

COMMISSION REGULATION (EC) No 736/2006**of 16 May 2006****on working methods of the European Aviation Safety Agency for conducting standardisation inspections****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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 ⁽¹⁾, and in particular Article 16 thereof,

After consulting the committee referred to in Article 54(1) of Regulation (EC) No 1592/2002,

Whereas:

- (1) Article 12(2)(d) of Regulation (EC) No 1592/2002 requires the European Aviation Safety Agency, hereinafter referred to as 'the Agency', to conduct inspections and investigations as necessary to fulfil its tasks.
- (2) Articles 16(1) and 45(1) of Regulation (EC) No 1592/2002 request the Agency to assist the Commission in the monitoring of the application of its provisions, as well its implementing rules by conducting standardisation inspections of Member States' competent authorities.
- (3) Article 45(4) of Regulation (EC) No 1592/2002 stipulates that where an inspection of a Member State competent authority entails an inspection of an undertaking or an association of undertakings, the Agency should follow the provisions of its Article 46.
- (4) The Agency should report to the Commission on the inspections carried out in application of Article 45 of Regulation (EC) No 1592/2002.

(5) Article 16(4) of Regulation (EC) No 1592/2002 requires the Commission to set out the working methods of the Agency when conducting standardisation inspections.

(6) These working methods should take into account the legal provisions of Member States relating to the authorisation and empowerment of their personnel participating in inspections carried out by the Agency.

(7) Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations ⁽²⁾ foresees the procedure to be followed by national aviation authorities when carrying out these rules.

(8) Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks ⁽³⁾ foresees the procedure to be followed by national aviation authorities when carrying out these rules.

(9) The working methods provided for in this Regulation are without prejudice to the enforcement powers conferred by the Treaty on the Commission.

HAS ADOPTED THIS REGULATION:

*Article 1***Subject matter**

This Regulation lays down the working methods for conducting standardisation inspections of Member States' national aviation authorities in the fields covered by Article 1(1) of Regulation (EC) No 1592/2002.

⁽¹⁾ OJ L 240, 7.9.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 1701/2003 (OJ L 243, 27.9.2003, p. 5).

⁽²⁾ OJ L 243, 27.9.2003, p. 6. Regulation as amended by Regulation (EC) No 706/2006 (OJ L 122, 9.5.2006, p. 16).

⁽³⁾ OJ L 315, 28.11.2003, p. 1. Regulation as amended by Regulation (EC) No 707/2006 (OJ L 122, 9.5.2006, p. 17).

*Article 2***Definitions**

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

- (a) 'inspection' shall mean the standardisation inspection referred to in Articles 16(1) and 45 of Regulation (EC) No 1592/2002 carried out by the Agency for the purpose of monitoring the application of that Regulation and of its implementing rules by the national aviation authorities;
- (b) 'national aviation authorities' shall mean the competent authorities of Member States referred to in Article 45 of Regulation (EC) No 1592/2002;
- (c) 'authorised personnel of the Agency' shall mean the persons who are legally authorised by the Agency to carry out inspections of Member States competent authorities and inspections of undertakings or association of undertakings for the purpose of verifying the application of Regulation (EC) No 1592/2002 by these authorities;
- (d) 'authorised personnel of Member States' shall mean the persons legally authorised by the competent authorities of the Member States to assist the Agency in carrying out inspections.

*Article 3***Principles for carrying out inspections**

1. For the purpose of assessing compliance with the requirements of Regulation (EC) No 1592/2002 and its implementing rules, the Agency shall carry out inspections of national aviation authorities whereby it shall examine in particular compliance of these authorities with the provisions of the Annex, Part 21 to Regulation (EC) No 1702/2003 and Annexes I (Part M), II (Part 145), III (Part 66) and IV (Part 147) to Regulation (EC) No 2042/2003 and shall establish a report thereon.
2. Standardisation inspections may include, for the purpose of paragraph 1, inspections of undertakings or associations of undertakings under the oversight of the inspected national aviation authority.
3. Standardisation inspections shall be conducted in a transparent, effective, harmonised and consistent manner.

4. Standardisation inspections shall be conducted by the Agency on a regular and, where appropriate, on an ad-hoc basis.

5. The present Regulation is without prejudice to Articles 11 and 47 of Regulation (EC) No 1592/2002 and to Commission Decision 2001/844/EC, ECSC, Euratom ⁽¹⁾.

*Article 4***Exchange of information**

1. National aviation authorities shall provide the Agency upon request with all necessary information for the purpose of carrying out inspections.
2. When submitting such a request for information to a national aviation authority of a Member State and/or an undertaking or an association of undertakings the Agency shall state its legal basis and purpose, specify what information is required and fix the time-limit within which the information is to be provided.

*Article 5***Training and qualification criteria for inspection teams and team leaders**

1. The Agency shall establish training programmes for the appropriate qualification of its staff, as prospective authorised personnel of the Agency, and of the authorised personnel of Member States to participate in inspections of national aviation authorities and, where necessary, inspections of undertakings or associations of undertakings.
2. The Agency shall establish qualification criteria for its staff and for personnel of Member States who participate in inspection teams. Such qualification criteria shall include knowledge and experience of auditing techniques and theoretical knowledge and practical experience in the relevant technical matters covered by Regulation (EC) No 1592/2002 and its implementing rules.
3. Team leaders shall have significant working experience in the fields covered by Regulation (EC) No 1592/2002 and its implementing rules and at least 5 years as inspectors and/or auditors in the area of standardisation. Both team leaders and team members shall be trained in the applicable standardisation requirements and procedures. Team members shall have practical experience of at least 5 years in the relevant field covered by the inspection and shall be familiar with the concept of quality system investigation.

⁽¹⁾ OJ L 317, 3.12.2001, p. 1.

*Article 6***Setting up teams for inspections**

1. Inspections shall be carried out by teams set up by the Agency. Every team shall have a leader and a minimum of two members. In case of ad hoc inspections the Agency may adjust the size of the inspection teams. Team leaders shall be authorised personnel of the Agency. Team members may be authorised personnel of the Agency and/or of Member States.

2. Personnel of Member States who have been appropriately trained by the Agency, meet the qualification criteria established in Article 5 and have been participating in inspections of national aviation authorities and/or undertakings or associations of undertakings under their oversight, may be seconded by their national authorities to participate as authorised personnel of Member States in inspection teams lead by the Agency. Authorised personnel of Member States are excluded from inspections of the competent authority of their Member State.

3. The Agency shall ensure that, in setting up the teams, there shall be no conflict of interests either with the national authorities inspected or with the undertakings or associations of undertakings inspected. In case of authorised personnel of Member States, a declaration of absence of conflict of interest shall be issued by the national aviation authority seconding the official.

4. Member States shall appoint a national coordinator to assist the Agency at all stages of the process and shall ensure that the inspection team(s) are accompanied throughout the inspection.

5. The Agency shall request in due time before launching an inspection information from national aviation authorities as to the availability of authorised personnel of Member States for its conduct. In planning inspections the Agency shall endeavour to balance the participation of authorised personnel from different Member States.

6. Expenses arising from the participation of national coordinators as provided for in Article 9(1)(a) and of authorised personnel of Member States in inspections and investigations carried out by the Agency shall be borne, in compliance with Community rules and without prejudice to the annual Community budgetary procedure, by the Agency.

*Article 7***Conduct and reporting of inspections**

A standardisation inspection of a national aviation authority and, if necessary, an undertaking or an association of undertakings shall include the following phases:

- (a) a preparatory phase lasting a minimum of 10 weeks prior to the inspection;
- (b) a visiting phase;
- (c) a reporting phase lasting a maximum of 12 weeks following the inspection and;
- (d) a follow-up phase lasting a maximum of 16 weeks following the reporting phase;
- (e) a closure phase to take place at the end of the follow-up phase.

*Article 8***Preparatory phase**

During the preparatory phase the Agency shall:

- (a) give notice of inspection to the national aviation authority at least 10 weeks before the inspection visit, then collect the necessary information for the preparation of the inspection visit, define the programme of the visit and decide the composition of the inspection team, as well as any prospective changes thereto, and
- (b) communicate to the national aviation authority along with the notice of inspection an inspection questionnaire for completion at least 6 weeks before the inspection visit by the inspected national aviation authority and, where necessary, by the undertaking or association of undertakings to be inspected in the course of the inspection of that national aviation authority.

*Article 9***Visiting phase**

1. During the visiting phase the Agency shall:

- (a) organise preliminary and wrap-up meetings between the inspection team and the national coordinator of the national aviation authority being inspected either at the premises of that national aviation authority or in its own premises; the purpose of such meetings being mainly focused on organisational aspects and the overall conduct of the inspection visit;
- (b) conduct on-site visits, including an opening and a closing session, of the main offices and, if necessary, of regional offices of the national aviation authority; inspections of national aviation authorities may also include inspections of undertakings or associations of undertakings under their oversight;

(c) carry out interviews with the staff of the national aviation authority inspected and examine records, data, procedures and any other relevant material by using the mechanisms to be established pursuant to Article 18 of this Regulation, ensuring the transparency and consistency of the inspection;

(d) present a preliminary report of the inspection to the national aviation authority inspected at the closing session; this report should include comments presented by the national aviation authority inspected during the inspection visit, if any, and a request to the national aviation authority to take immediate effective remedial action to eliminate an immediate safety hazard, where such hazard is detected during an inspection;

(e) require that evidence of the remedial action undertaken by the national aviation authority inspected be presented at the wrap-up meeting referred to under (a).

2. While performing its tasks in the phase referred to in paragraph 1, the Agency may interview any natural or legal person for the purpose of collecting information relating to the subject matter of an inspection. Where such interview is conducted in the premises of an undertaking, the Agency shall inform with a notice of 2 weeks the national aviation authority of the Member State in whose territory the interview takes place as well as the aviation authority which exercises the oversight over the undertaking in question. If so requested by the national aviation authority of that Member State, its personnel may assist the authorised personnel of the Agency to conduct the interview.

Article 10

Reporting phase

During the reporting phase the Agency shall establish a final inspection report containing details of the conduct of the inspection and addressing in particular findings identified during the inspection as described in Article 13. This report shall also include comments of the national aviation authority inspected, if any. The final inspection report shall be addressed to the national aviation authority inspected, to the Commission and to the Member State concerned. The Commission may subsequently transmit this report to all national aviation authorities.

Where preliminary inspection reports request immediate remedial actions as provided for in Article 9(1)(d) and such requests are not answered satisfactorily by the national aviation authority concerned, the final inspection report shall contain evidence of such failure.

Article 11

Follow-up phase

During the follow-up phase the Agency shall:

- (a) agree within 16 week since the starting of such phase an action plan with the national aviation authority inspected, defining any remedial action and relevant timeframe within which such action has to be undertaken to resolve any findings made according to Article 7;
- (b) start monitoring the progress of the agreed remedial actions; the national aviation authority inspected shall provide to the Agency information as remedial actions are put in place.

Article 12

Closure phase

During the closure phase the Agency shall:

- (a) verify and validate the satisfactory progressive implementation of the action plan; to this end the national aviation authority inspected shall provide to the Agency information as remedial actions are put in place;
- (b) issue a statement of closure findings once satisfied with the actions undertaken by the national aviation authority inspected. Such statement shall be addressed to the aviation authority inspected, to the Member State concerned and to the Commission. The Commission may subsequently transmit this report to all national aviation authorities.

Article 13

Inspection findings

When assessing compliance with the requirements of Regulation (EC) No 1592/2002 and its implementing rules, the findings in the relevant final inspection report shall be classified as:

- (a) fully compliant;
- (b) compliant, but improvement is recommended in areas (reference to the rules affected) for better efficiency;
- (c) not compliant, with objective evidence of minor deficiencies showing non-compliance with the applicable requirements in areas (reference to the rules affected), which could raise standardisation concerns;

- (d) not compliant, with objective evidence of significant deficiencies showing non-compliance with the applicable requirements in areas (reference to the rules affected), which, besides standardisations concerns raise safety concerns if not promptly corrected;
- (e) not applicable;
- (f) not confirmed, when the national aviation authority inspected commits to produce shortly after the visit material evidence of compliance on findings otherwise classified as in (c) or (d), this material evidence not being directly available at the time of the visit.

Article 14

Access to information contained in inspection reports

Where information contained in an inspection report concerns an undertaking under the regulatory authority of a third country and falls within the scope of application of a Community agreement concluded pursuant to Article 9 of Regulation (EC) No 1592/2002, such information shall be made available to the third country as a party to such an agreement according to its respective provisions.

Article 15

Action taken following an inspection report

1. The Agency may at any time, or upon request from the Commission, conduct inspections of national aviation authorities and, where necessary, of undertakings or associations of undertakings to assess the satisfactory completion of remedial actions. Such inspections must be announced to the national aviation authority concerned with a notice of 2 weeks but need not to comply with the deadlines and the procedures foreseen in Article 8 to 12, except for the need of a final inspection report.

2. Where during the reporting phase final inspection reports contain non-compliance findings made pursuant to Article 13 (c), (d) or (f), the Agency shall address a request for clarifications and/or request remedial action to the national aviation authority of the Member State inspected, setting a deadline which shall not exceed 2 weeks for findings made pursuant to Article 13 (d) and (f) and 10 weeks for findings made pursuant to Article 13 (c).

3. If the clarifications provided by the national aviation authority of the Member State inspected do not satisfy the Agency or where no satisfactory remedial action is timely proposed or is not duly implemented by that authority, the Agency shall address a supplementary report to the national aviation authority concerned, as well as to the Commission

and to the Member State concerned. The Commission may subsequently transmit this report to all national aviation authorities.

4. Following presentation of the report provided for in paragraph 3 and without prejudice to Article 226 of the Treaty, in the event of findings made pursuant to Article 13 (c) and (d) of this Regulation, the Commission may take any of the following steps:

- (a) address comments to the Member State concerned or request further explanation to clarify all or part of the findings;
- (b) require the Agency to carry out all necessary inspections of national aviation authorities to check the implementation of remedial actions, the minimum notice for such a follow-up action being 2 weeks.

Article 16

Ad hoc inspections

The Agency shall conduct ad hoc inspections of national aviation authorities upon request from the Commission whenever deemed necessary for safety reasons. Such inspections must be announced to the national aviation authority concerned with a notice of 2 weeks but need not to comply with the deadlines and the procedures foreseen in Articles 7 to 12, except for the need of a final inspection report.

Article 17

Standardisation inspection programme and annual report

The Agency shall define an annual programme for inspections in each field regulated by the implementing rules of Regulation (EC) No 1592/2002. Such annual programme shall be communicated to the Commission and the other members of the Management Board of the Agency as part of the Agency's work programme pursuant to the provisions of Article 24(2)(c) of Regulation (EC) No 1592/2002.

Before 31 March each year, the Agency shall submit an annual report to the Commission presenting an analysis of standardisation inspections carried out the previous year.

Article 18

Working procedures

The Agency shall establish appropriate working procedures for implementing the tasks conferred upon it under Articles 5 to 16 of this Regulation not later than two months following its entry into force.

*Article 19***Entry into force**

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

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

Done at Brussels, 16 May 2006.

For the Commission

Jacques BARROT

Vice-President
