their principal place of business outside the territory for which a Member State is responsible under the Chicago Convention.
 - 3. The Agency shall be responsible for the tasks related to oversight and enforcement in accordance with Article 54(3) with respect to the declarations made by organisations in accordance with Article 17(1)(a).

Article 67

Aircrew certification

- 1. The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 51(3) with respect to the approvals of the pilot and cabin crew training organisations and the aero-medical centres referred to in Article 22, where those organisations and centres have their principal place of business outside the territory for which a Member State is responsible under the Chicago Convention.
- 2. The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Articles 51(3) with respect to the certificates for flight simulation training devices in accordance with Article 23 in each of the following cases:
 - (a) the device is operated by an organisation to which the Agency has issued a certificate in accordance with paragraph 1;
 - (b) the device is located within the territory for which a Member State is responsible under the Chicago Convention and the device is operated by an organisation which has been certified by the Agency in accordance with paragraph 1 and which has its principal place of business outside that territory;
 - (c) the device is located outside the territory for which a Member State is responsible under the Chicago Convention, except where the device is operated by an organisation to which the Agency has not issued a certificate in accordance with paragraph 1 and which has its principal place of business within that territory;

Article 68

ATM/ANS

1. The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 51(3) with respect to:
 - (a) the certificates for the ATM/ANS providers referred to in Article 36, where those providers have their principal place of business located outside the territory to which the Treaties apply and they are responsible for providing ATM/ANS in the airspace of that territory;
 - (b) the certificates for the ATM/ANS providers referred to in Article 36, where those providers provide pan-European ATM/ANS;
 - (c) the certificates for, and the declarations made by, the organisations referred to in Article 37, where those organisations are involved in the design, manufacture or maintenance of pan-European ATM/ANS systems and constituents;
 - (d) the declarations made by the ATM/ANS providers to which the Agency has issued a certificate in accordance with points (a) and (b), in respect of ATM/ANS systems and constituents which are put in operation by those providers in accordance with Article 38(1).
2. With regard to systems and constituents referred to in Article 38, the Agency shall:
 - (a) where the delegated acts adopted pursuant to Article 39 so provide, establish and notify to the applicant the detailed specifications for the ATM/ANS systems and constituents, upon which safety or interoperability are dependent and which are subject to a certificate or a declaration in accordance with Article 38(2);
 - (b) where the delegated acts adopted pursuant to Article 39 so provide, be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 51(3) with respect to the certificates for, and the declarations made in respect of, ATM/ANS systems and constituents upon which safety or interoperability are dependent in accordance with Article 38(2).

Article 69

Air traffic controller certification

The Agency shall be responsible for the tasks related to certification, oversight, and enforcement in accordance with Article 51(3) with respect to the certificates for the air traffic controller training organisations referred to in Article 42, where those organisations have their principal place of business located outside the territory for which a Member State is responsible under the Chicago Convention and, where relevant, their personnel.

Article 70

Third-country operators and international safety oversight

1. The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 51(3) with respect to the authorisations for the operations referred to in Article 49(1) and (2) and the declarations made by the operators referred to in Article 49(2), unless a Member State carries out the functions and tasks of the state of operator in respect of the operators concerned.

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

Article 71

Investigations by the Agency

1. The Agency shall conduct either itself or through national competent authorities or qualified entities the investigations necessary for the performance of its tasks related to certification, oversight and enforcement in accordance with Article 51(3)
2. For the purposes of conducting the investigations referred to in paragraph 1, the Agency shall be empowered to:
 - (a) require the legal or natural persons to whom it has issued a certificate, or who made a declaration to it, to provide all necessary information;
 - (b) require those persons to provide oral explanations on any fact, document, object, procedure or other subject matter relevant for determining whether the person complies with the provisions of this Regulation and of the delegated and implementing acts adopted on the basis thereof;
 - (c) enter any premises, land and means of transport of those persons;
 - (d) examine, copy or make extracts from any document, record or data held by or accessible to those persons, irrespective of the medium on which the information in question is stored.

The Agency shall, where required for determining whether a person to whom it has issued a certificate, or who has made a declaration to it, complies with the provisions of this Regulation and of the 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 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 authority of the Member State or third country concerned is needed to enter premises, land and means of transport as referred to in point (c) of the first subparagraph, those powers shall be exercised only after having obtained such prior authorisation.

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

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

Article 72

Fines and periodic penalty payments

1. The Commission may, at the request of the Agency, impose on an legal or natural person to whom it 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 infringed one of those provisions, or where such an infringement is imminent, in order to compel that person to comply with those provisions.
2. The fines and periodic penalty payments referred to in paragraph 1 shall be effective, proportionate and dissuasive. They shall be set taking account of the gravity of the case, and in particular the extent to which safety or protection of the environment has been compromised, and the economic capacity of the legal or natural person concerned.

The amount of the fines shall not exceed 4 % of the annual income or turnover of the legal or natural person 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 delegated acts adopted on the basis thereof to address such infringements are inadequate or disproportionate.
4. With regard to the imposition of fines and periodic penalty payments in accordance with the provisions of this Article, the Commission shall, by means of delegated acts in accordance with Article 117, lay down:
 - (a) detailed criteria and a detailed methodology for establishing the amounts of the fines and periodic penalty payments;
 - (b) detailed rules for enquiries, associated measures and reporting, as well as decision-making, including provisions on rights of defence, access to file, legal representation, confidentiality and temporal provisions; and
 - (c) procedures for the collection of the fines and periodic penalty payments.
5. The Court of Justice of the European Union shall have unlimited jurisdiction to review decisions of the Commission taken pursuant to paragraph 1. It may cancel, reduce or increase the fine or periodic penalty payment imposed.
6. The decisions of the Commission taken pursuant to paragraph 1 shall not be of a criminal law nature.

Monitoring of Member States

1. The Agency shall assist the Commission in monitoring the application by the Member States of the provisions of this Regulation and of the 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 at assisting the Member States in ensuring the uniform application of those provisions.

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

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

The Agency shall, where required for determining whether a Member State complies with the provisions of this Regulation and of the 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 authority of the Member State concerned is needed to enter premises, land and means of transport as referred to in point (c) of the first subparagraph, those powers shall be exercised only after having obtained such prior authorisation.

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

In good time before the inspection or the other monitoring activity, the Agency shall inform the Member State concerned of the activity and of the identity of the members of its staff and any other expert carrying out that activity.

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

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

5. When an inspection or another monitoring activity conducted in accordance with this Article entails an inspection or another monitoring activity in respect of a legal or a natural person subject to this Regulation, the provisions of Article 71(2), (3) and (4) shall apply.
6. Upon request of the Member State, reports drawn up by the Agency pursuant to paragraph 1 shall be made available to it in the official Union language or languages of the Member State where the inspection took place.
7. The Agency shall publish a summary of information about the application by each Member State of the provisions of this Regulation and of the delegated and implementing acts adopted on the basis thereof. It shall include that information in the annual safety review referred to in Article 61(6).
8. The Agency shall contribute to the assessment of the impact of the implementation of this Regulation and the delegated and implementing acts adopted on the basis thereof, without prejudice to the Commission's assessment under Article 113, having regard to the objectives set out in Article 1.
9. The Commission shall adopt detailed rules on the working methods of the Agency for conducting the tasks under this Article. Those rules shall be contained in implementing acts which shall be adopted in accordance with the advisory procedure referred to in Article 116(2).

Article 74

Research and innovation

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

5. In addition to the tasks set out in paragraphs 1 to 4 and in Article 64, the Agency may also engage in ad hoc research activities, provided that those activities are compatible with the Agency's tasks and the objectives of this Regulation.

Article 75

Environmental protection

1. The measures taken by the Agency as regards emissions and noise, for the purpose of the certification of the design of products in accordance with Article 11, shall aim at preventing significant harmful effects on the environment and human health caused by the civil aviation activities concerned.
2. The Member States, the Commission, the Agency and other Union institutions, bodies, offices and agencies shall, within their respective fields of competence, cooperate on environmental matters, including those addressed in Regulation (EC) No 1907/2006 of the European Parliament and of the Council²¹, with a view to ensuring that interdependencies between environmental protection, human health and other technical domains of civil aviation are taken into account.
3. The Agency shall assist the Commission with the definition and coordination of civil aviation environmental protection policies and actions, in particular by conducting studies, simulations and providing technical advice.
4. In order to inform interested parties and the general public, the Agency shall, every three years, publish an environmental review, which shall give an objective account of the state of environmental protection relating to civil aviation in the Union.

Article 76

Aviation security

1. The Member States, the Commission and the Agency shall cooperate on security matters related to civil aviation, including cyber security, with a view to ensuring that interdependencies between civil aviation safety and security are taken into account.
2. The Agency shall, upon request, provide technical assistance to the Commission in the implementation of Regulation (EC) No 300/2008 of the European Parliament and of the Council²², including in the performance of security inspections and in the preparation of the measures to be adopted under that Regulation.
3. To protect civil aviation against acts of unlawful interference, the Agency may take the necessary measures under Article 65(6) and Article 66(1)(i). Before taking such measures, the Agency shall obtain the agreement of the Commission and consult the Member States.

²¹ 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).

²² 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.)

Article 77

International cooperation

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

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

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

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

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

Article 78

Crisis Management

1. The Agency shall, within its field of competence, contribute to a timely response to and mitigation of aviation crises.

2. The Agency shall participate in the European Aviation Crisis Coordination Cell ('EACCC') established in accordance with Article 18 of Commission Regulation (EU) No 677/2011²³.

Article 79

Aviation training

In order to promote best practices and uniformity in the implementation of this Regulation and the measures adopted on the basis thereof, the Agency may provide training, including through external providers, to national competent authorities, competent authorities of third countries, international organisations, the legal and natural persons subject to the provisions of this Regulation and other interested parties. The Agency shall establish and publish in its official publication the conditions to be met by external training providers when used by the Agency for the purposes of this Article.

Article 80

Implementation of Single European Sky

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

- (a) conducting technical inspections, technical investigations, and studies;
- (b) contributing to the implementation of a performance scheme for air navigation services and network functions;
- (c) contributing to the implementation of the ATM Master Plan, including the development and deployment of the Single European Sky ATM Research (SESAR) programme.

SECTION II

INTERNAL STRUCTURE

Article 81

Legal status, location and local offices

1. The Agency shall be a body of the Union. It shall have legal personality.
2. In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.

²³ 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.)

3. The seat of the Agency shall be Cologne, Federal Republic of Germany.
4. The Agency may establish local offices in the Member States, subject to their consent and in accordance with Article 91(4).
5. The Agency shall be legally represented by its Executive Director.

Article 82

Staff

1. The Staff Regulations of Officials of the European Union, the Conditions of Employment of Other Servants of the European Union²⁴ 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.

Article 83

Privileges and immunities

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

Article 84

Liability

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

Article 85

Functions of the Management Board

²⁴ 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).

1. The Agency shall have a Management Board.
2. The Management Board shall:
 - (a) appoint the Executive Director, and where relevant extend his or her term of office or remove him or her from office, in accordance with Article 92;
 - (b) adopt a consolidated annual activity report on the Agency's activities and send it by 1 July each year to the European Parliament, the Council, the Commission, and the Court of Auditors. The consolidated annual activity report shall be made public;
 - (c) adopt each year the Agency's programming document by a majority of two-thirds of members entitled to vote and in accordance with Article 106;
 - (d) adopt the annual budget of the Agency by a majority of two-thirds of the members entitled to vote and in accordance with Article 109(11);
 - (e) establish procedures for making decisions by the Executive Director as referred to in Articles 104 and 105;
 - (f) carry out its functions relating to the Agency's budget pursuant to Articles 109, 110 and 114;
 - (g) appoint the members of the Board(s) of Appeal pursuant to Article 94;
 - (h) exercise disciplinary authority over the Executive Director;
 - (i) give its opinion on the rules relating to fees and charges as referred to in Article 115(2);
 - (j) adopt its Rules of Procedure and the Rules of Procedure of the Executive Board;
 - (k) decide on the linguistic arrangements for the Agency;
 - (l) take all decisions on the establishment of the internal structures of the Agency and, where necessary, their modifications;
 - (m) in accordance with paragraph 6, exercise, with respect to the staff of the Agency, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment ("the appointing authority powers");
 - (n) adopt appropriate implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;
 - (o) ensure adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-fraud Office ('OLAF');
 - (p) adopt rules for the prevention and management of conflicts of interest in respect of its members, as well as of the members of the Board(s) of Appeal;
 - (q) adopt the financial rules applicable to the Agency in accordance with Article 114;
 - (r) appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of Other Servants, who shall be totally independent in the performance of his or her duties;
 - (s) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;

- (t) give its opinion on the draft of the European Aviation Safety Programme in accordance with Article 5;
 - (u) adopt the European Plan for Aviation Safety in accordance with Article 6.
3. The Management Board may advise the Executive Director on any matter related to areas covered by this Regulation.
 4. The Management Board shall establish an advisory body representing the full range of interested parties affected by the work of the Agency, which it shall consult prior to making decisions in the fields referred to in paragraph 2(c), (e), (f) and (i). The Management Board may also decide to consult the advisory body on other issues referred to in paragraphs 2 and 3. The Management Board shall not, in any case, be bound by the opinion of the advisory body.
 5. The Management Board may establish working bodies to assist in carrying out its tasks, including the preparation of its decisions and monitoring the implementation thereof.
 6. The Management Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants, delegating relevant appointing authority powers to the Executive Director and defining the conditions under which that delegation of powers can be suspended. The Executive Director shall be authorised to sub-delegate those powers.

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

Article 86

Composition of the Management Board

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

4. Where appropriate, the participation of representatives of European third countries in the Management Board with observer status and the conditions of such participation shall be established in the agreements referred to in Article 118.
5. The advisory body referred to in Article 85(4) shall appoint four of its members to participate with observer status in the Management Board. They shall represent, as broadly as possible, the different views represented in the advisory body. The term of office shall be 24 months and shall be extendable once for a further 24 months.

Article 87

Chairperson of the Management Board

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

Article 88

Meetings of the Management Board

1. Meetings of the Management Board shall be convened by its Chairperson.
2. The Management Board shall hold at least two ordinary meetings a year. In addition it shall meet at the request of the Chairperson, of the Commission or of at least one third of its members.
3. The Executive Director of the Agency shall take part in the deliberations, without the right to vote.
4. The Management Board may invite any person whose opinion might be of interest to attend its meetings with observer status.
5. The Agency shall provide the secretariat for the Management Board.

Article 89

Voting rules of the Management Board

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

4. Decisions on budgetary or human resources matters require a positive vote from the Commission to be adopted.

Article 90

Executive Board

1. The Management Board shall be assisted by an Executive Board.
2. The Executive Board shall:
 - (a) prepare decisions to be adopted by the Management Board;
 - (b) ensure, together with the Management Board, adequate follow-up to the findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of OLAF;
 - (c) without prejudice to the responsibilities of the Executive Director, as set out in Article 91, assist and advise him or her in the implementation of the decisions of the Management Board, with a view to reinforcing supervision of administrative and budgetary management.
3. When necessary, because of urgency, the Executive Board may take certain provisional decisions on behalf of the Management Board, in particular on administrative management matters, including the suspension of the delegation of the appointing authority powers and budgetary matters. They shall be referred to the earliest meeting of the Management Board for confirmation.
4. The Executive Board shall be composed of the Chairperson of the Management Board, two representatives of the Commission and six other members appointed by the Management Board from among its members with the right to vote. The Chairperson of the Management Board shall also be the Chairperson of the Executive Board. The Executive Director shall take part in the meetings of the Executive Board, but shall not have the right to vote. The Advisory Board may appoint one of its members as observer.
5. The term of office of members of the Executive Board shall be the same as that of members of the Management Board. The term of office of members of the Executive Board shall end when their membership of the Management Board ends.
6. The Executive Board shall hold at least one ordinary meeting every three months. In addition, it shall meet on the initiative of its Chairperson or at the request of its members.
7. The Management Board shall lay down the rules of procedure of the Executive Board.

Article 91

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, the Management Board and the Executive Board, the Executive Director shall be independent in the performance of his or her duties and shall neither seek nor take instructions from any government or from any other body.

2. The Executive Director shall report to the European Parliament on the performance of his or her duties when invited to do so. The Council may invite the Executive Director to report on the performance of his or her duties.
3. The Executive Director shall be responsible for the implementation of the tasks assigned to the Agency by this Regulation or other Union acts. In particular, the Executive Director shall be responsible for:
 - (a) approving the measures of the Agency as defined in Article 65 within the limits specified by this Regulation and the delegated and implementing acts adopted on the basis thereof;
 - (b) deciding on investigations, inspections, and other monitoring activities as provided for in Articles 71 and 73;
 - (c) deciding on allocation of tasks to qualified entities in accordance with Articles 58(1) and on the conduct of investigations on behalf of the Agency by national competent authorities or qualified entities in accordance with Article 71(1);
 - (d) taking the necessary measures concerning the activities of the Agency related to international cooperation in accordance with Article 77;
 - (e) taking all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the proper functioning of the Agency in accordance with this Regulation;
 - (f) implementing decisions adopted by the Management Board;
 - (g) preparing the consolidated annual report on the Agency's activities and submitting it to the Management Board for adoption;
 - (h) preparing the Agency's draft statement of estimates of revenue and expenditure pursuant to Article 109, and implementing its budget pursuant to Article 110;
 - (i) delegating his or her powers to other members of the Agency's staff. The Commission shall define the modalities of such delegations which shall be contained in implementing acts which shall be adopted in accordance with the advisory procedure referred to in Article 116(2);
 - (j) preparing the programming document referred to in Article 106(1), and submitting it to the Management Board for adoption, after having obtained the opinion of the Commission;
 - (k) implementing the programming document referred to in Article 106(1), and report to the Management Board on its implementation;
 - (l) preparing an action plan following up conclusions of internal or external audit reports and evaluations, as well as investigations by OLAF, and reporting on progress twice a year to the Commission and regularly to the Management Board and the Executive 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 submit them to the Management Board for adoption;
 - (q) reporting to the Management Board on the implementation of the European Plan for Aviation Safety;
 - (r) responding to requests for assistance from the Commission made in accordance with this Regulation;
 - (s) accepting the transfer of responsibilities to the Agency in accordance with Articles 53 and 54;
 - (t) the day-to-day administration of the Agency.
4. The Executive Director shall also be responsible for deciding whether it is necessary for the purpose of carrying out the Agency's tasks in an efficient and effective manner to establish one or more local offices in one or more Member States. That decision requires the prior consent of the Commission, the Management Board and 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 in a manner that avoids unnecessary costs and duplication of administrative functions of the Agency.

Article 92

Executive Director

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

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

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

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

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

Article 93

Powers of the Board of Appeal

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

Article 94

Composition of the Board of Appeal

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

Article 95

Members of the Board of Appeal

1. The term of office of the members of a Board of Appeal, including the Chairperson and any alternates, shall be five years and shall be extendable for a further five years.

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

Article 96

Exclusion and objection

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

Article 97

Decisions subject to appeal

1. An appeal may be brought against decisions of the Agency taken pursuant to Articles 53, 54, 55, 66, 67, 68, 69, 70, 71 or 115.
2. An appeal lodged pursuant to paragraph 1 shall not have suspensory effect. The Agency may, however, if it considers that circumstances so permit, suspend the application of the decision appealed against.
3. An appeal against a decision which does not terminate proceedings as regards one of the parties may only be made in conjunction with an appeal against the final decision, unless the decision provides for separate appeal.

Article 98

Persons entitled to appeal

Any natural or legal person may appeal against a decision addressed to that person, or against a decision which, although in the form of a decision addressed to another

person, is of direct and individual concern to the former. The parties to proceedings may be party to the appeal proceedings.

Article 99

Time limit and form

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

Article 100

Interlocutory revision

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

Article 101

Examination of appeals

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

Article 102

Decisions on appeal

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

Article 103

Actions before the Court of Justice of the European Union

1. Actions may be brought before the Court of Justice of the European Union for the annulment of legally binding acts of the Agency, for failure to act and, in accordance with Article 84, for the non-contractual liability and, pursuant to an arbitration clause, the contractual liability for damages caused by acts of the Agency.

2. Actions for the annulment of decisions of the Agency taken pursuant to Articles 53, 54, 55, 66, 67, 68, 69, 70, 71 or 115 may be brought before the Court of Justice of the European Union only after all appeal procedures within the Agency have been exhausted.
3. Member States and Union institutions may bring actions against decisions of the Agency directly before the Court of Justice of the European Union, without being required to exhaust the appeal procedures within the Agency.
4. The Agency shall take all necessary measures to comply with the judgment of the Court of Justice of the European Union.

SECTION III

WORKING METHODS

Article 104

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

1. The Management Board shall establish transparent procedures for issuing opinions, certification specifications, acceptable means of compliance and guidance material referred to in Article 65(1) and (3).
Those procedures shall:
 - (a) draw on expertise available in the national competent authorities;
 - (b) whenever necessary, involve experts from relevant interested parties or draw on expertise from the relevant European standardisation bodies or other specialised bodies;
 - (c) ensure that the Agency publishes documents and consults widely with interested parties, in accordance with a timetable and a procedure which includes an obligation on the Agency to make a written response to the consultation process.
2. When the Agency, pursuant to Article 65(1) and (3), develops opinions, certification 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 also involve the European Defence Agency. When consultation relating to the possible social impact of those measures of the Agency is required, the Agency shall involve stakeholders, including the EU social partners.
3. The Agency shall publish the opinions, certification specifications, acceptable means of compliance and guidance material developed pursuant to Article 65(1) and (3) and the procedures established pursuant to paragraph 1 of this Article in the official publication of the Agency.

Article 105

Procedures for taking decisions

1. The Management Board shall establish transparent procedures for taking individual decisions as provided for in Article 65(4).
Those procedures shall in particular:
 - (a) ensure the hearing of the natural or legal person to be addressed in the decision and of any other party with a direct and individual concern;
 - (b) provide for notification of the decision to natural or legal persons and for its publication, subject to the requirements of Articles 112 and 121(2);
 - (c) provide for the natural or legal person to whom the decision is addressed, and any other parties to proceedings, to be informed of the legal remedies available to them under this Regulation;
 - (d) ensure that the decision contains reasons.
2. The Management Board shall establish procedures specifying the conditions under which decisions are notified to the persons concerned, including information on the available appeal procedures as provided for in this Regulation.

Article 106

Annual and multi-annual programming

1. By 31 December each year, in accordance with Article 85(2)(c), the Management Board shall adopt a programming document containing multi-annual and annual programming, based on a draft put forward by the Executive Director, taking into account the opinion of the Commission and in relation to multiannual programming after consulting the European Parliament. It 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. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management, indicating which activities are to be financed through the regulatory budget and which activities are to be financed through fees and charges received by the Agency. The annual work programme shall be coherent with the multi-annual work programme referred to in paragraph 4. It shall clearly indicate tasks that have been added, changed or deleted in comparison with the previous financial year. Annual programming shall include the Agency's strategy concerning its activities related to international cooperation in accordance with Article 77 and the Agency's actions linked to that strategy.
3. The Management Board shall amend the adopted annual work programme when a new task is given to the Agency.

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

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

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

Article 107

Consolidated annual activity report

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

Article 108

Transparency and communication

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

SECTION IV

FINANCIAL REQUIREMENTS

Article 109

Budget

1. Without prejudice to other revenues, the revenues of the Agency shall comprise:
 - (a) a contribution from the Union;
 - (b) a contribution from any European third country with which the Union has concluded an international agreements as referred to in Article 118;
 - (c) the fees paid by applicants for, and holders of, certificates issued by the Agency, and by persons who have registered declarations with the Agency;
 - (d) charges for publications, training and any other services provided and for the processing of appeals by the Agency;
 - (e) any voluntary financial contribution from Member States, third countries or other entities, provided that such a contribution does not compromise the independence and impartiality of the Agency;
 - (f) charges paid in accordance with Regulation (EU) No (XXXX/XXX) on the implementation of the Single European Sky for relevant ATM/ANS authority tasks;
 - (g) grants.
2. The expenditure of the Agency shall include staff, administrative, infrastructure and operational expenditure. In respect of operational expenditure, budgetary commitments for actions which extend over more than one financial year may be broken down over several years into annual instalments, where necessary.
3. Revenue and expenditure shall be in balance.
4. Regulatory budgets, the fees set and collected for certification activities and charges levied by the Agency shall be dealt with separately in the Agency's accounts.
5. The Agency shall adapt its staff planning and management of resources related to fees and charges in a manner that enables it to swiftly respond to fluctuations in revenue from fees and charges.
6. Each year, the Executive Director shall draw up a draft statement of estimates of the Agency's revenue and expenditure for the following financial year, including a draft establishment plan, and send it to the Management Board. 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 transfers of responsibility in accordance with Articles 53, 54 and 55. The Management Board shall, on the basis of that draft, adopt a provisional draft estimate of revenue and expenditure of the Agency for the following financial year. The provisional draft estimate of the Agency's revenue and expenditure shall be sent to the Commission by 31 January each year.

7. The Management Board shall send the final draft estimate of the revenue and expenditure of the Agency, which shall include the draft establishment plan together with the provisional work programme, by 31 March at the latest to the Commission and to the European third countries with which the Union has concluded international agreements as referred to in Article 118.
8. The Commission shall send the statement of estimates to the budgetary authority together with the draft general budget of the European Union.
9. On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the contribution to be charged to the general budget, which it shall place before the budgetary authority in accordance with Articles 313 and 314 of the TFEU.
10. The budgetary authority shall authorise appropriations for the contribution to the Agency and shall adopt the establishment plan of the Agency.
11. The budget shall be adopted by the Management Board. It shall become final following final adoption of the general budget of the Union. Where appropriate, it shall be adjusted accordingly.
12. The Management Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of the budget, in particular any projects relating to property such as the rental or purchase of buildings and it shall inform the Commission thereof. For any building project likely to have significant implications for the budget of the Agency, the provisions of Commission Delegated Regulation (EU) No 1271/2013²⁵ shall apply.

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

Article 110

Implementation and control of the budget

1. The Executive Director shall implement the budget of the Agency.
2. By 1 March at the latest following each financial year, the Agency's accounting officer shall communicate the provisional accounts to the Commission's accounting officer and to the Court of Auditors. The Agency's accounting officer shall also send a report on the budgetary and financial management for that financial year to the Commission's accounting officer by 1 March following each financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 147 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council²⁶.

²⁵ 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).

²⁶ 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 at the latest following each financial year, the Executive Director shall forward the report on the budgetary and financial management for that financial year to the Commission, the Court of Auditors, the European Parliament and the Council.
4. Pursuant to Article 148 of Regulation (EU, Euratom) No 966/2012, on receipt of the Court of Auditors' observations on the Agency's provisional accounts, the accounting officer shall draw up the Agency's final accounts under his or her own responsibility and the Executive Director shall submit them to the Management Board for an opinion.
5. The Management Board shall deliver an opinion on the Agency's final accounts.
6. The accounting officer shall, by 1 July at the latest following each financial year, forward the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board's opinion.
7. The final accounts shall be published in the *Official Journal of the European Union* by 15 November of the following year.
8. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He or she shall also send that reply to the Management Board and the Commission.
9. The Executive Director shall submit to the European Parliament, at the latter's request, any information necessary for the smooth application of the discharge procedure for the financial year in question, as provided for by Article 165(3) of Regulation (EU, Euratom) No 966/2012.
10. The European Parliament, on a recommendation from the Council acting by a qualified majority, shall, before 15 May of year N + 2, give a discharge to the Executive Director in respect of the implementation of the budget for year N.

Article 111

Combating fraud

1. In order to combat fraud, corruption and other unlawful activities, the provisions of Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council²⁷ 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)²⁸ within six months from *[OP please insert the exact date, as referred to in Art. 127]* and shall adopt the appropriate provisions applicable to its staff using the template set out in the Annex to that Agreement.
3. The European Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds from the Agency.

²⁷ 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).

²⁸ OJ L 136, 31.5.1999, p. 15.

4. OLAF may carry out investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the Agency, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/96²⁹.
5. Without prejudice to paragraphs 1, 2, 3, and 4, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions of the Agency shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

Article 112

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

The Agency shall adopt own security rules equivalent to the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, as set out in the Commission Decisions (EU, Euratom) 2015/443³⁰ and 2015/444³¹. The security rules of the Agency shall cover, inter alia, provisions for the exchange, processing and storage of such information.

Article 113

Evaluation

1. Not later than [*five years after the date referred to in Article 127 – OP please insert the exact date*], and every five years thereafter, the Commission shall commission 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, in particular, address the possible need to modify the mandate of the Agency, and the financial implications of any such modification.
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. The findings of the evaluation shall be made public.

Article 114

Financial rules

²⁹ 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).

³⁰ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

³¹ 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).

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

Article 115

Fees and charges

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 117 in order to lay down, on the basis of paragraphs 3, 4, 5 and 6 detailed rules relating to fees and charges levied by the Agency.
2. The Commission shall consult the Agency before adopting the rules referred to in paragraph 1.
3. The rules referred to in paragraph 1 shall determine in particular the matters for which fees and charges pursuant to Article 109(1)(c) and (d) are due, the amount of the fees and charges and the way in which they are paid.
4. Fees and charges shall be levied for:
 - (a) the issuing and renewal of certificates and the registration of declarations by the Agency pursuant to this Regulation, as well as its oversight activities concerning the activities to which those certificates and declarations relate;
 - (b) publications, training and the provision of any other service by the Agency, which shall reflect the actual cost of each individual service provided;
 - (c) the processing of appeals.All fees and charges shall be expressed, and payable, in euro.
5. The amount of the fees and charges shall be fixed at such a level as to ensure that the revenue in respect thereof covers the full cost of the activities related to the services delivered, and to avoid a significant accumulation of surplus. All expenditure of the Agency attributed to staff involved in activities referred to in paragraph 3, in particular the employer's pro-rata contribution to the pension scheme, shall be reflected in that cost. The fees and charges shall be assigned revenues for the Agency for activities related to services for which fees and charges are due.
6. Budgetary surpluses generated through fees and charges shall fund future activities related to fees and charges or offset losses. Where a significant positive or negative budget result becomes recurrent, the level of fees and charges shall be revised.

CHAPTER VI

FINAL PROVISIONS

Article 116

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 4 thereof, shall apply.

Article 117

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 2(3)(d), Article 18, Article 25, Article 28, Article 34, Article 39, Article 44, Article 47, Article 50, Article 51(10), Article 52(5), Article 72(4) and Article 115(1) shall be conferred on the Commission for an indeterminate period of time.
3. The delegation of power referred to in Article 2(3)(d), Article 18, Article 25, Article 28, Article 34, Article 39, Article 44, Article 47, Article 50, Article 51(10), Article 52(5), Article 72(4) and Article 115(1) 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. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 2(3)(d), Article 18, Article 25, Article 28, Article 34, Article 39, Article 44, Article 47, Article 50, Article 51(10), Article 52(5), Article 72(4) and Article 115(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 118

Participation of European third countries

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

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

the competent authority of the European third country concerned in order to give effect to those provisions.

Article 119

Headquarters Agreement and operating conditions

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

Article 120

Penalties

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

Article 121

Processing of personal data

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

Article 122

Repeal

Regulation (EC) No 216/2008 is repealed.

References to Regulation (EC) No 216/2008 shall be construed as references to this Regulation and read in accordance with the correlation table in Annex X.

Article 123

Amendments to Regulation (EC) No 1008/2008

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

1. in Article 4, point (b) is replaced by the following:
"(b) it holds a valid AOC issued by a national authority of a Member State or by the European Union Aviation Safety Agency;"
2. Article 6 is replaced by the following:

"Article 6

Air operator certificate

1. The granting and validity of an operating licence shall at any time be dependent upon the possession of a valid AOC specifying the activities covered by the operating licence.

2. Any modification in the AOC of a Community air carrier shall be reflected, where appropriate, in its operating licence.

Where the two authorities are different, the authority competent for the AOC shall immediately inform the competent licensing authority about any such modifications.

3. Where the two authorities are different, the authority competent for the AOC and the competent licensing authority shall establish procedures for the exchange of any information relevant to the assessment of the financial situation of the Community air carrier which may affect the safety of its operations or which may assist the authority competent for the AOC in performing its oversight activities related to safety.";

3. in Article 12, paragraph 1 is replaced by the following:

"1. Without prejudice to Article 13(3) and (5), aircraft used by a Community air carrier shall be registered, at the option of the Member State whose competent authority issues the operating licence, either in its national register or within the Union.";

4. Article 13 is amended as follows:

- (a) paragraph 2 is replaced by the following:

"2. A dry lease agreement to which a Community air carrier is a party or a wet lease agreement under which the Community air carrier is the lessee of the wet-leased aircraft operated by a third country operator shall be subject to prior approval in accordance with Regulation (EU) No [XX/XXX *reference to this Regulation to be inserted*] and the delegated and implementing acts adopted on the basis thereof.";

- (b) the following paragraph 5 is added:

"5. A Community air carrier dry leasing aircraft registered in a third country shall obtain prior approval from the authority competent for its AOC. The competent authority shall grant an approval in accordance with Regulation (EU) No [XX/XXX *reference to this Regulation to be inserted*] and the delegated and implementing acts adopted on the basis thereof.".

Article 124

Amendments to Regulation (EU) No 996/2010

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

- "1. Every accident or serious incident involving aircraft to which Regulation (EU) YYYY/N [ref. to new regulation] of the European Parliament and of the Council* applies shall be the subject of a safety investigation in the Member State in which the accident or serious incident occurred.
2. Where an aircraft to which Regulation (EU) YYYY/N-[ref. to new regulation] applies and which is registered in a Member State is involved in an accident or a serious incident the location of which cannot be definitely established as being in the territory of any State, a safety investigation shall be conducted by the safety investigation authority of the Member State of registration.
3. The extent of safety investigations referred to in paragraphs 1, 2 and 4 and the procedure to be followed in conducting such safety investigations shall be determined by the safety investigation authority, taking into account the lessons it expects to draw from such investigations for the improvement of aviation safety.
4. Safety investigation authorities may decide to investigate incidents other than those referred to in paragraphs 1 and 2, as well as accidents or serious incidents to other types of aircraft, in accordance with the national legislation of the Member States, when they expect to draw safety lessons from them.
5. By way of derogation from paragraphs 1 and 2, the responsible safety investigation authority may decide, taking into account the expected lessons to be drawn for the improvement of aviation safety, not to initiate a safety investigation when an accident or serious incident concerns an unmanned aircraft for which a certificate or declaration is not required pursuant to Article 46(1) and (2) of Regulation (EU) YYYY/N-[ref. to new regulation], or concerns a manned aircraft with a maximum take-off mass less than or equal to 2 250 kg, and where no person has been fatally or seriously injured.
6. Safety investigations referred to in paragraphs 1, 2 and 4 shall in no case be concerned with apportioning blame or liability. They shall be independent of, separate from and without prejudice to any judicial or administrative proceedings to apportion blame or liability.'

Article 125

Amendments to Regulation (EU) No 376/2014

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

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

However, this Regulation shall not apply to occurrences and other safety-related information involving unmanned aircraft for which a certificate or declaration is not required pursuant to Article 46(1) and (2) of Regulation (EU) YYYY/N-[ref. to new regulation], unless the occurrence or other safety-related information involving such unmanned aircraft resulted in a fatal or serious injury to a person or it involved aircraft other than unmanned aircraft.

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

Article 126

Transitional provisions

1. The certificates issued or recognised and the declarations made or recognised in accordance with Regulation (EC) No 216/2008 shall continue to be valid and shall be considered to have been issued, made and recognised pursuant to the corresponding provisions of this Regulation, including for the purposes of applying Article 56.
2. Not later than [*five years after the date referred to in Article 127 – OP please insert the exact date*] the implementing rules adopted on the basis of Regulation (EC) No 216/2008 shall be adapted to the provisions of this Regulation. Until adaptation, any references in those implementing rules to:
 - (a) 'commercial operation' shall be understood as a reference to Article 3(i) of Regulation (EC) No 216/2008;
 - (b) 'complex motor-powered aircraft' shall be understood as a reference to Article 3(j) of Regulation (EC) No 216/2008;
 - (c) 'appliances' shall be understood as a reference to Article 3(28) of this Regulation;
 - (d) 'leisure pilot licence' shall be understood as a reference to the licence referred to in Article 7(7) of Regulation (EC) No 216/2008;
 - (e) 'commercial air transport' shall be understood as a reference to Article 2(1) of Commission Regulation (EU) No 965/2012³².
3. By way of derogation from Articles 45 and 46, the relevant provisions of Regulation (EC) 216/2008 shall continue to apply until the delegated acts adopted pursuant to Article 47 enter into force.
4. Member States shall terminate or adjust existing bilateral agreements that they concluded with third countries, for those fields covered by this Regulation as soon as possible following the entry into force of this Regulation and in any event before [*three years after the date referred to in Article 127 – OP please insert the exact date*].

Article 127

Entry into force

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

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

³²

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).

Done at Brussels,

*For the European Parliament
The President*

*For the Council
The President*

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
- 1.4. Objective(s)
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management mode(s) planned

2. MANAGEMENT MEASURES

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
 - 3.2.1. Summary of estimated impact on expenditure
 - 3.2.2. Estimated impact on operational appropriations
 - 3.2.3. Estimated impact on appropriations of an administrative nature
 - 3.2.4. Compatibility with the current multiannual financial framework
 - 3.2.5. Third-party contributions
- 3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

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 the Council

1.2. Policy area(s) concerned in the ABM/ABB structure³³

06 - Mobility and Transport
06 02 - European Transport Policy
06 02 02 - European Aviation Safety Agency

1.3. Nature of the proposal/initiative

- ☐ The proposal/initiative relates to **a new action**
- ☐ The proposal/initiative relates to **a new action following a pilot project/preparatory action³⁴**
- ☒ The proposal/initiative relates to **the extension of an existing action**
- ☐ The proposal/initiative relates to **an action redirected towards a new action**

1.4. Objective(s)

1.4.1. The Commission's multiannual strategic objective(s) targeted by the proposal/initiative

A deeper and fairer internal market with a strengthened industrial base: a competitive Single European Transport area to provide citizens and businesses with a framework for safe, efficient and high quality transport.

Jobs and growth: The initiative aims at contributing to a competitive European aviation industry which generates high-value jobs and drives technological innovation. It will create an effective regulatory framework for the integration of new business models and emerging technologies.

1.4.2. Specific objective(s) and ABM/ABB activity(ies) concerned

Specific objective No

The specific objectives of this initiative are as follows:

- 1) Eliminate unnecessary requirements and ensure that regulation is proportionate to the risks associated with different types of aviation activities;
- 2) Ensure that new technologies and market developments are efficiently integrated and effectively overseen;
- 3) Establish a cooperative safety management process between the Union and its Member States to jointly identify and mitigate risks to civil aviation;

³³

ABM: activity-based management; ABB: activity-based budgeting.

³⁴

As referred to in Article 54(2)(a) or (b) of the Financial Regulation.

- 4) Close the gaps in the regulatory system and ensure its consistency;
- 5) Create an effectively working system of pooling and sharing of resources between the Member States and the Agency.

ABM/ABB activity(ies) concerned

06 02 European Transport Policy

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

Results of specific objective 1: framework for eliminating unnecessary/overly prescriptive rules; introduction of performance based rules identifying objectives to be achieved, but leaving flexibility as to the means for achieving the objectives; framework for adapting rules to the risk involved in the activity they regulate;

Results of specific objective 2: Introduction of technology neutral rules where possible, introduction of legal framework for unmanned aircraft; increased use of industry standards; simplified regulatory framework for wet leasing of aircraft between EU operators;

Results of specific objective 3: legal obligation to adopt European Aviation Safety Programme, European Plan for Aviation Safety and State Safety Programmes which draw on each other; improved information and data exchange and analysis;

Results of specific objective 4: introduction of essential requirements for ground handling, environmental protection with respect to aeronautical products, as well as cyber-security; closer cooperation between EASA and the Commission in security matters; legal basis for aviation environmental protection review;

Results of specific objective 5: creation of a pool of EU-accredited inspectors; creation of an emergency oversight mechanism; legal framework for transferring regulatory responsibilities to other Member States or EASA; possibility to allocate certification and oversight tasks to competent user organisations in the general aviation sector; promotion of risk and performance based oversight methods; establishment of a European repository for information relevant for cooperation between authorities in certification, oversight and enforcement; possibility to opt into Union system for state aircraft and Annex II aircraft;

1.4.4. *Indicators of results and impact*

Specify the indicators for monitoring implementation of the proposal/initiative.

Indicators for specific objective 1:

- Number of questions of interpretation of rules received by EASA;
- Number of operators using performance based rules for demonstrating compliance with essential requirements;
- Number of private pilot licences in general aviation
- Reduction in costs for operators

Indicators for specific objective 2:

- Number of rules making reference to industry standards;
- Age of general aviation fleet in EU;
- Reduction in costs of aircraft certification and production;
- Number of new certifications;

Indicators for specific objective 3:

- Accident rate in relation to traffic growth;
- Results of EASA standardisation and continuous monitoring activities

- Number of State Safety Programmes and their implementation level in Member States;

Indicators for specific objective 4:

- Number of questions of interpretation of revised rules received by EASA;
- Number of risk-bearing occurrences involving ground handling;
- Feedback from stakeholders;

Indicators for specific objective 5:

- Results of EASA standardisation and continuous monitoring activities with regard to resources and competences in Member States;
- Number of Member States making use of EU aviation safety inspectors, and of new instruments for pooling and sharing of resources (delegation of responsibilities, opt-in for state and Annex II aircraft);
- Evolution of resources in national aviation authorities of Member States measured in terms of FTEs and budget;

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term

Ensure that a high level of civil aviation safety is maintained also under growing traffic volumes.

Contribute to the competitiveness of the aviation sector by rendering the European civil aviation system more efficient while ensuring high safety and environmental standards.

ICAO requirements for Member States to adopt State Safety Programmes.

1.5.2. Added value of EU involvement

Air transport is to a large extent of transnational character and therefore, by nature, calls for a regulatory approach at EU-level.

There is a general understanding of the Member States that common rules are necessary in the area of civil aviation safety to reach a high level of safety. This was manifested already by the initial adoption of Regulation (EC) No 216/2008 and its predecessor Regulation (EC) No 1592/2002. The safety of the European civil aviation system depends inter alia on how well the elements of this system interlink. Any interface in this system constitutes a risk that requires coordination. Common legislation does away with the need to coordinate between Member States regulatory systems and as such contributes to an increase in safety. Promoting a common European safety system can most effectively be achieved only at EU level. Similarly, efficiency gains will stem from a single European civil aviation safety system countering costly fragmentation.

1.5.3. Lessons learned from similar experiences in the past

The initiative is based inter alia on a thorough analysis of the experience gained from the application of Regulation (EC) No 216/2008 and its predecessor Regulation (EC)

1592/2002 including the 2013 evaluation of the functioning of Regulation (EC) No 216/2008 conducted under Article 62 of that Regulation.

1.5.4. *Compatibility and possible synergy with other appropriate instruments*

This initiative constitutes a deliverable under the Aviation package due to be adopted at the end of 2015 and will contribute to the competitiveness of the EU aviation sector.

The initiative is in line with the Transport White Paper of 2011 aiming at Europe becoming the safest region for aviation.

The initiative is furthermore in line with the Europe 2020 strategy and the Commission priorities by developing the internal market and fostering innovation thus positively impacting jobs and growth, and global competitiveness of the aviation sector.

As regards governance issues of EASA, the initiative is consistent with and implements recommendations of the Joint Statement of the Commission, the European Parliament and the Council on decentralised agencies.

1.6. Duration and financial impact

- ☐ Proposal/initiative of **limited duration**
 - ☐ Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
 - ☐ Financial impact from YYYY to YYYY
- ☒ Proposal/initiative of **unlimited duration**
 - Implementation with a start-up period from YYYY to YYYY,
 - followed by full-scale operation.

1.7. Management mode(s) planned³⁵

- ☐ **Direct management** by the Commission
 - ☐ by its departments, including by its staff in the Union delegations;
 - ☐ by the executive agencies
- ☐ **Shared management** with the Member States
- ☒ **Indirect management** by entrusting budget implementation tasks to:
 - ☐ third countries or the bodies they have designated;
 - ☐ international organisations and their agencies (to be specified);
 - ☐ the EIB and the European Investment Fund;
 - ☒ bodies referred to in Articles 208 and 209 of the Financial Regulation;
 - ☐ public law bodies;
 - ☐ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
 - ☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
 - ☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.
 - *If more than one management mode is indicated, please provide details in the 'Comments' section.*

Comments

none

³⁵

Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

Ample mechanisms for monitoring and evaluation already exist and can be used, due to the fact that in the field of civil aviation safety the monitoring of performance is an integral element of the Union regulatory framework. The effectiveness of the proposed measure, once adopted, will be subject to a mandatory evaluation every five years, as is the case under the current Regulation (EC) No 216/2008.

The annual reporting requirements of the Agency include the preparation of the consolidated annual activity report and the preparation of the final accounts.

2.2. Management and control system

2.2.1. Risk(s) identified

none

2.2.2. Information concerning the internal control system set up

As a Union agency EASA applies the applicable control methods of decentralised agencies which have already been laid down in Regulation (EC) No 216/2008.

The EASA Financial Regulation which is based on the Framework Financial Regulation for Agencies sets out the appointment of an internal auditor and internal audit requirements.

2.2.3. Estimate of the costs and benefits of the controls and assessment of the expected level of risk of error

n. a.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

Article 111 of the proposed regulation regards combating fraud. It renders Regulation (EU, Euratom) No 883/2013 on investigations conducted by OLAF applicable to EASA and empowers OLAF and the Court of Auditors to conduct further audits and investigations. The article corresponds to the model text for decentralised agencies.

Furthermore, EASA has adopted an anti-fraud strategy on 9 December 2014.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number Heading.....	Diff./Non-diff. ³⁶	from EFTA countries ³⁷	from candidate countries ³⁸	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
1 Smart and inclusive growth a) Competitiveness for growth and jobs	06 02 02 European Aviation Safety Agency	Diff.	YES	NO	YES*	NO

- * Contribution from Switzerland following Decision No 1/2007 (2008/100/EC)

- New budget lines requested n. a.

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number Heading.....	Diff./Non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
	[XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

³⁶ Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

³⁷ EFTA: European Free Trade Association.

³⁸ Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure³⁹

EUR million (to three decimal places)

Heading of multiannual financial framework	Number 1a	Heading 1a Competitiveness for Growth and Jobs
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DG: MOVE			Year N ⁴⁰	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
• Operational appropriations										
Number of budget line 06 02 02	Commitments	(1)	34,870 + 1,575 = 36,445	34,870 + 2,045 = 36,915	35,568 + 1,395 = 36,963	36,279 + 1,395 = 37,674				Proposal of unlimited duration
	Payments	(2)	36,445	36,915	36,963	37,674				Proposal of unlimited duration
Appropriations of an administrative nature financed from the envelope of specific programmes ⁴¹ n. a.										
Number of budget line		(3)								
TOTAL appropriations for DG MOVE	Commitments	=1	36,445	36,915	36,963	37,674				Proposal of unlimited duration
	Payments	=2	36,445	36,915	36,963	37,674				Proposal of unlimited duration

³⁹ Expenditures to be adjusted according to agreement reached by Cabinets on additional posts and contract agents.

⁴⁰ Year N is the year in which implementation of the proposal/initiative starts.

⁴¹ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

TOTAL appropriations under HEADING 1a of the multiannual financial framework	Commitments		36,445	36,915	36,963	37,674				Proposal of unlimited duration
	Payments		36,445	36,915	36,963	37,674				Proposal of unlimited duration

Heading of multiannual financial framework	5	‘Administrative expenditure’
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EUR million (to three decimal places)

		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
DG: MOVE									
• Human resources Basis for calculation: current level of budget for staff at DG MOVE dealing with Regulation (EC) 216/2008 and EASA related issues (7 FTE x EUR 132 000 /year = EUR 924 000)		0,924	0,924	0,924	0,924				Proposal of unlimited duration
• Other administrative expenditure		0	0	0	0				
TOTAL DG MOVE	Appropriations	0,924	0,924	0,924	0,924				Proposal of unlimited duration

TOTAL appropriations under HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)	0,924	0,924	0,924	0,924				
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EUR million (to three decimal places)

		Year N ⁴²	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments	37,369	37,839	37,887	38,598				Proposal of unlimited duration
	Payments	37,369	37,839	37,887	38,598				Proposal of

⁴² Year N is the year in which implementation of the proposal/initiative starts.

								unlimited duration
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3.2.1.1 Proposed draft establishment plan for EASA 2017-2020

Proposed staffing for EASA 2017-2020 (Total)*	2016**	2017	2018	2019	2020
AD grades	548	541	540	540	540
New AD grades		5			
Total AD	548	546	540	540	540
AST grades	128	123	118	118	118
New AST grades					
Total AST	128	123	118	118	118
Total Establishment Plan Posts	676	669	658	658	658

* These figures will be adjusted in the light of a system of flexibility for posts related to fees and charges to be developed based on a set of indicators regarding workload and efficiency of the Agency to be approved by the Commission. At the latest at the time of the adoption of the 2017 draft budget, the Commission will present a revised Legislative Financial Statement with respect to the detail how a system of flexibility for posts related to fees and charges would work in practice, and what the corresponding impact on the Agency's establishment plan would be. Awaiting the results of this ongoing work, the Legislative Financial Statement accompanying the present proposal sets out a steady state for the number of posts related to fees and charges, on the basis of the Commission's Communication on the programming of human and financial resources of decentralised agencies 2014-2020 adjusted to the decisions taken by the budgetary authority in the budget procedure for 2016 and prior ones.

** The 2016 figures are subject to the adoption of the final budget by the budgetary authority. The figures for the years 2017 – 2020 may need to be adapted following the adoption of the final budget each year.

Proposed staffing for EASA 2017-2020 (EU contribution) *	2016	2017	2018	2019	2020
AD grades	175	177	184	184	184
New AD grades		5			
Total AD	175	182	184	184	184
AST grades	50	46	42	42	42
New AST grades					
Total AST	50	46	42	42	42
Total Establishment Plan Posts	225	228	226	226	226

* These figures include the application of the 2% reduction (1% staff reduction and 1% annual levy for the redeployment pool) up to 2018 and the additional posts foreseen for TCO and RPAS as set out in the Annex I of the Communication on the programming of human and financial resources (COM(2013)519).

Proposed staffing for EASA 2017-2020 (Fees and charges)*	2016	2017	2018	2019	2020
AD grades	373	364	356	356	356
New AD grades					
Total AD	373	364	356	356	356
AST grades	78	77	76	76	76
New AST grades					
Total AST	78	77	76	76	76
Total Establishment Plan Posts	451	441	432	432	432

* These figures will be adjusted in the light of a system of flexibility for posts related to fees and charges to be developed based on a set of indicators regarding workload and efficiency of the Agency to be approved by the Commission. At the latest at the time of the adoption of the 2017 draft budget, the Commission will present a revised Legislative Financial Statement with respect to the detail how a system of flexibility for posts related to fees and charges would work in practice, and what the corresponding impact on the Agency's establishment plan would be. Awaiting the results of this ongoing work, the Legislative Financial Statement accompanying the present proposal sets out a steady state for the number of posts related to fees and charges, on the basis of the Commission's Communication on the programming of human and financial resources of decentralised agencies 2014-2020 and adjusted to the decisions taken by the budgetary authority in the budget procedure for 2016 and prior ones.

3.2.2. Estimated impact on operational appropriations

- ☐ The proposal/initiative does not require the use of operational appropriations
- ☒ The proposal/initiative requires the use of operational appropriations⁴³, as explained below:
- (Basis for calculation: total average cost of 1 FTE: EUR 132 000)

Commitment appropriations in EUR million (to three decimal places)

Indicate objective s and outputs ↓			Year N		Year N+1		Year N+2		Year N+3		Enter as many years as necessary to show the duration of the impact (see point 1.6)						TOTAL	
	OUTPUTS																	
			No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 ⁴⁴ Eliminate unnecessary requirements and ensure that regulation is proportionate to the risks associated with different types of aviation activities			No additional impact for EASA as outputs will be absorbed by present appropriations.															
Subtotal for specific objective No 1			0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
SPECIFIC OBJECTIVE No 2 Ensure that new technologies and market developments are efficiently integrated and effectively overseen			No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost

⁴³ Appropriations to be adjusted according to agreement reached by Cabinets on additional posts and contract agents.

⁴⁴ As described in point 1.4.2. 'Specific objective(s)...'

New legal framework for unmanned aircraft																
Subtotal for specific objective No 2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
SPECIFIC OBJECTIVE No 3 Establish a cooperative safety management process between the Union and its Member States to jointly identify and mitigate risks to civil aviation	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
European repository (Art. 28): basic data for decision-making and monitoring (incl. 1 CA/year, one-off IT costs of EUR 0,3m in year n and n+1, and annual running costs of EUR 0,20m)		0,535		0,570		0,270		0,270								Proposal of unlimited duration
"Big Data": data and analysis for European aviation system (staff costs of 2 FTE + 1 CA/year, excluding operating costs)		0,167		0,334		0,334		0,334								Proposal of unlimited duration
Subtotal for specific objective No 3		0,702		0,904		0,604		0,604								Proposal of unlimited duration
SPECIFIC OBJECTIVE No 4 Close the gaps in the regulatory system and ensure its consistency	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
Ground handling: set up and maintain system of common requirements (Art. 11) (staff costs of 1 FTE/year)		0,066		0,132		0,132		0,132								Proposal of unlimited duration

Harmonisation of Security and Safety aspects; Support to rulemaking and inspections (Art. 40) (.staff costs of 1 FTE/year)		0,066		0,132		0,132		0,132								Proposal of unlimited duration
New European Certification requirements for Environmental Protection and Report (Art. 39) (incl. 1 FTE/year and annual IT costs of EUR 0,15m)		0,216		0,282		0,282		0,282								Proposal of unlimited duration
Subtotal for specific objective No 4		0,348		0,546		0,546		0,546								Proposal of unlimited duration
SPECIFIC OBJECTIVE No 5 Create an effectively working system of pooling and sharing of resources between the Member States and the Agency	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
Promotion of risk and performance based oversight methods		0,100		0,100		0,100		0,100								0,400
Pool of experts (Art. 17) (incl. 1CA, one-off costs of EUR 0,1m in year n and n+1 and annual running costs of EUR 5000)		0,140		0,175		0,075		0,075								Proposal of unlimited duration
Setting up framework for delegation of responsibilities (Art. 18)		0,175		0,175		0,00		0,00								0,350
Ensure common training standards (Art. 43) (incl. 1 CA/year and one-off costs for training material in year n and n+1 of EUR 0,075m)		0,11		0,145		0,070		0,070								Proposal of unlimited duration

Subtotal for specific objective No 5		0,525		0,595		0,245		0,245								
TOTAL COST		1.575		2,045		1,395		1,395								

3.2.3. Estimated impact on appropriations of an administrative nature

3.2.3.1. Summary

- ☐ The proposal/initiative does not require the use of appropriations of an administrative nature
- ☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:
- Basis for calculation: current level of budget for staff at DG MOVE dealing with Regulation (EC) 216/2008 and EASA related issues (7 FTE x EUR 132 000 /year = EUR 924 000)

EUR million (to three decimal places)

	Year N ⁴⁵	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
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HEADING 5 of the multiannual financial framework								
Human resources	0,924	0,924	0,924	0,924				
Other administrative expenditure	0	0	0	0				
Subtotal HEADING 5 of the multiannual financial framework	0,924	0,924	0,924	0,924				

Outside HEADING 5⁴⁶ of the multiannual financial framework								
Human resources	0	0	0	0				
Other expenditure of an administrative nature	0	0	0	0				
Subtotal outside HEADING 5 of the multiannual financial framework	0	0	0	0				

TOTAL	0,924	0,924	0,924	0,924				
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The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

⁴⁵ Year N is the year in which implementation of the proposal/initiative starts.

⁴⁶ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

3.2.3.2. Estimated requirements of human resources

- ☐ The proposal/initiative does not require the use of human resources.
- ☒ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
• Establishment plan posts (officials and temporary staff)							
06 01 01 01 (Headquarters and Commission's Representation Offices)	7	7	7	7			
XX 01 01 02 (Delegations)	0	0	0	0			
XX 01 05 01 (Indirect research)	0	0	0	0			
10 01 05 01 (Direct research)	0	0	0	0			
• External staff (in Full Time Equivalent unit: FTE)⁴⁷							
XX 01 02 01 (AC, END, INT from the 'global envelope')	0	0	0	0			
XX 01 02 02 (AC, AL, END, INT and JED in the delegations)	0	0	0	0			
XX 01 04 yy ⁴⁸	0	0	0	0			
	0	0	0	0			
XX 01 05 02 (AC, END, INT - Indirect research)	0	0	0	0			
10 01 05 02 (AC, END, INT - Direct research)	0	0	0	0			
Other budget lines (specify)							
TOTAL	7	7	7	7			

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	Staff of DG MOVE dealing with matters related to civil aviation safety, environmental protection in aviation, and EASA, including: - managing the adoption and implementation of measures in result of EASA recommendations (Commission Decisions and Regulations); - administrative coordination and control of EASA: work programmes, multi-annual staff policy plans, meetings of management Board and other committees; - policy development and coordination - financial and accounting responsibilities regarding EASA at Commission level (budget, discharge, etc.)
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⁴⁷ AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JED= Junior Experts in Delegations.

⁴⁸ Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

External staff	
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3.2.4. Compatibility with the current multiannual financial framework

- ☐ The proposal/initiative is compatible the current multiannual financial framework.
- ☒ The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts⁴⁹.

Budget line : 06 02 02

In EUR million

N: 36,445

N+1: 36,915

N+2: 36,963

N+3: 37,674

- ☐ The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. Third-party contributions

- The proposal/initiative does not provide for co-financing by third parties.
- The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to three decimal places)

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Contribution from EEA/EFTA countries excluding Switzerland*	1,070	1,070	1,054	1,073				
Contribution from Switzerland**	1,0	1,0	1,0	1,0				
TOTAL appropriations co-financed	2, 070	2,070	2, 054	2,073				

* Based on the assumption of a contribution of 2,76% of the annual EU contribution. For the purpose of the calculation the assigned revenues deriving from previous years' surpluses is assumed to be 0.

** Approximation according to decision N° 1/2007 of the Joint Community/Switzerland Air Transport Committee set up under the agreement between the European Community and the Swiss Confederation on Air Transport (2008/100/EC)

⁴⁹ Amounts to be adjusted according to agreement reached by Cabinets on additional posts and number of contract agents.

3.3. Estimated impact on revenue

- ☒ The proposal/initiative has no financial impact on revenue.
- ☐ The proposal/initiative has the following financial impact:
 - ☐ on own resources
 - ☐ on miscellaneous revenue

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative ⁵⁰						
		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article								

For miscellaneous ‘assigned’ revenue, specify the budget expenditure line(s) affected.

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Specify the method for calculating the impact on revenue.

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⁵⁰

As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % for collection costs.