

**TERMS OF REFERENCE**

Task Nr:	ATM.003(a) ATM.003(b)
Issue:	2
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Regulatory reference and reference documents:	<ul style="list-style-type: none">• 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 Agency¹, as amended by Regulation (EC) No 1108/2009².• Directive 2006/23/EC of the European Parliament and of the Council of 5 April 2006 on a Community air traffic controller licence³.• Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation for the single European sky⁴.• 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 sky⁵ and its Implementing Rules.• Commission Regulation (EC) No 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services as amended by Commission Regulation (EC) No 668/2008 of 15 July 2008.• Commission Regulation (EC) No 1315/2007 of 8 November 2007 on safety oversight in air traffic management and amending Regulation (EC) No 2096/2005.• EASA Opinion No 03/2010⁶ and associated draft Regulation⁷.• Annex 1 to the Convention on International Civil Aviation (Chicago Convention).• Eurocontrol Safety Regulatory Requirements ESARR 5 and associated means of compliance and guidance material.

¹ OJ L 79, 19.3.2008, p. 1.

² OJ L 309, 24.11.2009, p. 51.

³ OJ L 114, 27.4.2006, p. 22.

⁴ OJ L 96, 31.3.2004, p. 1.

⁵ OJ L 96, 31.3.2004, p. 10.

⁶ http://www.easa.europa.eu/ws_prod/r/doc/opinions/Translations/2010/03/Opinion%2003-2010.pdf.

⁷ [http://www.easa.europa.eu/ws_prod/r/doc/opinions/Translations/2010/03/Draft%20Regulation%20to%20Opinion%2003-2010%20\(ATCO\).pdf](http://www.easa.europa.eu/ws_prod/r/doc/opinions/Translations/2010/03/Draft%20Regulation%20to%20Opinion%2003-2010%20(ATCO).pdf).

1. Subject:

Extension of the EASA system to safety regulation of Air Traffic Management (ATM) and Air Navigation Services (ANS) – development of Implementing Rules (ATM.003(a)) and Acceptable Means of Compliance and Guidance Material (ATM.003(b)) on Air Traffic Controller licensing.

2. Problem/statement of issue and justification; reason for regulatory evolution (regulatory tasks):

Regulation (EC) No 1108/2009 amending Regulation (EC) No 216/2008 (referred to as 'Basic Regulation' or 'BR') was adopted by the European co-legislators in order to cover the safety regulation of ATM/ANS (and aerodromes) by the European aviation safety regulatory system (henceforth the EASA system). Therefore, a series of implementing measures now needs to be prepared by the European Aviation Safety Agency (the Agency). These implementing measures will define the detailed requirements with which related organisations, personnel, systems and constituents would need to comply together with the applicable certification processes.

The BR requires the development of a defined set of safety rules in the field of ATM/ANS within a defined timeframe. Opinion No 03/2010 for a Commission Regulation laying down implementing rules for the licensing and medical certification of air traffic controllers⁸ was published on 28 May 2010 with the aim to transfer the provisions of existing Community legislation relevant to the subject matter into an implementing rule. However, further regulatory actions are necessary to ensure full compliance with the safety objectives described in the Essential Requirements of the amended Basic Regulation.

This Terms of Reference is related to the second phase of implementation measures.

3. Objective:

The overall objective is to develop implementing rules (IRs) and, as appropriate, the necessary acceptable means of compliance (AMC), certification specifications (CS) and guidance material (GM) for the implementation of the BR in the field of air traffic controller licensing. This regulatory material shall encompass the safety regulatory requirements and related implementation material assisting and providing necessary means for the regulated organisations and persons to comply with the requirements.

The implementation measures to be developed in the area of air traffic controller licensing shall include the medical certification of air traffic controllers and the certification of organisations and persons involved in their training, testing and medical examination. The measures shall include the eligibility criteria, rights, responsibilities and privileges relevant to applicants for, and holders of, air traffic controller licence and student air traffic controller licence. They shall provide criteria for:

- The licensing, training and medical certification of air traffic controllers and student air traffic controllers, for the rating(s) and endorsement(s) applicable to their licence as required by the provisions of the BR (Article 8c) and its Essential Requirements (ERs), contained in Annex Vb, chapter 4.
- The certification of training organisations, aero-medical examiners and aero-medical centres involved in the medical examination of air traffic controllers, as well as the provisions for synthetic training devices, as defined in the provisions of the amended BR and in its ERs, Annex Vb, chapter 4 and 5.

As stated in the BR, these implementing measures shall initially be developed on the basis of the provisions of Directive 2006/23/EC on a Community air traffic controller licence and reflect the state of the art, including best practices and scientific and technical progress in the field of air traffic controller training.

⁸ http://www.easa.europa.eu/ws_prod/g/rg_opinions_main.php.

4. Specific tasks and interface issues (Deliverables):

Development of Opinion(s), including draft text of IR for Commission Regulation(s) and Decision(s) of the Executive Director of the Agency, containing AMC, CS and GM material, including (but not necessarily limited to) the following elements:

- requirements containing the provisions for the licensing of air traffic controllers, the holders of such licences and the provisions for medical certificates;
- organisation requirements containing the provisions for air navigation service providers with regard to the licensing and training of air traffic controllers, air traffic controller training organisations, aero-medical centres, as well as authority requirements containing the provisions applicable to the competent authorities; and
- requirements applicable for the use and performance of synthetic training devices, where appropriate.

As defined by the BR, the Opinion(s) shall encompass an appropriate transitional mechanism to ensure the continuity of approvals, the acceptance and seamless conversion of licences and certificates already granted.

Coordination of activities with the rulemaking groups executing the following rulemaking tasks should be established whenever appropriate:

- ATM.001 – Requirements for Air Navigation Service Providers;
- ATM.004 – Requirements for Competent Authorities in ATM/ANS.

A full Regulatory Impact Assessment (RIA) on the extension of the Agency's remit to ATM/ANS has been published with Opinion 01/2008. No Pre-RIA has therefore been developed at this stage, since the legislator has defined the necessary implementing rules to be developed. However, it will be necessary to carefully evaluate the impacts of the regulatory solutions envisaged within the development of implementing rules, in particular when they are not based on the existing regulatory material, when this material has been modified based on justified and informed decisions or when the legislator left some options to be assessed during the drafting of implementing measures. The impact of the regulatory solutions proposed will be assessed by means of an associated Regulatory Impact Assessment (RIA) which will accompany the Notice of Proposed Amendment and the Opinion on this topic.

Based on the total system approach and to promote regulatory efficiencies, when drafting these implementing measures a consistent regulatory structure and common general requirements on authority and organisational requirements shall be taken as a basis, as far as it is feasible. Amendments to relevant general requirements as well as specific provisions for the field concerned shall be proposed, when deemed necessary.

5. Working methods (in addition to the applicable Agency procedures):

The work shall be carried out by a rulemaking group established by the Agency. Due to the complexity of the task, the rulemaking group may deal with certain specific issues with ad hoc expertise invited.

Group composition will be defined based on the rulemaking procedures of the Agency and, in particular, will reflect the complexity of the task, the expertise necessary and stakeholders potentially affected by the work. The Agency will nominate at least two internal members into the rulemaking group who will coordinate and facilitate the work as well as carry out the secretariat functions.

The experts involved in the work of the rulemaking group may also be invited to participate in assessing the comments received to the Notice of Proposed Amendment (NPA).

Meetings of the rulemaking group shall primarily be held at the Agency's premises in

Cologne.

6. Time scale, milestones:

- The Notice of Proposed Amendment (NPA) based on rulemaking task ATM.003(a) containing the implementing rules applicable to Air Traffic Controller licensing and the associated Regulatory Impact Assessment (RIA) is to be published by 2012/Q1.
- The Comment Response Document (CRD) and the Agency Opinion and the associated Regulatory Impact Assessment (RIA) will be issued subsequently and in accordance with the Agency's rulemaking procedure by 2013/Q1.
- The related Executive Director Decision(s) containing the relevant CS, AMC and GM based on rulemaking task ATM.003(b) will also be prepared by the rulemaking group and is to be issued by 2014/Q1.