

# **EASA**

## **TERMS OF REFERENCE**

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### **Regulatory reference:**

- Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (OJ L 240, 7.9.2002,p.1) (Regulation 1592/2002)
- Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions; Extending the tasks of the European Aviation Safety Agency. An agenda for 2010 (COM (2005) 578 final from 15 November 2005) (Communication).

### **Reference documents:**

- Chicago Convention and all relevant Annexes, in particular 1, 2, 3, 4, 10, 11, 12 and 15
- 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 (OJ L 96, 31.3.2004, p. 1) (the framework Regulation)
- 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 (OJ L 96, 31.3.2004, p. 10) (the service provision Regulation)
- 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 (OJ L 96, 31.3.2004, p. 20) (the airspace Regulation)
- Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (OJ L 96, 31.3.2004, p. 26) (the interoperability Regulation)
- Directive [2003/42/EC](#) of the European Parliament and of the Council of 13 June 2003 on occurrence reporting in civil aviation (OJ L 167, 04.07.2003)
- Directive 2006/23/EC of the European Parliament and of the Council of 5 April 2006 on a Community air traffic controller license (OJ L 114, 27.4.2006, p 22)
- COMMISSION Regulation (EC) No 2096/2005 of 20 December 2005 laying down common requirements for the provision of air navigation services (OJ L 335, 21.12.2005, p 13)
- Preliminary Impact Assessment on the Extension of EASA competences to ANS, ATM and Airports, carried out on behalf of the European Commission, Final Report dated 15.9.2005 (Preliminary Impact Assessment)  
([http://ec.europa.eu/dgs/energy\\_transport/evaluation/activites/doc/reports/transport/impact\\_assessment\\_extension\\_easa\\_competences\\_en.pdf](http://ec.europa.eu/dgs/energy_transport/evaluation/activites/doc/reports/transport/impact_assessment_extension_easa_competences_en.pdf)).
- Eurocontrol Safety Regulatory Requirements 1, 2, 3, 4, 5 and 6 (ESARRs)  
([http://www.eurocontrol.int/src/public/standard\\_page/src\\_deliverables.html](http://www.eurocontrol.int/src/public/standard_page/src_deliverables.html))

### **1.Subject:**

Extension of the scope of the Regulation 1592/2002 to safety and interoperability regulation of Air Navigation Services (ANS) and Air Traffic Management (ATM).

## **2.Problem / Statement of issue and justification; reason for regulatory evolution:**

One of the basic assumptions underlying the European aviation policy has been that a high and uniform level of safety can be best attained through common action at Community level and therefore high and uniform protection of the citizens will be ensured by the adoption of common safety rules and by ensuring that products, persons and organisations involved in the execution of safety critical functions comply with such rules. This was the reason for the Community legislator's adoption of Regulation 1592/2002 establishing an appropriate framework to achieve this objective and setting up of the European Aviation Safety Agency (EASA).

On their side, all stakeholders involved in civil aviation safety consider a total system approach (covering people, procedures, equipment and organisational structures) to be essential to ensuring proper co-ordination and consistency between the ground- and air-based aspects of the aviation system and to improving the level of safety. This approach is also strongly promoted by ICAO. Such is the reason why the European legislator, already when adopting Regulation 1592/2002, considered that its scope should be extended progressively to cover all aspects of aircraft safety.

The Preliminary Impact Assessment (see above), executed at the request of the Commission to examine how this should be done, confirmed that the most appropriate option to implement the total system approach is the extension of EASA competences. In this context the Commission has outlined in its Communication (see above) a medium-term agenda for the development of civil aviation safety regulations in Europe, including the regulation of aerodromes and air navigation services. It then invited the Agency to start working towards this goal. Accordingly, the Agency's work programmes foresee the issuing of an opinion on the regulation of aerodromes by the end of 2006 and one on the regulation of safety and interoperability of Air Navigation Services (ANS) and Air Traffic Management (ATM) in 2007. An NPA on aerodromes has been published on the 16 May and the present task is the first step towards the second objective.

Rulemaking activities of the Agency have to be based on a systematic approach to hazards and risk. Therefore, the aim of this task is to ensure that all significant safety risk areas relating to the provision of ANS/ATM services are identified, and following this, appropriate mitigating measures are developed to reduce the severity and/or probability of such risks to acceptable level. These mitigating measures, called essential requirements, will then be imposed through the Regulation 1592/2002. The persons, products and services affected by these obligations have to be clearly identified in the law so as to allow enforcement. Implementation means also have to be decided by the legislator to clarify firstly whether executive powers should be given to the Commission to adopt implementing rules, and secondly what organisations are accountable and responsible for overseeing the implementation of the law and for enforcement.

This regulatory task can not be executed without proper co-ordination with the Single European Sky (SES) programme and making best use of results already achieved therein. The objective of the SES programme, as stated in the framework Regulation (see above), is *'to enhance current safety standards and overall efficiency for general air traffic in Europe, to optimise capacity meeting the requirements of all airspace users and to minimise delays'*. In pursuit of this objective, a lot of important and valuable work has been done in the area of safety. However, safety being only one of the elements of this programme, it has not been possible to ensure consistency between its safety components and the Community aviation safety framework, which has been established by regulation 1592/2002. This fact is indeed acknowledged in the Commission Communication stating that *'Single European sky does not at present address all the safety issues relating to air traffic management. It is therefore essential to supplement the existing rules and adopt a more consistent and coordinated approach to safety'*. Taking into account the significant efforts made in this domain, regulatory means to be considered when executing this task must therefore be consistent with the rules established so far under the SES programme, as it would be unacceptable that investments made so far by air navigation services providers and national supervisory authorities be wasted. Consequently, the regulatory means to be considered here must also provide the right framework for the future deployment of the SESAR Programme (Single European Sky ATM Research Programme).

Furthermore, when executing this task, it must be taken into account that aviation is by essence of a global nature. Aircraft fly from place to place and the rules devised to provide for the necessary level of safety have to be known and understood by all users. Such a need for interoperability is therefore not only a tool to facilitate the free movement of persons, but also an essential safety requirement. Interoperability cannot therefore be dissociated from safety when regulating civil aviation. This explains why this task covers also interoperability requirements, so as to ensure that the interoperability objectives contained in ICAO Standards and Recommended Practices are taken into consideration and avoid disrupting the global system they underpin.

**3.Objective:**

Develop essential requirements and basic principles for the safety and interoperability regulation of Air Navigation Services (ANS) and Air Traffic Management (ATM).

**4. Specific tasks and interface issues (Deliverables):**

- To deliver a draft EASA Opinion on the safety and interoperability regulation of Air Navigation Services (ANS) and Air Traffic Management (ATM), accompanied with a proper justification.
- To specify in the Opinion the safety objectives needed to mitigate all significant safety risks in this field.
- To define in the Opinion;
  - persons, products and services which are to be regulated by common safety rules
  - areas where common implementing rules are needed
  - means to verify and monitor compliance with common rules
- As stated in paragraph 2, it is necessary to ensure that the interoperability objectives contained in ICAO Standards and Recommendations are taken into consideration, so as to avoid disrupting the global system they underpin.
- To seek for consistent solutions in relation to the SES programme (including consideration of SESAR) in implementing this new safety framework.
- There is a strong interface between Operational Air Traffic (OAT) and General Air Traffic (GAT). In order to adopt a consistent and coordinated approach in ANS and ATM, military needs will have to be evaluated and taken into account when drafting the EASA opinion.
- Without compromising the basic objectives of safety and interoperability, due account on proportionality, subsidiarity and economical impacts have to be taken into account.

**5. Working Methods** (in addition to the applicable EASA procedures):

The drafting of the Opinion, containing envisaged basic principles and essential requirements, will be carried out by the Agency with the assistance of external experts with proven and practical experience in the operation and the regulation of air traffic services.

**6. Time scale, milestones:**

The NPA should be published by April 2007.

The EASA Opinion should be issued by December 2007.