



The EASA Regulatory System

EASA Workshop
From JARs to IRs: Impact of the Agency's
extended responsibilities





AGENDA

- I. The institutional and regulatory framework
- II. The EASA Rulemaking procedure
- III. Differences with the JAA system



➤ I. The institutional and regulatory framework



Institutional framework

- European Community (EC) Agency
- Legal personality
- Independence
- Legal, administrative and financial autonomy.

- Vision:
 - ✦ EU citizens should benefit from the safest and the most environmentally friendly civil aviation system in the world.
- Mission:
 - ✦ Our mission is to promote the highest common standards of civil aviation safety and environmental protection in Europe and worldwide.



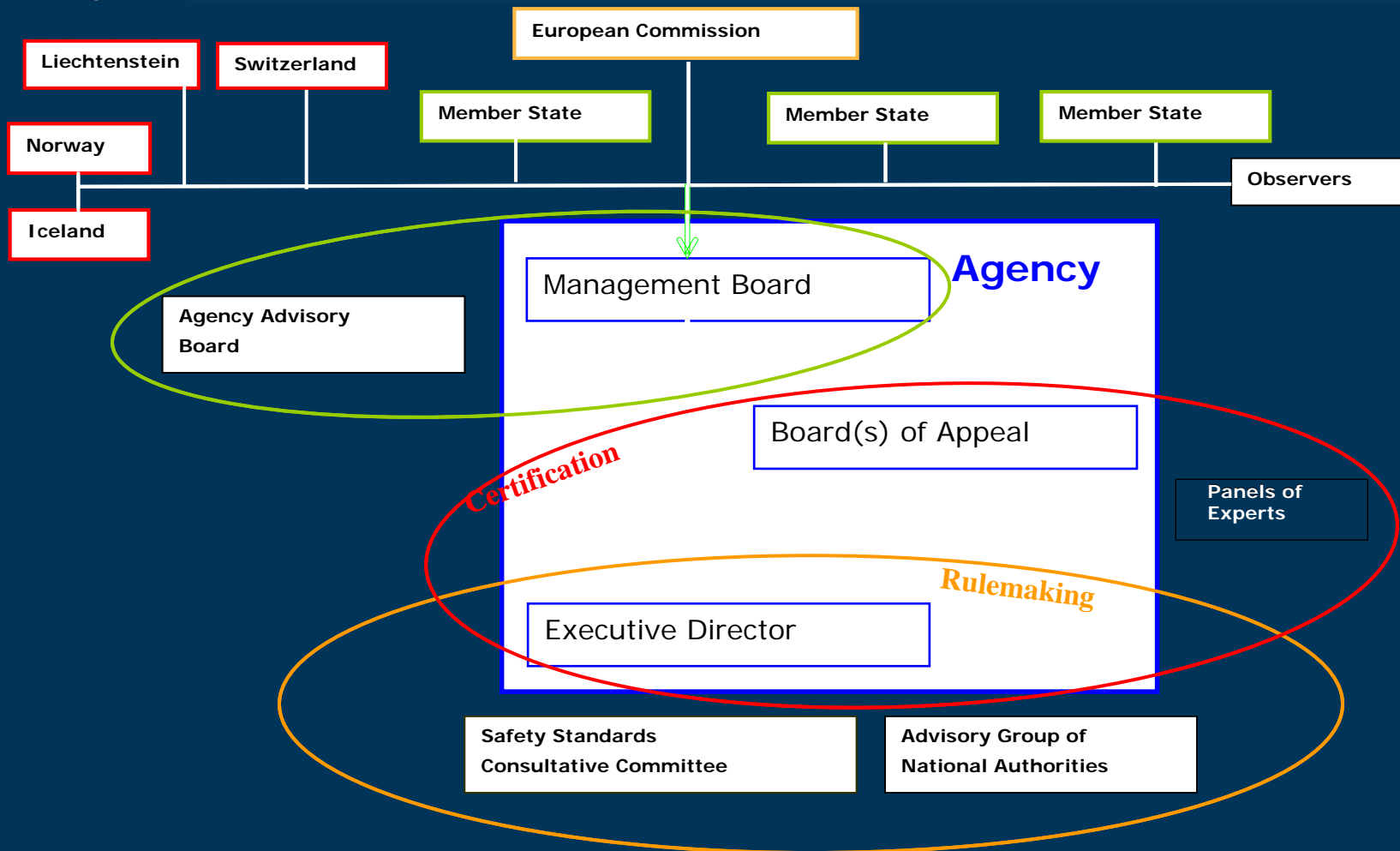
Institutional framework

Objectives of the Agency:

- establish and maintain a high uniform level of aviation safety in Europe;
- ensure a high uniform level of environmental protection;
- promote cost efficiency in the regulatory process,
- assist Member States in fulfilling their ICAO obligations;
- promote Community views through co-operation with third countries and international organisations.



Institutional framework: EASA governance scheme





Institutional framework: EASA structure





Regulatory framework

The principles

DECENTRALISATION IS THE RULE...

The EC Treaty is based on the principle that the Community **acts as a legislator**, while **Member States apply** Community law under Community control.

Community law is directly applicable (full part of Member States legal order).

Legal remedies for individuals and enforcement means are provided by Member States judicial systems.



Regulatory framework

The principles

... CENTRALISATION THE EXCEPTION

The EC Treaty provides however for the **delegation of executive powers** to the **Commission** (hard law) or an **executive agency** (soft law)

In such cases:

- Delegated powers shall be strictly defined to allow judicial control of executive acts
- Judicial remedies available to individuals and enforcement means shall be specified when delegated powers allow individual decisions



Regulatory framework: the Basic Regulation

- The **Parliament** and the **Council** define the **Scope of Powers** transferred from the Member States to the Community
- They adopt the **Essential Requirements** specifying the objectives to be met

Basic Regulation

Regulation (EC) 1592/2002 of 15 July 2002

**Regulation (EC) 216/2008 of 20
February 2008**

**Annex I : Essential Requirements
for Airworthiness**

Annex II : Excluded Aircraft

**Annex III: Essential
Requirements for pilot licensing**

**Annex IV: Essential
Requirements for air operations**

**Annex V: Criteria for qualified
entities**



Regulatory framework: the Implementing Rules

- The **Commission** adopts **standards** for implementing the essential requirements

Regulation (EC) 1702/2003 on Airworthiness and Environmental Certification

Annex (Part 21)

*Section A: Application
Requirements*

*Section B: Administrative
Procedures*

*Appendices: EASA
forms*

Regulation (EC) 2042/2003 on Continuing Airworthiness

Annex I (Part-M): Continuing Airworthiness Requirements

*Section A: Technical
Requirements*

*Section B: Administrative
Procedures*

*Appendices: EASA
forms*

Annex II (Part-145): Maintenance Organisation Approvals

Annex III (Part-66): AML

Annex IV (Part-147): Training Organisation Requirements



Regulatory framework: the Agency's soft law

- The **Agency** adopts **non binding standards** for implementing the essential requirements

Guidance Material

Part 21

Certification Specifications

AMC 20
AMC 21

CS 25

CS 34

CS 36

CS E

CS P

CS APU

CS AWO

CS ETSO

CS Definitions

CS 22

CS 23

CS 27

CS 29

CS VLA

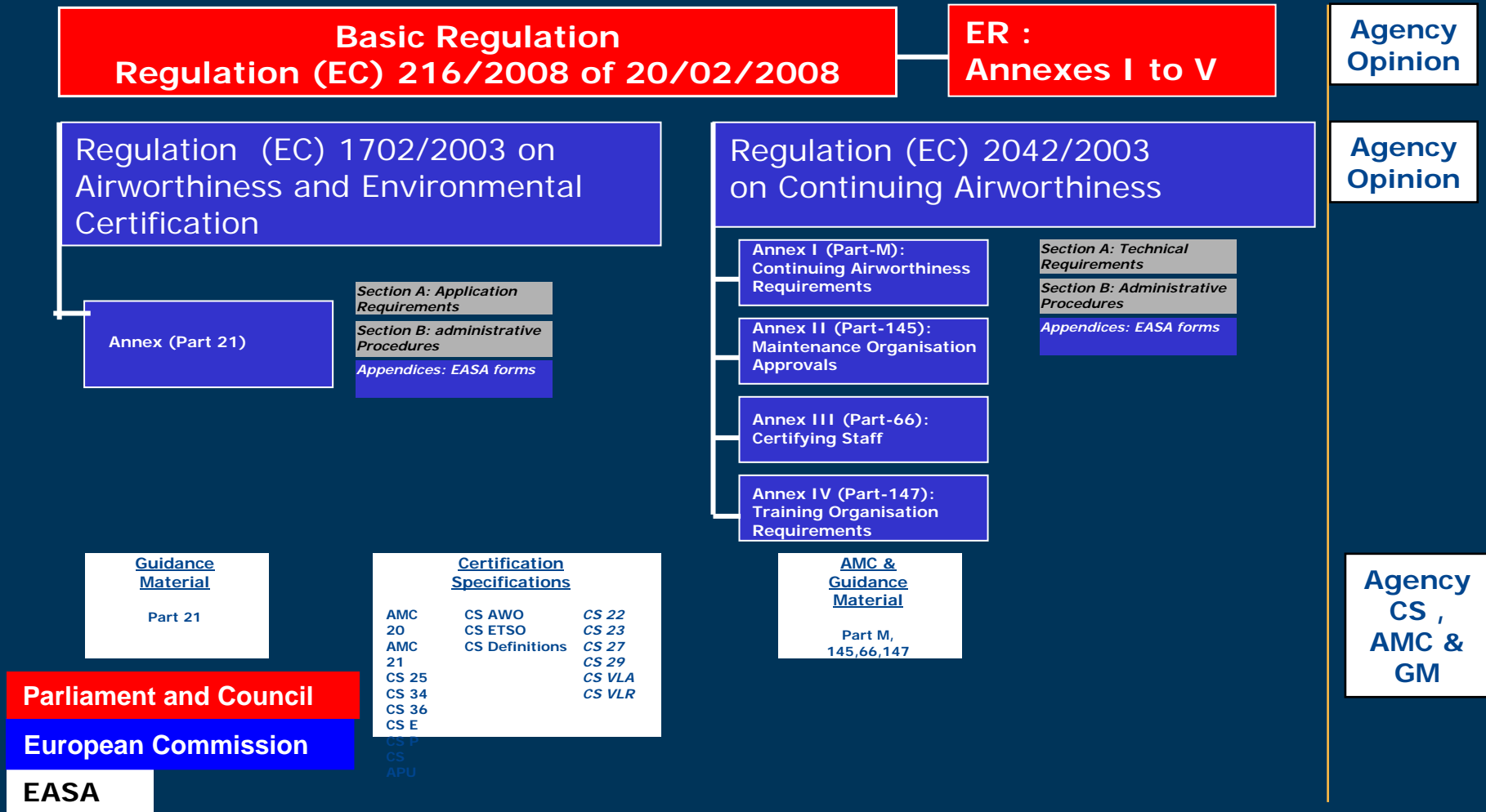
CS VLR

AMC & Guidance Material

Parts M, 145,
66, 147



Regulatory framework: present regulations structure





Regulatory framework: division of competences

The Commission:

- **adopts implementing rules** (Commission Regulations 1702/2003 and 2042/2003)
- **oversees** the implementation of common rules by **NAAAs**, including use of safeguard provisions (art. 14 of EASA Regulation)
- **negotiates** international agreements



Regulatory framework: division of competences

The Agency:

- **develops opinions for common rules** (Basic Regulation and implementing rules)
- **adopts material** for the application of common rules (certification specifications, airworthiness codes, acceptable means of compliance and guidance material)
- **acts as focal point vis-à-vis third countries and international organisations** for the harmonisation of rules and the recognition / validation of certificates



Regulatory framework: division of competences

Member States National Aviation Authorities:

- **provide expertise** as appropriate for rulemaking tasks;
- **develop national administrative rules** for the **implementation** and **enforcement** of common rules (administrative procedures)
- **may take action on a case by case basis** if so required to ensure safety or appropriate operational flexibility (safeguards).



Regulatory framework: present division of executive powers

| | TC STC ETSOA | DOA | POA | CofA/ Noise Cert. | CAMO A | MOA | MTOA | AML |
|-------------------------|--------------------|-------------|-----------------------|-------------------------|-------------|-------------|-------------|-----------------------|
| EASA country | EASA | EASA | MS¹ | MS | MS | MS | MS | MS |
| Non- EASA country | EASA | EASA | EASA | n/a | EASA | EASA | EASA | MS² |

1) EASA, when requested by a MS

2) The MS receiving the application

Note: this table does not include the extension of scope



➤ II. The EASA Rulemaking procedure



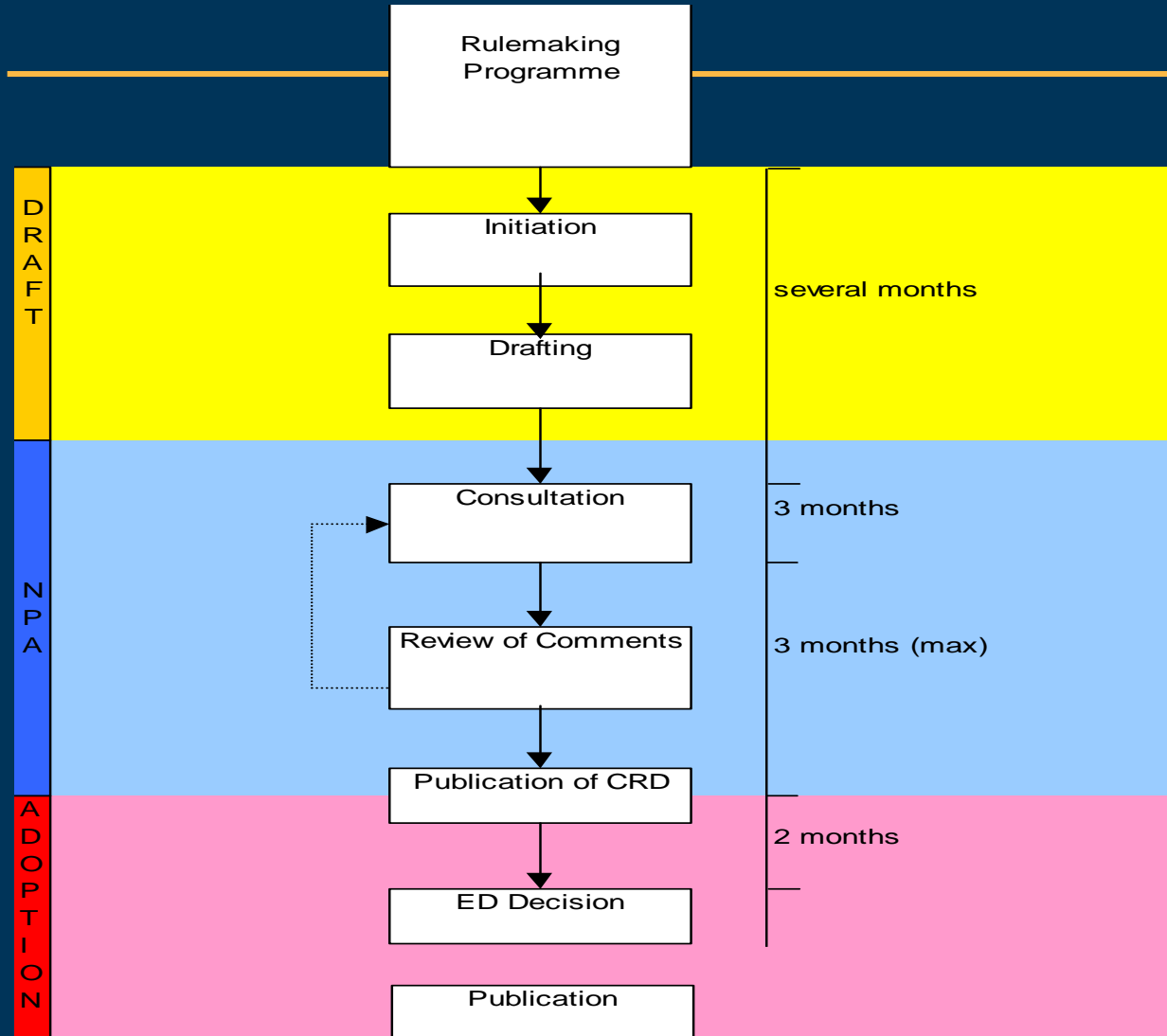
EASA Rulemaking Procedure

- Phase 1: Programming
 - ✧ Annual Rulemaking Programme
 - ✧ Advance Planning

- Phase 2: Processing of rulemaking deliverables
 - ✧ Opinions, Certification specifications, AMC and Guidance material



Rulemaking process flowchart





The Programming Process (1)

- Acknowledgement and Agency response to rulemaking proposed by external persons
- Rulemaking inventory, including pre-RIA
- Draft Rulemaking Programme and Advance Planning (definition of working method)
- Consultation of advisory bodies (AGNA & SSCC)
- Adoption and publication of Rulemaking Programme.



The Programming Process (2)

- Priorities are established in accordance with:
 - ✦ Objectives set out in the Basic Regulation and broader EU objectives in aviation policy
 - ✦ Risk assessment studies
 - ✦ ICAO obligations
 - ✦ Air accident investigations
 - ✦ Correction of acute implementation problems
 - ✦ Scientific/technological progress
 - ✦ Harmonisation with foreign partner authorities
- Supported by preliminary regulatory impact assessment that evaluate the pros and cons of undertaking a rulemaking action.
- Resources at Agency's disposal
- Regular reviews of the impact of the rules (to close the loop)



Processing of rulemaking deliverables: key steps

- Development of the Terms of Reference + establishment of rulemaking groups
- Draft Notice of Proposed Amendment
- Establishment of review groups
- Issue Comment Response Document
- Publish



Terms of Reference & rulemaking group

- **Definition of:**
 - ➔ **Reflect the rulemaking plan (s);**
 - ➔ **Problem, objectives, interface issues;**
 - ➔ **Timetable, milestones, working method;**
 - ➔ **Deliverables to be produced.**

- **Rulemaking group establishment**

- **Subject to:**
 - ➔ **Internal + advisory bodies + third country consultation;**
 - ➔ **Publication in the Official Publication;**
 - ➔ **Amendment of ToR.**



Notice of Proposed Amendment

- Reflect the respective Terms of Reference;
- Take into account:
 - ➔ EC law,
 - ➔ ICAO SARPS,
 - ➔ harmonisation with major partners (FAA, TCCA, etc.),
 - ➔ AIB recommendations,
 - ➔ Reflect state of the art and best practices,
 - ➔ scientific and technological developments;
- Full Regulatory Impact Assessment.
- Normal consultation period of 3 months (possibility for shorter or longer consultation).



Review Group

➤ Why

- ★ To address strong opposite views;
- ★ Ensure fair and appropriate treatment.

➤ Composition

- ★ Rulemaking group + 2 members



Comment Response Document

- CRD issued within 3 months after the deadline of the NPA consultation
- Provisions for:
 - ✦ Extension of the deadline for publication of the CRD;
 - ✦ Second round of publication of the NPA;
 - ✦ Consultation of AGNA in case of major objections from Member States.



Adoption and publication

- Issue opinions to the EC for amending the Basic Regulation and its Implementing Rules;
- Adopts CS, AMC and GM;
- Publication in the Official Publication (Agency website), no earlier than 2 months after the publication of the CRD.



➤ III. Differences with the JAA system



Differences with the JAA system

For **Rulemaking**:

- Because of the nature of the EC law, the Agency proposals **follow** latest amendments of **JARs**, but contain **differences**, resulting from:
 - ✦ introduction of **NPAs** in an advanced phase of adoption (ex: NPA FCL-34, NPA OPS-48A);
 - ✦ the **extended scope** (ex: JAR-FCL and JAR-OPS only apply to aeroplanes and helicopters, EASA proposals include other aircraft);
 - ✦ the need to ensure **consistency** – with the Basic Regulation and other implementing rules
 - ✦ a change in the **level of the texts** (rules that become AMC and vice-versa, inclusion of LTEs and TGLs)



Differences with the JAA system

For **Rulemaking** (cont.):

- The Agency proposals also contain **differences** in the **drafting style** resulting from the application of EU principles.
- Community legislative acts shall be drafted **clearly**, **simply** and **precisely**. The drafting of a legislative act must be:
 - ★ clear, easy to understand and unambiguous;
 - ★ simple, concise, containing no unnecessary elements;
 - ★ precise, leaving no uncertainty in the mind of the reader.



Differences with the JAA system

For **Member States**:

- Because of the nature of the EC, Member States **may no more**:
 - ★ **deviate from common rules** - except in the case of art. 14 of the Basic Regulation
 - ★ **impose additional requirements** - to ensure a level playing field and no discrimination
 - ★ **conclude international arrangements with third countries** - transfer of competence produces effects also for international competence



**Thank you
for your attention**