



Requirements for air traffic services

RELATED NPA/CRD: 2016-09 — RMT.0464

EXECUTIVE SUMMARY

This Opinion addresses safety and regulatory coordination issues related to the provision of air traffic services (ATS).

The main objective of this Opinion is to maintain a high level of safety in the European Union (EU) air navigation system, in particular with regard to the provision of ATS. In order to achieve this objective, the proposal aims to:

- transpose the relevant International Civil Aviation Organization (ICAO) provisions on ATS into the EU aviation regulatory framework, thus contributing to their uniform implementation throughout the EU, and supporting EU Member States in fulfilling their obligations stemming from the Chicago Convention; and
- define proportionate and cost-efficient rules.

The Opinion proposes amendments to:

- Regulation (EU) 2017/373 and Annexes I (Part-Definitions), IV (Part-ATS) and V (Part-MET) thereto; and
- Regulation (EU) No 923/2012 and the Annex thereto.

The Opinion introduces a detailed set of provisions, mainly transposed from the relevant ICAO Standards and Recommended Practices (SARPs) and Procedures for Air Navigation Services (PANS), into Regulation (EU) 2017/373, in particular in Annex IV (Part-ATS) thereto. In addition, it removes the existing provision referencing to ICAO Annexes 10 Volume II and 11, to address the provision of ATS, thus implementing the Essential Requirements in Annex Vb 2.(c) to Regulation (EC) No 216/2008. Minor amendments to Annex V (Part-MET) are introduced to ensure consistency with Part-ATS.

Amendments to Regulation (EU) No 923/2012 are also proposed for consistency, in consideration of the close interrelationship between the ATS provision and the rules of the air.

Additionally, this Opinion addresses some safety recommendations submitted to the European Aviation Safety Agency (EASA.)

Action area:	Airborne conflict (mid-air collisions)		
Affected rules:	<ul style="list-style-type: none"> — Regulation (EU) 2017/373 (ATM/ANS Common Requirements Regulation) — Regulation (EU) No 923/2012 (standardised European rules of the air (SERA)) 		
Affected stakeholders:	Member States; competent authorities; air navigation service providers; air traffic controllers; aircraft operators; professional organisations; trade unions; pilots; passengers		
Driver:	Safety	Rulemaking group:	Yes
Impact assessment:	Full	Rulemaking Procedure:	Standard

• EASA rulemaking process milestones

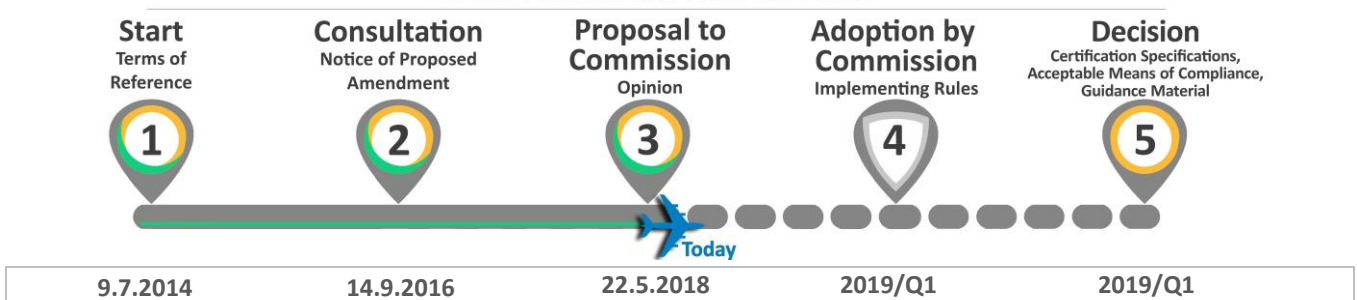


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1. About this Opinion

1.1. How this Opinion was developed

EASA developed this Opinion in line with Regulation (EC) No 216/2008¹ (hereinafter referred to as the 'Basic Regulation') and the Rulemaking Procedure².

This rulemaking activity is included in the EASA 5-year Rulemaking Programme³ under rulemaking task (RMT).0464 'Requirements for air traffic services'. The scope and timescales of the task were defined in the related ToR⁴.

The *draft* text of this Opinion has been developed by EASA, as a result of the various activities undertaken within the scope of RMT.0464. EASA was supported in the drafting of the initial proposal by the Rulemaking Group (RMG) RMT.0464, which was composed of affected stakeholders' representatives with an adequate ATM/ANS expertise, and in particular in ATS provision. All interested parties were consulted from 14 September 2016 to 28 February 2017 through NPA 2016-09⁵⁶. EASA presented and discussed this NPA to the stakeholders with a Consultation Workshop held on 30 November 2016. As a result of the public consultation, 1 763 comments were received, in particular from air navigation services providers (ANSPs), aerodrome operators, national aviation authorities (NAAs), aviation organisations (e.g. International Air Transport Association (IATA), EUROCONTROL), social partners, professional associations, and individuals.

EASA has scrutinised, addressed and responded to all the comments on the NPA. In this context and in order to take informed decisions, EASA has undertaken a variety of focused consultation activities in support of the comment review process and of the finalisation of the proposal included in this Opinion, in particular by:

- a thematic review meeting on aerodrome flight information service (AFIS) requirements (28-29 June 2017);
- a general ATS review meeting (15-16 November 2017);
- several bilateral meetings with stakeholders which submitted comments indicating controversial issues which required further in-depth analysis; and
- continuous collaboration with EUROCONTROL subject matters experts, acting as technical advisors.

¹ Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1467719701894&uri=CELEX:32008R0216>).

² EASA is bound to follow a structured rulemaking process as required by Article 52(1) of Regulation (EC) No 216/2008. Such a process has been adopted by the EASA Management Board (MB) and is referred to as the 'Rulemaking Procedure'. See MB Decision No 18-2015 of 15 December 2015 replacing Decision 01/2012 concerning the procedure to be applied by EASA for the issuing of opinions, certification specifications and guidance material (<http://www.easa.europa.eu/the-agency/management-board/decisions/easa-mb-decision-18-2015-rulemaking-procedure>).

³ <http://easa.europa.eu/rulemaking/annual-programme-and-planning.php>

⁴ <https://www.easa.europa.eu/document-library/terms-of-reference-and-group-compositions/tor-rmt0464>

⁵ In accordance with Article 52 of Regulation (EC) No 216/2008 and Articles 6(3) and 7 of the Rulemaking Procedure.

⁶ <https://www.easa.europa.eu/newsroom-and-events/news/publication-npa-2016-09-%E2%80%98requirements-air-traffic-services%E2%80%99>



The comments received and the EASA responses thereto are presented in Comment-Response Document (CRD) 2016-09⁷. Since NPA 2016-09 is divided in two separate files 'A' and 'B', EASA published the related CRDs separately as Appendix 1 and Appendix 2 to this Opinion. Full consistency is ensured between the two CRDs.

The draft rule text proposed by EASA is published on the EASA website⁸.

The major milestones of this rulemaking activity are presented on the title page.

1.2. The next steps

This Opinion contains the proposed amendments to Commission Implementing Regulation (EU) 2017/373⁹ (hereinafter referred to as 'the ATM/ANS Common Requirements Regulation') and Commission Implementing Regulation (EU) No 923/2012¹⁰ (hereinafter referred to as 'the SERA Regulation') and their potential impacts. It is submitted to the European Commission to be used as a technical basis in order to prepare an EU regulation.

For information only, EASA published the draft text for the related EASA decisions containing acceptable means of compliance (AMC) and guidance material (GM) in coherence with the proposed implementing rules (IRs). The final decisions amending the AMC/GM will be published by EASA when the related regulation is adopted by the European Commission.

⁷ <http://easa.europa.eu/document-library/comment-response-documents>

⁸ <http://easa.europa.eu/document-library/opinions>

⁹ Commission Implementing Regulation (EU) 2017/373 of 1 March 2017 laying down common requirements for providers of air traffic management/air navigation services and other air traffic management network functions and their oversight, repealing Regulation (EC) No 482/2008, Implementing Regulations (EU) No 1034/2011, (EU) No 1035/2011 and (EU) 2016/1377 and amending Regulation (EU) No 677/2011 (OJ L 62, 8.3.2017, p. 1) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1522164345205&uri=CELEX:32017R0373>).

¹⁰ Commission Implementing Regulation (EU) 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 and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010 (OJ L 281, 13.10.2012, p. 1) (<http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32012R0923&qid=1522141793680>).

2. In summary — why and what

2.1. Why we need to change the rules — issue/rationale

Since decades, ATS have been provided worldwide in accordance with the SARPs included in Annex 2, Annex 10 Volume II, and in particular in Annex 11 to the Chicago Convention. In order to establish more detailed guidance on the implementation of the ATS provisions, ICAO publishes and maintains Doc 4444 'Procedures for Air Navigation Services — Air Traffic Management' (hereinafter referred to as the 'PANS ATM'), including the actual procedures to be applied by the relevant ATS units.

At the time of publication of this Opinion, the provision of ATS in the EU is regulated primarily by Commission Implementing Regulation (EU) No 1035/2011¹¹ (Chapter 4 of Annex II), which, with a direct reference, stipulates that ATS providers shall demonstrate to apply working methods and operating procedures compliant with those in the Standards in ICAO Annex 10 Volume II and Annex 11, as well as with provisions in the SERA Regulation. This Regulation transposed the relevant ICAO Annex 2 provisions into the EU legislation with the purpose of establishing standardised European rules of the air (SERA).

As of 2 January 2020, Regulation (EU) No 1035/2011 will be repealed by the ATM/ANS Common Requirements Regulation, which establishes, under a single regulatory source, the requirements for the provision and oversight of ATM/ANS, including ATS. This new Regulation aims at ensuring full implementation of the principles of the Basic Regulation and of the relevant Essential Requirements in Annex Vb thereto; in the case of ATS, the Essential Requirements are included in Chapter 2.(c) of Annex Vb.

Annex IV (Part-ATS) to the ATM/ANS Common Requirements Regulation contains the requirements for the provision of ATS. Subpart A of this Annex establishes organisation requirements specific for the ATS providers, in addition to those applicable to all ATM/ANS providers defined in Annex II to the aforementioned Regulation. Subpart B of Annex IV contains the technical requirements for the provision of ATS. In the absence of detailed and comprehensive rules in this field, and in anticipation of the outcome of this regulatory activity, technical requirements in Subpart B are still established by mere reference to the SERA Regulation and to the working methods and operation procedures in ICAO Annex 10 Volume II and Annex 11, as it was the case for Regulation (EU) No 1035/2011.

This Opinion proposes to close the intentional gap detailed above, by performing the necessary transposition of the ATS-relevant ICAO provisions into the EU regulatory framework. This step is necessary in order to set the regulatory foundation within the EU framework and to meet the obligations stemming from the Basic Regulation, particularly with regard to the Essential Requirements in Chapter 2.(c) of Annex Vb thereto. In addition to this, it is beneficial as:

- the content of the subject ICAO Annexes alone is not sufficiently detailed to fully satisfy the aforementioned Essential Requirements;
- the formulation in passive voice of many ICAO SARPs does not always fit with the regulatory framework established by the Basic Regulation and by the ATM/ANS Common Requirements

¹¹ Commission Implementing Regulation (EU) No 1035/2011 of 17 October 2011 laying down common requirements for the provision of air navigation services and amending Regulations (EC) No 482/2008 and (EU) No 691/2010 (OJ L 271, 18.10.2011, p. 23) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1465218526795&uri=CELEX:32011R1035>).



Regulation, which require the explicit allocation of the ‘active’ responsibility to undertake action; and

- it fosters the harmonisation of ATS provision throughout the EU, as it will lead to a reduction of the differences filed under the Chicago Convention.

2.2. What we want to achieve — objectives

The overall objectives of the EASA system are defined in Article 2 of Regulation (EC) No 216/2008. This proposal will contribute to the achievement of the overall objectives by addressing the issues outlined in Chapter 2.

The specific objective of this proposal is to ensure that ATS are provided safely across the EU.

In order to achieve this objective, the proposal aims to:

- transpose the relevant ICAO provisions on ATS, thus contributing to their harmonised implementation, which will serve as a basis for EU aviation law;
- establish a sufficient level of harmonisation throughout the EU, based on mandatory and flexible requirements; and
- define proportionate and cost-efficient rules.

2.3. How we want to achieve it — overview of the proposals

This Opinion proposes to replace the provision with the references to ICAO Annexes, in Subpart B of Annex IV to the ATM/ANS Common Requirements Regulation, with a detailed and comprehensive set of measures adapted to the EU regulatory framework and operational context (IRs, AMC, and GM), derived mainly from the ICAO relevant provisions, not limited to those in Annex 10 Volume II and Annex 11, but considering also the relevant content of other ICAO Documents, and primarily PANS ATM. The rationale, the approach adopted, the expected benefits and the regulatory impact assessment (RIA) for the transposition of ICAO ATS provisions are provided in Sections 2.4 and 3.1.1 of NPA 2016-09(A).

In the context described above, the Opinion proposes requirements to better define and explicitly address AFIS in the EU context, and to delineate the common mandatory elements of this service as an integral part of ATS and as a subset of flight information service. The rationale, the regulatory approach, the expected benefits and the RIA for AFIS requirements are provided in Sections 2.6 and 3.1.2 of NPA 2016-09(A).

Additionally, amendments to requirements in MET.OR.242 and MET.OR.245 in Annex V ‘Part-MET’ to the ATM/ANS Common Requirements Regulation are proposed to clarify some aspects of the provision of meteorological information to ATS units.

The close interrelation between ATS and the rules of the air, as well as the regulatory approach adopted by EASA to establish coherent sets of measures, are explained in Section 2.5 of NPA 2016-09(A). This Opinion proposes also certain amendments to the SERA Regulation, where deemed necessary to align said Regulation with Part-ATS, as a result of this regulatory process.

In more detail, this Opinion puts forward amendments to the following rules:

- ATM/ANS Common Requirements Regulation, and more specifically to:



- the Cover Regulation, by introducing requirements for Member States specifically related to the provision of ATS;
- Annex I 'Part-DEFINITIONS', to add ATS-relevant definitions;
- Annex IV 'Part-ATS', including organisational and technical requirements for the ATS provision. In particular:
 - Subpart A 'Additional organisation requirements for providers of ATS (ATS.OR)' by introducing:
 - additional requirements to Section 1 'General requirements';
 - a new Section 4 'Requirements for communications'; and
 - a new Section 5 'Requirements for information'.
 - Subpart B 'Technical requirements for providers of ATS (ATS.TR)', by:
 - amending the content of the current Section 1 'General';
 - introducing a new Section 2 'Air traffic control service';
 - Introducing a new Section 3 'Flight information service';
 - Introducing a new Section 4 'Alerting service';
- Annex V 'Part-MET', more specifically to MET.OR.242 and MET.OR.245, concerning the description of meteorological information to be provided for ATS purposes.



Figure 1 below illustrates the structure of the ATM/ANS Common Requirements Regulation, highlighting the parts that are proposed to be amended by this Opinion:

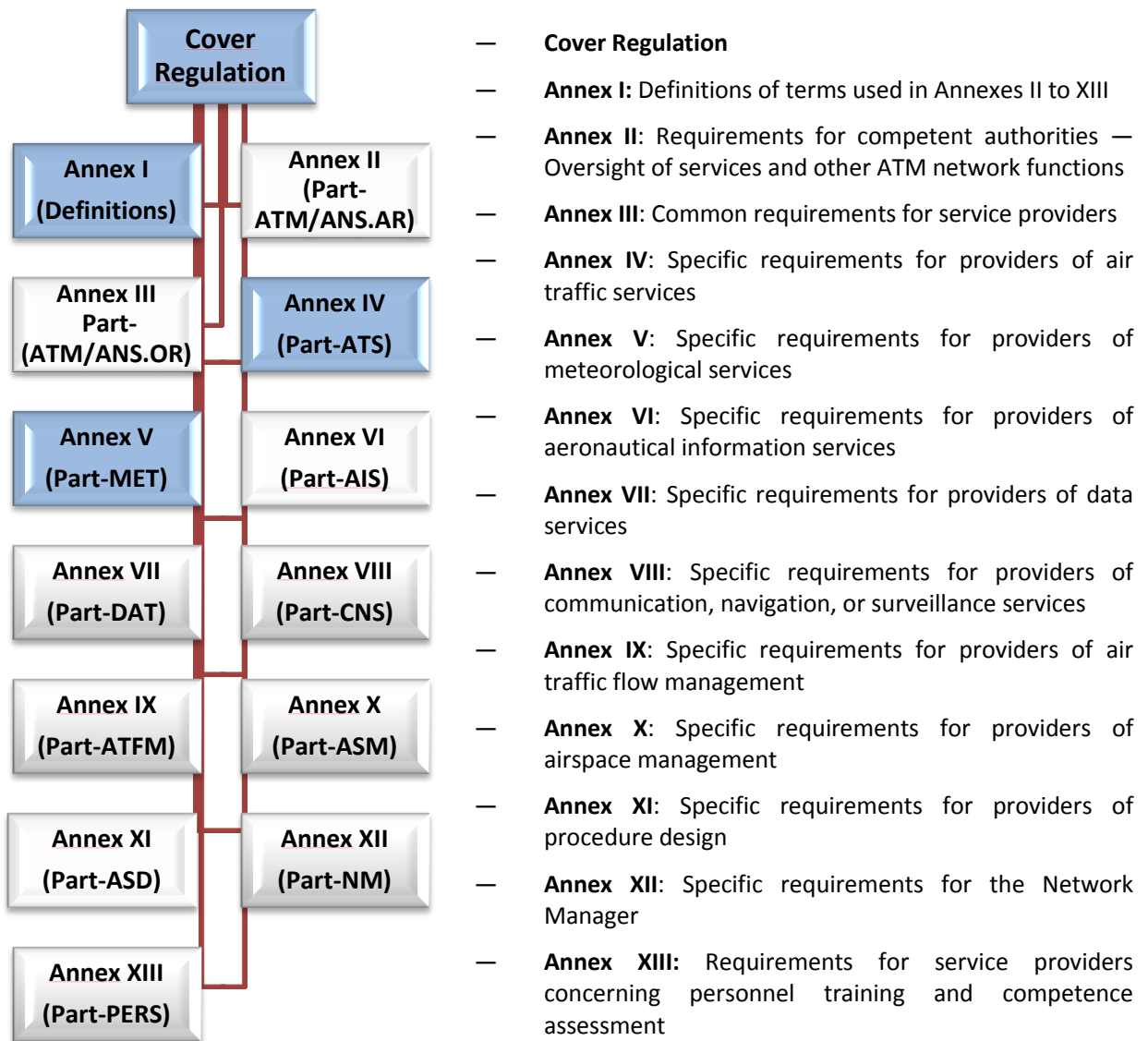


Figure 1 — Structure of the ATM/ANS Common Requirements Regulation and proposed amendments thereto

Figure 2 below illustrates the new structure of Annex IV (Part-ATS) to the ATM/ANS Common Requirements Regulation, highlighting the Sections proposed to be amended by this Opinion:

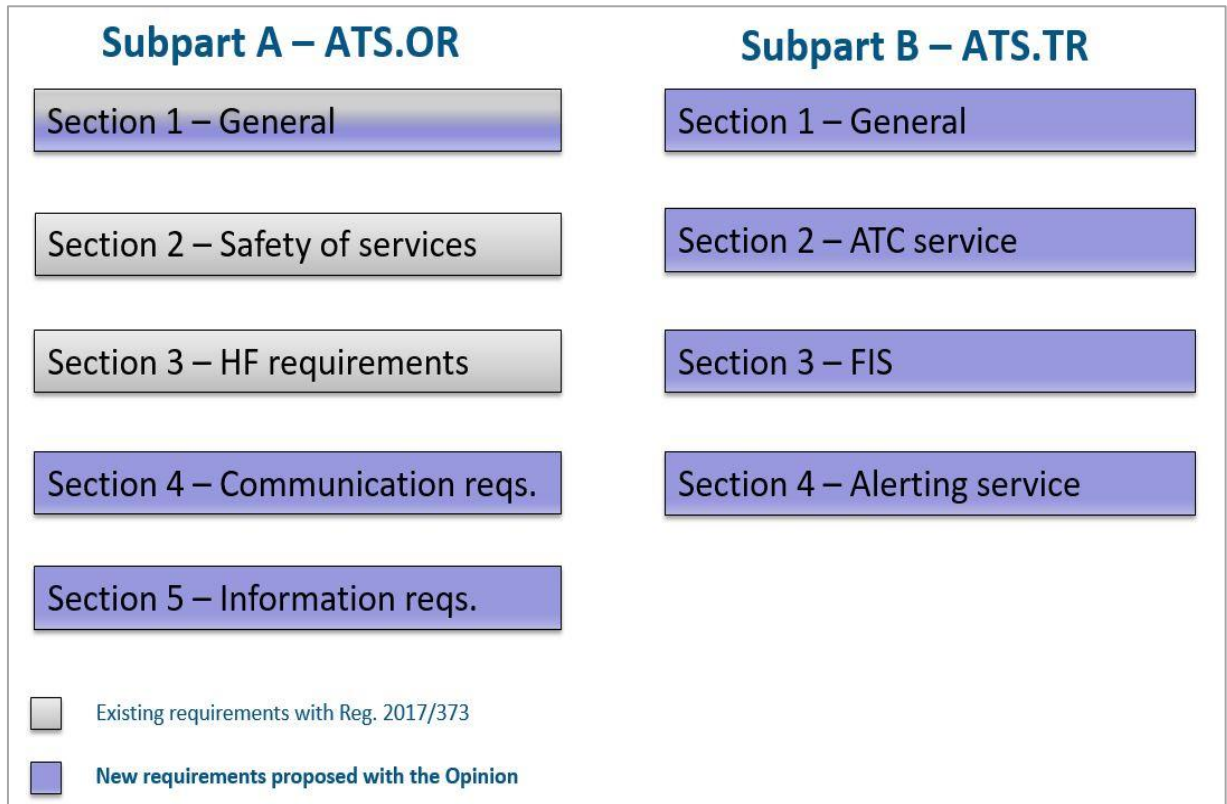


Figure 2 — Proposed new structure of Annex IV (Part-ATS)

— the SERA Regulation, and more specifically to:

- the recitals thereof;
- Article 2 ‘Definitions’; and
- the Annex thereto, and more specifically:
 - SERA.3210 ‘Right-of-way’;
 - SERA.8005 ‘Operation of air traffic control service’;
 - SERA.8012 ‘Application of wake turbulence separation’;
 - SERA.8015 ‘Air traffic control clearances’;
 - SERA.9005 ‘Scope of flight information service’;
 - SERA.9010 ‘Automatic terminal information service (ATIS)’;
 - SERA.13010 ‘Pressure-altitude-derived information’; and
 - SERA.14095 ‘Distress and urgency radiotelephony communication procedures’.

In the context of the RMT.0464 regulatory activities, EASA has developed a comprehensive set of AMC and GM associated with the proposed ATS IRs. Accordingly, proposed amendments or new additions to AMC and GM related to the SERA Regulation were also identified. These AMC and GM, which are

primarily derived from ICAO provisions and in particular from PANS ATM, were published for consultation with NPA 2016-09.

The draft annexes to the decisions including such proposed AMC and GM were published together with this Opinion, for information purposes only. The AMC and GM were amended as a result of the review of the comments on NPA 2016-09 via the public consultation. EASA will further ensure coherence of this material with the possible evolution of the corresponding IRs during the committee procedure, as well as by the introduction of amendments to the originating ICAO provisions, where applicable. Additionally, EASA will closely monitor the evolution of those originating ICAO provisions to which ICAO has proposed amendments by issuing State Letters for consultation, and it is ready to modify the corresponding AMC and GM, where necessary, before their publication.

EASA will publish the aforementioned AMC and GM with two decisions amending the existing ED Decisions 2017/001/R concerning the 'ATM/ANS Common Requirements Regulation' and 2013/013/R concerning the 'Acceptable Means of Compliance and Guidance Material to the rules of the air' respectively.

Additionally, for information purposes only, EASA made available the following documents on the webpage where the present Opinion is published:

- a table containing the comparisons between the ICAO Annex 11 provisions and the proposed transposed text (hereinafter referred to as the 'Annex 11 Checklist');
- a table containing the comparisons between the ICAO PANS ATM provisions and the proposed transposed text (hereinafter referred to as the 'PANS ATM Checklist'); and
- in order to facilitate the readers in tracking the transposition of ICAO provisions into the proposed IRs amending Annex IV 'Part-ATS', a file including the draft Regulation, with an indication of the originating ICAO provision after each of the proposed requirements. An example is provided in Figure 3 below.

<p>ATS.OR.430 Aeronautical fixed service (ground–ground communications) — General</p> <p>(a) An air traffic services provider shall ensure that direct-speech and/or data link communications are used in ground–ground communications for air traffic services purposes.</p> <p>(b) When communication for ATC coordination purposes is supported by automation, an air traffic services provider shall ensure that the failure of such automated coordination is presented clearly to the air traffic controller(s) responsible for coordinating flights at a transferring unit.</p> <p><i>(Annex 11 — Section 6.2.1.1, PANS ATM — Section 10.1.6 first sentence)</i></p>
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Figure 3 — Example of a reference to the originating ICAO provision under an IR

2.4. What are the stakeholders' views — outcome of the consultation

2.4.1. Facts and figures of the NPA public consultation

NPA 2016-09 was issued for public consultation on 14 September 2016, and was divided in two separate files:

- NPA 2016-09(A) including the procedural information, the Explanatory Note and the RIA concerning the proposal; and



- NPA 2016-09(B), including the proposed IRs, AMC and GM.

The public consultation was closed on 28 February 2017, following a request for extension submitted by stakeholders and accepted by EASA. In total, 1 763 comments were submitted on this NPA.

EASA noted that a significant number of comments were duplicated and of editorial nature. In general, EASA acknowledges that the comments received were very beneficial for the verification of the validity of the approach and of the content of the regulatory proposal. Stakeholders and interested parties also provided valuable responses to the questions included in the NPA, contributing thus to the finalisation of the EASA position on specific controversial subjects. In many cases, the comments proposed amendments with the related justifications, which facilitated the review and, when considered appropriate, led to the introduction of modifications to the initial NPA proposal and to the finalisation of the measures included in this Opinion.

As NPA 2016-09 was published in two separate files, EASA published the related CRDs separately. Therefore, the EASA responses to the NPA comments are included in CRD 2016-09(A) (Appendix 1 to this Opinion) and CRD 2016-09(B) (Appendix 2 to this Opinion), which are fully consistent between themselves.

The subjects which received a high number of comments were the following:

- interrelation between Part-ATS and the SERA Regulation;
- AFIS requirements and the associated RIA;
- definitions;
- aural background recording at ATS working positions;
- ATS surveillance services;
- ATC service — clearances and instructions;
- ATC service — separations minima and methods;
- application of wake turbulence separation;
- control of aircraft/management of persons and vehicles on the manoeuvring area at AFIS aerodromes;
- operations on parallel or near-parallel runways;
- flight information service — application and scope; and
- alerting service — application and scope.

The distribution of the comments received on the various parts of NPA 2016-09(A) and NPA 2016-09(B) are shown in Tables 1 and 2, respectively.



NPA 2016-09(A)	Page(s)	Comments
General	N/A	17
Executive summary and procedural information	1-5	7
Chapter 2 'Explanatory note'	6-52	168
Chapter 3 'Regulatory impact assessment (RIA)'	53-77	45
Chapter 4 'References'	79-81	1
Total	81	238

Table 1 — Distribution of comments received on the various parts of NPA 2016-09(A)

NPA 2016-09(B)	Page(s)	Comments
General	N/A	37
Executive summary	1	5
Proposed amendments to the Implementing Rules	3-52	706
Proposed amendments to AMC and GM	52-189	775
Chapter 2 'References'	190-193	2
Total	193	1525

Table 2 — Distribution of comments received on the various parts of NPA 2016-09(B)

The distribution of the comments received on both NPA 2016-09(A) and NPA 2016-09(B) per stakeholders' sector is shown in Figure 4.

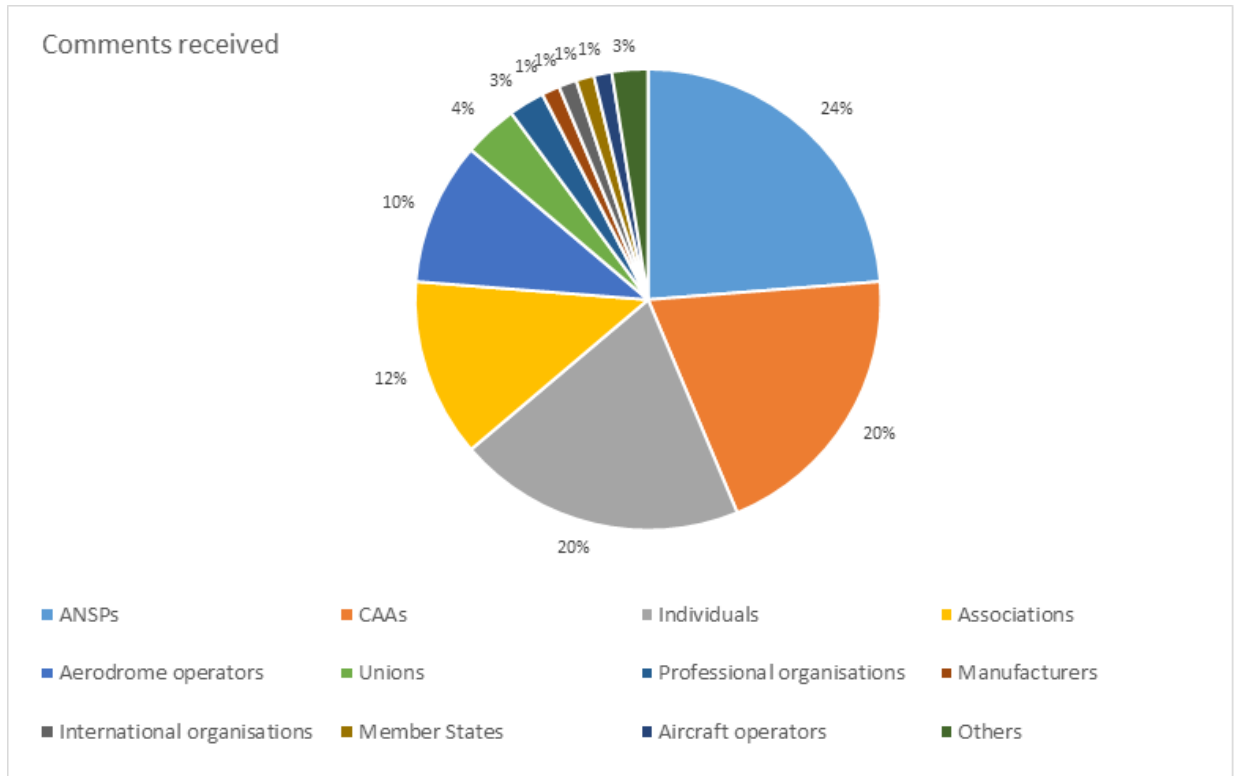


Figure 4 — Distribution of the comments received per stakeholders’ sector

The distribution of the sum of EASA’s responses to the comments included in both CRD 2016-09(A) and CRD 2016-09(B) is shown in Figure 5.

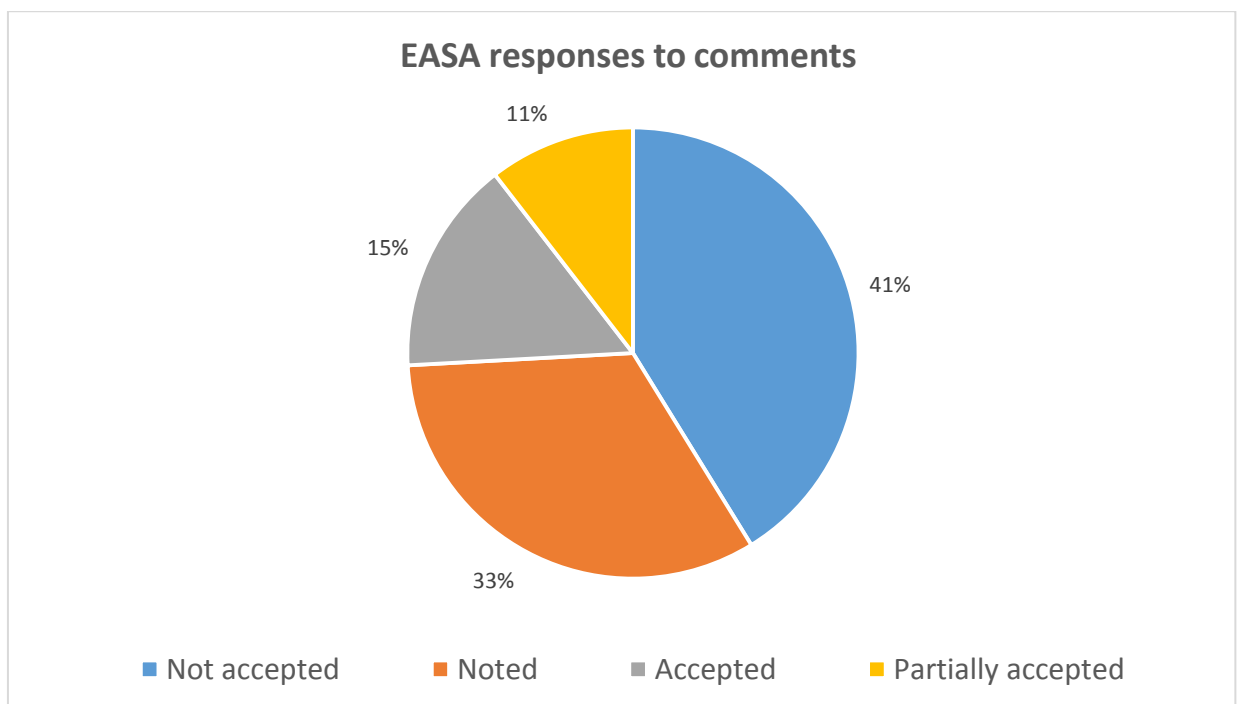


Figure 5 — Distribution of EASA’s responses

2.4.2. Transposition of ICAO ATS provisions into the EU law

With Section 3.1.1 of NPA 2016-09, EASA explained the decision to establish the EU ATS requirements based on the transposition of the relevant ICAO provisions (SARPs, PANS, Docs) and provided adequate justification for not submitting this approach to the analysis of the conclusions of a RIA. In brief, the transposition was not an option; in the context of RMT.0464, EASA followed an established and consolidated approach by other ATM/ANS-related regulatory activities which preceded the initiation of RMT.0464 (e.g. SERA).

The regulatory approach and the methodology adopted for transposition were explained in Section 2.4 of the same documents. Some comments received showed partial understanding of and disagreement with such methodology, in particular with regard to the regulatory force of provisions within the ICAO context and their status and regulatory force when transposed respectively as IRs, AMC and GM. Comments were received by stakeholders inviting EASA to consider simply referencing to ICAO documents, and in particular to ICAO PANS ATM, instead of transposing. Within CRD 2016-09, clarification was provided on the general approach for the transposition, as well as on the suitability of certain provisions within the EU ATS requirements for which comments were submitted.

EASA considers the approach adopted and described in NPA 2016-09 as the most appropriate, and therefore maintains it also for the Opinion. With the comments review process, a comprehensive and detailed review of the transposed requirements was undertaken also focusing on their proposed regulatory force within the EU framework, and amendments were introduced where appropriate.

Some commentators underlined the potential difficulties in maintaining coherence and traceability of ICAO provisions transposed into EU measures. In order to support stakeholders on this issue, EASA has established and is committed to maintain the two Checklists containing the comparisons between the ICAO Annex 11 and PANS ATM provisions and their proposed transposition as EU ATS provisions (See also Section 2.3 of this Opinion).

Some comments referred to the need to ensure that amendments introduced to originating ICAO provisions are timely considered and, where necessary, trigger timely amendments to the corresponding EU ATS measures. For this purpose, the so-called 'EU/ICAO synchronisation mechanism' is defined and included in the Terms of Reference for RMT.0719 'Regular update of ATM/ANS rules (IR/AMC/GM)'¹².

2.4.3. AFIS requirements

The rationale behind the introduction of explicit rules for the provision of AFIS within the EU legislation, as well as the regulatory approach adopted, were provided in Section 2.6 of NPA 2016-09(A). The comments received demonstrated appreciation of the EASA initiative, confirmed a broad acceptance of the results of the RIA and indicated some areas where further clarification was required. Consequently, controversial issues concerning the measures addressing AFIS have been thoroughly reviewed and discussed with stakeholders during the comments review activities, in particular the AFIS Thematic Review meeting. EASA substantially maintains the regulatory approach proposed, and introduces some changes to the IRs (e.g. the responsibility to manage traffic other than aircraft on the manoeuvring area) and further elaborates the related AMC and GM. The most important amendments compared to NPA 2016-09 are provided in Sections 2.4.5 and 2.4.6 of this

¹² <https://www.easa.europa.eu/document-library/terms-of-reference-and-group-compositions/tor-rmt0719>

Opinion. More details on stakeholders' feedback on the RIA concerning the AFIS requirements are provided in Section 2.5 of this Opinion.

2.4.4. Amendments to the ATM/ANS Common Requirements 'Cover' Regulation

New requirements for Member States are introduced as follows:

- Article 3a, defining the responsibility and the criteria to determine the need for ATS within the airspace under their sovereignty;
- Article 3b, addressing the need to establish procedures between ATS providers and military authorities for the purposes of aircraft identification for security purposes;
- Article 3c, stipulating the responsibilities for Member States to ensure the coordination and the promulgation of information concerning activities potentially hazardous to civil traffic, including those taking place over the high seas, where applicable. This article includes a requirement to undertake action to prevent the adverse impact of laser beam emissions on flight operations. With NPA 2016-09, EASA invited the stakeholders to express their views on the suitability of this requirement in the ATM/ANS context. The responses received and the outcome of the discussions held during the ATS Thematic Review meeting confirmed the need for such a requirement in the context of the ATM/ANS Common Requirements Regulation. In the related GM, EASA indicates ICAO Doc 9815 'Manual on laser emitters and flight safety' as guidance for implementation;
- Article 3d, defining the purposes for the use of the very-high frequency (VHF) emergency channel 121.500 MHz, and allowing Member States a certain degree of flexibility under specified conditions (e.g. aircrew training). This article, which has been extensively discussed and generally agreed with the stakeholders during the ATS Thematic Review meeting, is proposed with an identical text also for introduction as Article 4a to the SERA Regulation;
- Article 3e, mandating Member States to ensure that arrangements for the necessary coordination and information exchange are established between the ATM/ANS providers and other parties outside the scope of the EASA Basic Regulation (e.g. operators of aerodromes outside the scope of Regulation (EU) No 139/2014), to ensure that such services are provided in accordance with the applicable requirements; and
- paragraph (d) of Article 6 is amended in order to maintain the obligation for ATS providers, currently established in provision ATS.TR.100(a) of the ATM/ANS Common Requirements Regulation, to apply working methods and operational procedures in compliance with the 'SERA Regulation'.

Finally, Article 3 of the amending Regulation defines the date of entry into force, which is proposed to be 27 January 2022. Certain flexibility is provided for Member States which may need additional time for the application of requirements concerning the provision of services in Class G airspace, by leaving the option, under specified circumstances, to apply for a derogation until 22 January 2025.

2.4.5. Amendments to Annex I (Part-DEFINITIONS) to the ATM/ANS Common Requirements Regulation

New definitions are introduced to describe ATS-related terms and expressions newly introduced with the proposed amendments to the ATM/ANS Common Requirements Regulation. The very large majority of these definitions are identical to those contained in ICAO Annex 11 and PANS ATM. This



Section describes only the changes to relevant definitions proposed with NPA 2016-09 introduced as a result of the public consultation process.

With regard to AFIS, its existing definition is amended to emphasise the required designation of the provider as well as the aerodrome context where such service is rendered, while the reference to alerting service is removed, as the obligation for AFIS units to provide alerting service is established in ATS.TR.110. Additionally, the definitions of 'AFIS unit' and 'AFIS aerodrome' are proposed.

The proposed definition of 'controlled aerodrome' clarifies that the ATC service is provided to aerodrome traffic 'within the controlled airspace associated with such aerodrome'. This definition introduces a change to the current definition of 'controlled aerodrome' in the SERA Regulation, for which an amendment is also proposed by removing 'whether or not a control zone exists'. The objective of this change to the definition is to clarify the airspace status around controlled aerodromes and to facilitate the implementation of the principle of Article 8.1 of Regulation (EC) No 550/2004¹³, stipulating: 'Member States shall ensure the provision of air traffic services on an exclusive basis within specific airspace blocks in respect of the airspace under their responsibility.'

2.4.6. Amendments to Annex IV (Part-ATS) to the ATM/ANS Common Requirements Regulation

The outcome of the NPA 2016-09 public consultation confirmed the validity of the proposed amendments to the structure of Annex IV described in Section 2.3 of this Opinion, which is therefore maintained. Modifications were introduced, where necessary, to reorganise the sequence of the requirements and, in a few cases, their placement within the Sections. This Section describes only the changes to the requirements proposed with NPA 2016-09 introduced as a result of the public consultation process. The requirements in Section 4 of Subpart A and Section 1 of Subpart B have partially been reorganised and subsequently renumbered.

2.4.6.1. Amendments to Subpart A 'Additional organisation requirements for providers of ATS (ATS.OR)'

The amendments proposed to Subpart A of Annex IV complement the existing provisions in Section 1 'General requirements' and establish the new Sections 4 'Requirements for communications' and 5 'Requirements for information'. These organisation requirements are applicable to all ATS providers, including AFIS providers, except when flexibility is explicitly provided or when the provisions address the provider of a specific ATS (e.g. ATC).

Amendments to Section 1 — General requirements

The requirements of this Section remained substantially unchanged compared to those proposed with NPA 2016-09. EASA introduces minor editorial changes and simplification to the requirements.

Amendments to Section 4 — Requirements for communications

The proposed requirements of this Section have been renumbered, in consequence of the amendments introduced as a result of the comments received on the NPA. They primarily address the availability and the use of the aeronautical fixed and mobile services and facilities. In particular:

¹³ Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation) (OJ L 96, 31.3.2004, p. 10) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1523444759056&uri=CELEX:32004R0550>).

- Point (b) of ATS.OR.400 as proposed in NPA 2016-09, addressing the reliability and availability of radio communications and navigation aids when ATS surveillance services are provided, is removed from IRs and transposed as GM to ATS.OR.400(a), as it was not possible to identify the ICAO intent and to quantitatively define the term ‘very remote’, which in the context of the provision establishes the acceptable frequency for the possibility of system failures or significant degradations.
- ATS.OR.410 is amended to better specify the extent of the airspace where two-way communications between aircraft and the flight information centre (FIC) as well as between aircraft and the AFIS unit have to be ensured.
- ATS.OR.445 (numbered ATS.OR.450 within NPA 2016-09), is amended to better specify the responsibilities for the aerodrome ATC service provider and of the AFIS providers to ensure that appropriate two-way radiotelephony communication facilities for the control or for the management of vehicles on the manoeuvring area are provided, respectively. The use of the verb ‘to ensure’ considers that the responsibility for making the facilities available could fall under other parties (e.g. the aerodrome operator, the communication service provider) subject to appropriate coordination with the ATS provider. The inclusion of the requirement concerning the AFIS provider results from the introduction of point (f) of ATS.TR.305.
- With ATS.OR.460 (numbered ATS.OR.465 within NPA 2016-09), EASA maintains the obligation for ATS providers to put in place devices which record the background communication and the aural environment at the work stations. EASA bases this decision on:
 - the analysis of responses received to the related NPA questions;
 - the subsequent stakeholders’ feedback received during the ATS Thematic Review meeting; and
 - additional information on the subject matter, received from various members of the ICAO FLIREC SWG, showing that this practice is already in place in various States worldwide and more specifically in the EU, or it is recommended for implementation as a result of safety recommendations issued in various occurrence investigation reports.

Consequently, ATS.OR.460 is amended as follows:

- exemptions may be granted, subject to the competent authority’s decision;
- the scope of the provision is extended to all ATS providers, so including also FICs and AFIS units, and not only to the ATC service provider as in the originating Recommended Practice in Section 3.3.3 of ICAO Annex 11; and
- the recordings shall exclusively be used for occurrence investigation purposes, under specified conditions.

Amendments to Section 5 — Requirements for information

Compared to the proposal in NPA 2016-09, amendments to this Section, which includes requirements for ATS providers to make certain information available to their units, were introduced as follows:



- The obligation, stipulated in points (b) of both ATS.OR.510 and ATS.OR.515, to communicate under specified circumstances special reports and amendments to forecasts is removed, as already implicitly mandated in paragraph (a) of said provisions.
- In order to ensure that the ATS units receive timely information on the operational status of GNSS services, point (b) of ATS.OR.525 stipulates that the ATS provider shall establish appropriate agreements with the providers of such services, in accordance with the obligations stemming from the provisions in paragraph (f) of ATM/ANS.OR.B.005. EASA proposes the related AMC1 ATS.OR.525(b) specifying that a formal agreement with the European Satellite Service Provider (ESSP) is considered as a means of compliance with said IR, and that an agreement with other satellite service providers would be considered an optional requirement, when feasible. It shall be noted that ESSP, being an ATM/ANS service provider certified and overseen by EASA, is obliged to comply with the aforementioned requirement in point (f) of ATM/ANS.OR.B.005 with regard to the provision of information to ATS providers.

2.4.6.2. Amendments to Subpart B ‘Technical requirements for providers of ATS (ATS.TR)’

The requirements proposed in this Subpart set the principles of the working methods and operating procedures for the provision of ATS, both at general level (in Section 1 ‘General’) and for each of the services in the scope of ATS (in Sections 2 ‘ATC service’, 3 ‘Flight information service’ and 4 ‘Alerting service’). With the introduction of a complete and more detailed set of technical requirements in Subpart B, the current point (a) of ATS.TR.100 in the ATM/ANS Common Requirements Regulation, which generically required ATS providers to establish working methods and operating procedures compliant with the Standards in Annex 10 Volume II and Annex 11, is repealed. The requirement to comply with the SERA Regulation for the provision of ATS is now established with the amendment to paragraph (d) of Article 6 of the Regulation.

The specific requirement in the current point (b) of ATS.TR.100 concerning the provision of ATS for flight testing is moved, with an amended text, to the newly established provision ATS.TR.160.

Amendments to Section 1 — General

This Section addresses the fundamentals of the various ATS, including the related objectives, the description of each service, the units in charge, as well as the common technical requirements to be met by ATS providers, as appropriate.

ATS.TR.115 is further elaborated compared to the initial NPA 2016-09 proposal to complete the transposition of the Standard in Section 5.2.1.7.1 of Annex 10 Volume II, with the purpose of indicating the suffixes of all the ATS units and services. Based on the feedback received with comments on NPA 2016-09 and on the outcome of the thematic review meetings held, the suffix to be used in the naming of the AFIS units, initially proposed to be ‘AFIS’, appeared to be a controversial issue, because of different existing practices throughout Member States, which showed the need for harmonisation. Therefore, with this Opinion EASA proposes to use the suffix ‘INFORMATION’, which is prescribed by the originating aforementioned ICAO Standard for the naming of ‘Flight Information Service’, for both the FIC and the AFIS unit. The proposal is consistent also with the Eurocontrol AFIS Manual and with the draft content of the ICAO AFIS Manual being developed. The new GM1 ATS.TR.115(b)(9);(10) is introduced to indicate that particular attention is to be paid when establishing the names of FIC and AFIS unit to avoid duplications and confusion on the context and on the service provided.

ATS.TR.120 as proposed in NPA 2016-09, concerning the coordination between ATS units and the military for the purposes of aircraft identification, is removed from the mandatory Part-ATS requirements and transposed as GM to Article 3b, as the requirement is addressed by Article 3b. Consequently, the remaining provisions of Section 1 are re-numbered.

The requirement in point (b) of ATS.TR.130 (numbered ATS.TR.135 within NPA 2016-09) addressing the location of the transition level with respect to the transition altitude is amended as follows:

- the text of the requirement is re-phrased to emphasise that a vertical separation minimum of 300 m/1 000 ft is to be provided between two aircraft flying concurrently at the transition altitude and at the transition level; and
- based on the analysis of the responses to the subject matter question posed with NPA 2016-09, as well as on the outcome of extensive discussions with stakeholders during the thematic review and focused consultation meetings, the term ‘a nominal’ associated with the aforementioned separation minimum is introduced. The change does not impact safety and allows an optimised use of the airspace capacity. The reasons for this amendment and guidance for its application are provided in the newly introduced GM to ATS.TR.130(b).

The requirement in point (d) of ATS.TR.140 (numbered ATS.TR.145 within NPA 2016-09) addressing the provision of altimeter setting information is restructured, in order to clarify its applicability in the context of the issuance of ATC clearances during various phases of the flight. The requirement is also amended to correct an editorial error (change ‘at’ into ‘to’) introduced when transposing initially the originating Section 4.10.4.5 of ICAO PANS ATM in point (eb)(3) of SERA.8015. This Opinion proposes to amend also SERA.8015(eb)(3) accordingly.

ATS.TR.155 (numbered ATS.TR.160 within NPA 2016-09), stipulates the requirements for the provision of ATS surveillance services, which are revised and rearranged based on the consultation feedback and the comments review activities. Due to the relevance of these requirements in the context of the ATS provisions, EASA proposes a significant number of AMC and GM in support of their application, for their very large part transposed from the relevant provisions in Chapter 8 of ICAO PANS ATM. Point (a) is amended to emphasise the requirement for the ATS provider to specify the functions for which ATS surveillance systems can be used. The associated AMC1 ATS.TR.155(a) describes these functions for ATC service and flight information service. Point (b) is rearranged in order to clarify the responsibilities for the ATS provider to ensure that certain arrangements are made for the provision of ATS surveillance information and system support to air traffic controllers and flight information service officers/aerodrome flight information service officers. Point (c) mandates the ATS provider to establish procedures for the various activities performed when ATS surveillance services are provided, in accordance with the functions specified in accordance with point (a). Within such activities, compared to the NPA proposal, EASA introduces also the interruption or termination of ATS surveillance services. The requirements concerning pressure-altitude-derived level information, proposed for transposition with NPA 2016-09 as ATS.TR.275, are moved as points (f) and (g) of ATS.TR.155, the reason being their applicability also to flight information service provision. Consequently, the text of point (f) is amended to reflect its extended scope of applicability. This Opinion proposes to amend the corresponding requirements in point (b) of SERA.13010 accordingly.

Amendments to Section 2 — ATC service

This Section includes the requirements concerning the provision of ATC service, which, in accordance with the ATS objectives set in points (a), (b) and (c) of ATS.TR.100, is delivered with the purpose of preventing collisions between aircraft in the air and on the manoeuvring area, as well as that of expediting and maintaining an orderly flow of air traffic.

The fundamental requirements proposed in:

- ATS.TR.200 'Application',
- ATS.TR.205 'Provision of ATC service',
- ATS.TR.210 'Operation of ATC service'
- ATS.TR.215 'Selection and notification of separation minima for the application of ATS.TR.210(c)',
- ATS.TR.225 'Responsibility for control',
- ATS.TR.230 'Transfer of responsibility for control', and
- ATS.TR.235 'ATC clearances'

are not subject to any substantial change compared to their content proposed with NPA 2016-09. The comprehensive set of the proposed AMC and GM associated with these requirements has been subject to an extensive review, taking into account the feedback received with the NPA 2016-09 public consultation and the outcome of the subsequent comments review activities, as well as amendments introduced to the originating ICAO provisions.

The requirements concerning the application of wake turbulence separation included in ATS.TR.220 are maintained without changes. In response to the stakeholders' comments, EASA proposes, aside to the existing ICAO wake turbulence separation categories (including the SUPER category introduced with ICAO TEC/OPS/SEP – 08-0294.SLG 'Wake turbulence aspects of Airbus A380-800 aircraft', dated 08 July 2008) and separation minima, an alternative AMC7 ATS.TR.220 consisting of the EU-RECAT categorisation and separation minima.

The requirements for the control of persons and vehicles at controlled aerodromes in conditions where low-visibility operations are in progress proposed in point (b) of ATS.TR.240 are amended, as follows:

- in point (1), in order to align with the requirements proposed under RMT.0379 'All-weather operations', the term 'ILS/MLS' is replaced by 'radio navigation aids' and the expression 'Category II or Category III precision instrument operations' is replaced by 'low-visibility operations'. Additionally, the requirement stipulates also to protect the 'critical area', aside to the 'sensitive area', of radio navigation aids. Definitions for these two terms are also introduced, identical to those included in the EASA CS-ADR-DSN Issue 4; and
- in point (2), the reference to 'separation minimum' between vehicles and taxiing aircraft is replaced by 'method(s) to separate'. This amendment, which is also supported by a proposal formulated by the Eurocontrol NETOPS with its Working Paper 10 of NETOPS/18, is introduced in recognition of the difficulties in the practical implementation (e.g. establishing a numeric value for the separation minimum to be applied) of the originating Standard in paragraph (b) of Section 3.8.2 of ICAO Annex 11.



These amendments are proposed also to the SERA Regulation (Article 2 and SERA.3210(d)(4)(ii)(A) and (B)).

The text of ATS.TR.255 concerning operations on parallel or near-parallel runways is reworded for clarity, without introducing substantial changes. EASA proposes AMC and GM, transposed from Section 6.7 of ICAO PANS ATM, to support the implementation of this requirement. With its State Letter AN 13/2.5-17/85, ICAO has proposed various modifications to this Section; EASA is monitoring the evolution of this regulatory process and will consider amending the proposed AMC and GM accordingly, if necessary.

In accordance with ATS.TR.240, the requirements in ATS.TR.265 concerning the control of aerodrome surface traffic in conditions of low visibility are also amended, as follows:

- in point (a)(2), the reference to ‘longitudinal separation’ on taxiways is replaced by ‘longitudinal separation method’; and
- the terminology to describe the conditions for the initiation and continuation of low-visibility operations in point (b) are aligned with that used in point (b)(1) of ATS.TR.240, with the same justification.

Amendments to Section 3 — Flight information service

This Section pertains to rules that enable the provision of flight information service whose purpose is to provide advice and information useful for the safe and efficient conduct of flights.

In order to clarify the meaning of ‘traffic otherwise known to the relevant ATS units’ as a recipient of the flight information service, GM1 ATS.TR.300(a)(2) is introduced, as many comments received from stakeholders via the consultation and during the subsequent thematic review meetings showed different interpretations and indicated some related operational issues, also in relation to the provision of alerting service to such traffic. The related IRs remains unchanged, aligned with the current ICAO provisions.

ATS.TR.305, establishing the scope of the flight information service, is amended compared to the proposed requirement in NPA 2016-09, as follows:

- the requirement to provide information concerning messages, including clearances, received from other ATS units to relay to aircraft, is moved to point (b), as it is applicable to all units providing flight information service, and not only to AFIS units as originally proposed; and
- the newly introduced point (f) assigns the responsibility to the AFIS unit, when so prescribed by the competent authority, to manage the movement of vehicles and persons on the manoeuvring area by the application of suitable requirements for vehicles management established in ATS.TR.240. This practice is introduced with a view to supporting the fulfilment of the objectives of the flight information service stipulated in point (d) of ATS.TR.100 (e.g. ‘to provide advice and information useful for the safe and efficient conduct of flights’) in the context of AFIS aerodromes. Its introduction, which mirrors the ongoing ICAO developments on AFIS, has been widely supported by the consultation and comments review activities.

EASA has extensively reviewed, amended and, where necessary, complemented the numerous AMC and GM associated with ATS.TR.305, in particular those related to AFIS provision.



The requirements concerning the voice and data link automatic terminal information service (ATIS) were subject to minor amendments, as follows:

- point (g) of ATS.TR.310 addressing the Voice ATIS messages broadcast format is removed as the requirement is considered to be of a guidance nature;
- points (a)(7) and (b) are amended to align them with the terminology used in Annex V (Part-MET) to the ATM/ANS Common Requirements Regulation with regard to meteorological information; and
- point (d) is amended, in order to better clarify the actions required from the ATS units when an aircraft communicates that the ATIS message received is no longer valid. The corresponding requirement in SERA.9010(a)(4) is proposed for amendment accordingly.

Amendments to Section 4 — Alerting service

Alerting service consists of the notification to appropriate organisations regarding aircraft in need of search and rescue aid, and of support to such organisations as required. Alerting service is provided by ATC units, FICs and AFIS units to assist aircraft considered or known to be in a state of emergency.

Compared to the requirements proposed with NPA 2016-09, the only amendment introduced to this Section consists of the addition of a new point (d) to ATS.TR.400, mandating the relevant ATS units to activate the local search and rescue and emergency organisations under specified circumstances. GM1 ATS.TR.400(a)(2) is added, to clarify the responsibilities for the provision of alerting service to 'aircraft otherwise known to the ATS'.

2.4.7. Amendments to Annex V (Part-MET) to the ATM/ANS Common Requirements Regulation

With reference to the amendments proposed with NPA 2016-09 to Annex V (Part-MET), the text of the new point (g) of MET.OR.245 is amended by removing the reference to 'radioactive materials'. The obligation to provide such information, originating from the Standard in Section 7.6 of ICAO Annex 11, is already established in point (f)(5) of MET.OR.245.

2.4.8. Amendments to the SERA Regulation and its Annex

This Opinion introduces some amendments to the SERA Regulation in order to align it with the proposed requirements in Part-ATS. The outcome of the public consultation has confirmed the validity of the amendments proposed with NPA 2016-09 and has evidenced the need for additional ones. Such additional changes are already described in association with Part-ATS requirements in Section 2.4.6 of this Opinion. Further relevant proposed amendments are as follows:

- in Article 2, the introduction of new definitions for 'low-visibility operations', 'critical area' and 'sensitive area'; and
- in the Annex:
 - in SERA.8015(d)(5), the explicit mention to ATFM slots as an instruction or information to be included in an ATC clearance;
 - in SERA.8015(eb)(5), the explicit indication of the applicable requirements concerning the expression of the vertical position of the aircraft in the arrival phase at AFIS aerodromes;

- the introduction of a new point (b)(4) in SERA.9005, concerning the inclusion of messages, including clearances, received from other ATS units for relay to aircraft within the scope of flight information service; and
- the introduction of a new point (d) to SERA.9005 to reflect the AFIS-specific information into the scope of flight information service.

Additionally, various AMC and GM, included in the file published for information only with this Opinion, are proposed to be introduced in the Annex to ED Decision 2013/013/R.

2.5. What are the expected benefits and drawbacks of the proposals

2.5.1. Overview of the conclusions of the RIA on AFIS requirements

The detailed RIA on the introduction of AFIS requirements was provided in Section 3.1.2 of NPA 2016-09(A); the RIA was also supported by evidence gathered via a questionnaire (the 'EASA AFIS Survey') developed within the activities of RMT.0464 and addressed to the stakeholders' categories concerned. The analysis of the RIA concluded that Option 1 'Definition of AFIS and its essential requirements consistent with existing ICAO ATS principles and EU legislation and practices, while ensuring certain flexibility' was to be preferred compared to the other two identified options. The three options are summarised in the Table below.

Option No	Short title	Description
0	No policy change	Baseline scenario (no change in EU rules; risks remain as outlined in the issue analysis)
1	Essential and flexible AFIS rules	Definition of AFIS and its essential requirements consistent with existing ICAO ATS principles and EU legislation and practices, while ensuring certain flexibility
2	Comprehensive and prescriptive AFIS rules	Definition of AFIS and its complete mandatory requirements consistent with existing ICAO ATS principles and EU legislation

Indeed, the preferred Option 1 brings clarity on the AFIS provision by providing a comprehensive, explicit and balanced set of requirements, which is based on relevant ICAO principles and on the relevant EU legislation.

In addition, the harmonisation of AFIS in accordance with the preferred option would also bring safety benefits for aircraft operators and pilots, as it will establish uniform operational principles throughout the EU. This could leave less room for misinterpretation of the operational characteristics of the service provided.

Furthermore, the proposal supports the principle of proportionality, as it is established by the balanced set of rules (IRs, AMC, GM). These rules are flexible to the extent possible within the ATS context in order to accommodate local needs and not to be disproportionate for the affected regulated entities. Finally, the proposal establishes clarity and supports the selection of the appropriate service or facilitation for aviation operations at aerodrome.

2.5.2. Overview of the comments received via the NPA 2016-09 public consultation on the RIA on AFIS requirements

The majority of the comments on the RIA showed wide consensus for the proposed regulatory Option 1 across different types of stakeholders from several Member States. A few stakeholders from Sweden (competent authority) and United Kingdom (competent authority and aerodrome operators) showed concerns, detailed further in this paragraph.

All the comments provided were of a qualitative nature; no comment with quantitative elements on the introduction of AFIS requirements was received, even though in a list of questions proposed in the RIA EASA expressly requested the stakeholders to provide such information, to further evaluate and if necessary revise the proposal. A summary of the most relevant comments on the RIA Section is provided hereafter.

It is generally represented that establishing explicit and balanced EU measures addressing the provision of AFIS in the context of ATS will enhance the harmonisation of such service and procedures throughout the Union, with evident benefits for the safety of flights. By this, flight crews' awareness would be improved, being the provision of such service based on the same principles throughout the Member States.

Furthermore, it has been confirmed by some stakeholders that it is not envisaged that implementation costs for the proposed AFIS requirements would be significant. Such requirements are based on existing ICAO flight information service principles that are made more explicit and tailored for the local aerodrome context; moreover, they were developed taking into account the feedback of existing arrangements sought via the EASA AFIS Survey. The harmonisation of AFIS will support the processes for the selection, and subsequently for the certification and oversight, of the appropriate aerodrome ATS services.

Clear and explicit requirements for the provision of AFIS will support the definition of adequate qualification and training programmes for personnel providing AFIS, in accordance with already existing requirements for the qualification of ATM/ANS personnel, thus introducing benefits for the safety of operations.

A clear and robust regulatory framework for the certification and operation of AFIS supports the definition of the appropriate service level at airports, with potential benefits for the expansion of the aviation market for involved parties (e.g. airlines, aerodromes, ANSPs).

Some respondents expressed their concern about the provision of ground control to aircraft by AFIS units. In their opinion, this would lead to a decrease of the service level, with a potential impact on safety, and might lead to a compulsory designation of aerodrome ATC in lieu of AFIS, and with negative economic impact due to increased costs. Within the CRDs, EASA has clarified that ground control of aircraft is a task which can be performed under the scope of ATC service, and not of flight information service, and that it is a Member State' responsibility to select the most appropriate service (aerodrome ATC or AFIS) for operations taking place at the aerodrome and within the associated airspace.

In addition, concerns were expressed about the fact that there are too many aerodromes with differing types of operations, intensity, and geographical location, so placing specific common rules against them might neither be proportionate nor efficient. Within the CRDs, EASA has reaffirmed that the intent to establish requirements for AFIS is to better define such service within the EU legislation and that the selection of the appropriate aerodrome ATS is a responsibility of the Member States.



Some commentators referred to the need to take due account of and to align with the ongoing ICAO activities for the issuance of a globally applicable AFIS Manual, which would not be of a compulsory application. EASA is continuously and duly monitoring these activities in order to avoid inconsistencies between the EU AFIS requirements and the final ICAO AFIS Manual.

2.5.3. Conclusions on the RIA

Based on the comprehensive analysis of the comments received on the RIA, EASA confirms the preferred option with all the impacts highlighted.

The final proposal included in the Opinion does not differ substantially compared to that included in the NPA. Therefore, the conclusions of the RIA are still considered valid.

2.6. How we monitor and evaluate the rules

Monitoring is a continuous and systematic process of data collection and analysis about the implementation/application of a rule/activity. It generates factual information for future possible evaluations and impact assessments and helps identifying actual implementation problems. With respect to this proposal, EASA would suggest to monitor:

- the quantitative and harmonised implementation of AFIS throughout the EASA Member States; more specifically:
 - if the regulatory proposal had an impact on the extent of AFIS provision (decrease or increase of AFIS provision); and
 - benchmark the harmonisation in the operational provision of AFIS; and
- the amount of safety occurrences at AFIS aerodromes and associated airspaces in order to verify if the regulatory proposal has enhanced the safety of aviation operations.

The monitoring could take the form of collecting and analysing data from different available sources via several tools such as:

- standardisation inspections;
- analysis of:
 - the application for flexibility provisions (e.g. Article 14 of the Basic Regulation);
 - alternative means of compliance approved; and
- analysis of occurrence reports in the AFIS context; and
- analysis of queries received by EASA and the Commission about the interpretation of the AFIS provisions.

Cologne, 22 May 2018

Patrick KY
Executive Director



3. References

3.1. Affected regulations

- Commission Implementing Regulation (EU) 2017/373 of 1 March 2017 laying down common requirements for providers of air traffic management/air navigation services and other air traffic management network functions and their oversight, repealing Regulation (EC) No 482/2008, Implementing Regulations (EU) No 1034/2011, (EU) No 1035/2011 and (EU) 2016/1377 and amending Regulation (EU) No 677/2011 (OJ L 62, 8.3.2017, p.1)
- Commission Implementing Regulation (EU) 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 and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010 (OJ L 281, 13.10.2012, p. 1)

3.2. Related decisions

- Executive Director Decision 2017/001/R of 8 March 2017 issuing Acceptable Means of Compliance and Guidance Material to Commission Implementing Regulation (EU) 2017/373 'Common requirements for providers of air traffic management/air navigation services and other air traffic management network functions and their oversight'
- Executive Director Decision 2013/013/R of the Executive Director of the European Aviation Safety Agency of 17 July 2013 adopting the Acceptable Means of Compliance and Guidance Material to Commission Implementing Regulation (EU) 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 and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010 'Acceptable Means of Compliance and Guidance Material to the rules of the air'

3.3. Other reference documents

- Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1)
- Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) — Statement by the Member States on military issues related to the single European sky (OJ L 96, 31.3.2004, p. 1)
- Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation) (OJ L 96, 31.3.2004, p. 10)

- Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation) (OJ L 96, 31.3.2004, p. 20)
- Commission Regulation (EU) 2015/340 of 20 February 2015 laying down technical requirements and administrative procedures relating to air traffic controllers' licences and certificates pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, amending Commission Implementing Regulation (EU) No 923/2012 and repealing Commission Regulation (EU) No 805/2011 (OJ L 63, 6.3.2015, p. 1)
- Commission Regulation (EC) No 2150/2005 of 23 December 2005 laying down common rules for the flexible use of airspace (OJ L 342, 24.12.2005, p. 20)
- Commission Implementing Regulation (EU) No 1206/2011 of 22 November 2011 laying down requirements on aircraft identification for surveillance for the single European sky (OJ L 305, 23.11.2011, p. 23)
- Commission Implementing Regulation (EU) No 1035/2011 of 17 October 2011 laying down common requirements for the provision of air navigation services and amending Regulations (EC) No 482/2008 and (EU) No 691/2010 (OJ L 271, 18.10.2011, p. 23)
- Commission Regulation (EU) No 139/2014 of 12 February 2014 laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 44, 14.2.2014, p. 1)
- 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)
- Commission Implementing Regulation (EU) 2016/1185 of 20 July 2016 amending Implementing Regulation (EU) No 923/2012 as regards the update and completion of the common rules of the air and operational provisions regarding services and procedures in air navigation (SERA Part C) and repealing Regulation (EC) No 730/2006 (OJ L 196, 21.7.2016, p.3)
- ED Decision 2015/014/R of 3 July 2015 'Guidance Material on the implementation of the remote tower concept for single mode of operation'
- ED Decision 2014/013/R of 27 February 2014 adopting Certification Specifications and Guidance Material for Aerodromes Design 'CS-ADR-DSN — Issue 4'
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4. Appendices

Appendix 1 to Opinion No 03/2018 — CRD 2016-09(A)

Appendix 2 to Opinion No 03/2018 — CRD 2016-09(B)

