

Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (Text with EEA relevance)

## CHAPTER V

### THE EUROPEAN UNION AVIATION SAFETY AGENCY

#### SECTION I

##### *Tasks*

##### *Article 75*

#### **Establishment and functions of the Agency**

- 1 A European Union Aviation Safety Agency is hereby established.
- 2 For the purposes of ensuring the proper functioning and development of civil aviation in the Union in accordance with the objectives set out in Article 1, the Agency shall:
  - a undertake any task and formulate opinions on all matters covered by this Regulation;
  - b assist the Commission by preparing measures to be taken under this Regulation. Where those measures comprise technical rules, the Commission may not change their content without prior coordination with the Agency;
  - c provide the Commission with the necessary technical, scientific and administrative support to carry out its tasks;
  - d take the necessary measures within the powers conferred on it by this Regulation or other Union legislation;
  - e conduct inspections, other monitoring activities and investigations as necessary to fulfil its tasks under this Regulation, or as requested by the Commission;
  - f within its field of competence, carry out, on behalf of Member States, functions and tasks ascribed to them by applicable international conventions, in particular the Chicago Convention;
  - g assist the national competent authorities in carrying out their tasks, in particular by providing a forum for exchanges of information and expertise;
  - h contribute, for matters covered by this Regulation, upon request by the Commission, to the establishment, measurement, reporting and analysis of performance indicators, where Union law establishes performance schemes relating to civil aviation;
  - i promote Union aviation standards and rules at international level by establishing appropriate cooperation with the competent authorities of third countries and international organisations;

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- j cooperate with other Union institutions, bodies, offices and agencies in areas where their activities relate to technical aspects of civil aviation.

## Article 76

### Agency measures

1 The Agency shall, upon request, assist the Commission in the preparation of proposals for amendments to this Regulation and of delegated and implementing acts to be adopted on the basis of this Regulation, in accordance with the principles laid down in Article 4. The documents that the Agency submits to the Commission for those purposes shall take the form of opinions.

2 The Agency shall issue recommendations addressed to the Commission for the application of Articles 70 and 71.

3 The Agency shall, in accordance with Article 115 and with the applicable delegated and implementing acts adopted on the basis of this Regulation, issue certification specifications and other detailed specifications, acceptable means of compliance and guidance material for the application of this Regulation and of the delegated and implementing acts adopted on the basis thereof.

4 The Agency shall take the appropriate decisions for the application of paragraph 6 of this Article, Articles 77 to 83, 85 and 126 and where tasks have been allocated to it pursuant to Articles 64 and 65.

The Agency may grant exemptions to any legal or natural person to whom it has issued a certificate in the situations and subject to the conditions set out in Article 71(1).

In such a case, the Agency shall immediately notify the Commission and the Member States, through the repository established under Article 74, of the exemptions granted, the reasons for granting them and, where applicable, the necessary mitigation measures applied.

Where an exemption was granted for a duration that exceeds eight consecutive months or where the Agency has granted the same exemption repetitively and its total duration exceeds eight months, the Commission shall assess whether the conditions set out in Article 71(1) have been met. Where it considers that this is not the case, the Commission shall adopt implementing acts containing its decision to that effect. Those implementing acts shall be published in the *Official Journal of the European Union* and entered by the Agency into the repository established under Article 74.

The Agency shall immediately revoke the exemption upon the notification of that implementing act.

5 The Agency shall issue reports on the inspections and other monitoring activities conducted pursuant to Article 85.

6 The Agency shall react without undue delay to an urgent safety problem falling within the scope of this Regulation by:

- a determining corrective action to be taken by natural and legal persons in respect of which it acts as the competent authority and by disseminating related information to those persons, including directives or recommendations, where this is necessary to safeguard the objectives set out in Article 1; the Agency may also issue safety bulletins containing non-binding information or recommendations addressed to other natural and legal persons involved in aviation activities;

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- b determining safety objectives to be achieved and recommending corrective action to be taken by national competent authorities and by disseminating related information to those national competent authorities where this is necessary to safeguard the objectives set out in Article 1.

With regard to point (b), the national competent authorities shall inform the Agency without undue delay about the measures taken to achieve those safety objectives determined by the Agency. In addition, where the problem affects more than one Member State, the national competent authorities concerned shall cooperate with the Agency to ensure that the measures necessary to achieve those safety objectives are taken in a coordinated manner.

7 The Agency shall issue opinions on the individual flight time specification schemes proposed by the Member States pursuant to the delegated acts adopted in accordance with point (b) of Article 32(1) which deviate from the certifications specifications adopted by the Agency.

#### *Article 77*

### **Airworthiness and environmental certification**

1 With regard to the products, parts, non-installed equipment and equipment to control unmanned aircraft remotely, referred to in points (a) and (b)(i) of Article 2(1), the Agency shall, where applicable and as specified in the Chicago Convention or the Annexes thereto, carry out on behalf of Member States the functions and tasks of the state of design, manufacture or registry, when those functions and tasks are related to design certification and mandatory continuing airworthiness information. To that end, it shall in particular:

- a for each design of a product and equipment to control unmanned aircraft remotely for which a type certificate, a restricted type certificate, a change to a type certificate or to a restricted type certificate, including a supplemental type certificate, an approval of repair design, or an approval of operational suitability data has been applied for in accordance with Article 11 or Article 56(1) establish and notify to the applicant the certification basis;
- b for each design of a part or non-installed equipment for which a certificate has been applied for in accordance with Article 12, 13 or Article 56(1) respectively, establish and notify to the applicant the certification basis;
- c for aircraft for which a permit to fly has been applied for in accordance with point (b) of the first subparagraph of Article 18(2) or Article 56(1), issue the approval for associated flight conditions related to the design;
- d establish and make available the airworthiness and environmental compatibility specifications applicable to the design of products, parts, non-installed equipment and equipment to control unmanned aircraft remotely which are subject to a declaration in accordance with point (a) of Article 18(1) or Article 56(5);
- e be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(2) with respect to the type certificates, restricted type certificates, certificates of changes, including supplemental type certificates, and approvals of repair designs and approvals of operational suitability data for the design of products in accordance with Article 11, point (b) of Article 18(1) or Article 56(1);
- f be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(2) with respect to the certificates for the design of parts, for non-installed equipment and equipment to control unmanned aircraft remotely in accordance with Articles 12, 13 and 56(1);

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- g issue the appropriate environmental data sheets on the design of products which it certifies in accordance with Articles 11 and 56(1);
  - h ensure the continuing airworthiness functions associated with the design of products, the design of parts, non-installed equipment and equipment to control unmanned aircraft remotely it has certified and in respect of which it performs oversight, including reacting without undue delay to a safety or security problem and issuing and disseminating the applicable mandatory information.
- 2 The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(2) with respect to:
- a the approvals of and the declarations made by the organisations responsible for the design of products, parts, non-installed equipment and equipment to control unmanned aircraft remotely, in accordance with Article 15(1), point (g) of Article 19(1) and Article 56(1) and (5);
  - b the approvals of and the declarations made by the organisations responsible for the production, maintenance and continuing airworthiness management of products, parts, non-installed equipment and equipment to control unmanned aircraft remotely and by the organisations involved in the training of personnel responsible for the release of a product, part, non-installed equipment or equipment to control unmanned aircraft remotely after maintenance in accordance with Article 15, point (g) of Article 19(1) and Article 56(1) and (5), where those organisations have their principal place of business outside the territories for which Member States are responsible under the Chicago Convention.
- 3 The Agency shall be responsible for the tasks related to oversight and enforcement in accordance with Article 62(2) with respect to the declarations made by organisations, in accordance with point (a) of Article 18(1) and Article 56(5) and concerning the compliance of a design of a product, part, non-installed equipment or equipment to control unmanned aircraft remotely with detailed technical specifications.

### *Article 78*

#### **Aircrew certification**

- 1 The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(2) with respect to the approvals of and the declarations made by the pilot training organisations and cabin crew training organisations and the aero-medical centres referred to in Article 24 and Article 56(1) and (5), where those organisations and centres have their principal place of business outside the territories for which Member States are responsible under the Chicago Convention.
- 2 The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(2) with respect to the certificates and declarations for flight simulation training devices in accordance with Article 25 and Article 56(1) and (5) in each of the following cases:
- a the device is operated by an organisation with a principal place of business outside the territories for which Member States are responsible under the Chicago Convention;
  - b the device is located outside the territories for which Member States are responsible under the Chicago Convention.

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## Article 79

### **Certification of Safety-Related Aerodrome Equipment**

With regard to the safety-related aerodrome equipment referred to in Article 35, the Agency shall:

- (a) establish and notify to the applicant the detailed specifications for the safety-related aerodrome equipment which is subject to certification in accordance with Article 35;
- (b) establish and make available the detailed specifications for the safety-related aerodrome equipment which is subject to a declaration in accordance with Article 35;
- (c) be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(2) with respect to the certificates for, and the declarations made in respect of safety-related aerodrome equipment in accordance with Article 35.

## Article 80

### **ATM/ANS**

1 The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(2) with respect to:

- a the certificates for the ATM/ANS providers referred to in Article 41, where those providers have their principal place of business located outside the territories for which Member States are responsible under the Chicago Convention and they are responsible for providing ATM/ANS in the airspace above the territory to which the Treaties apply;
- b the certificates for the ATM/ANS providers referred to in Article 41, where those providers provide pan-European ATM/ANS;
- c the certificates for and the declarations made by the organisations referred to in Article 42, where those organisations are involved in the design, production or maintenance of ATM/ANS systems and ATM/ANS constituents, including where they contribute to Single European Sky ATM Research (SESAR) implementation, used in the provision of the services referred to in point (b) of this paragraph;
- d the declarations made by the ATM/ANS providers to which the Agency has issued a certificate in accordance with points (a) and (b) of this paragraph, in respect of ATM/ANS systems and ATM/ANS constituents which are put in operation by those providers in accordance with Article 45(1).

2 With regard to ATM/ANS systems and ATM/ANS constituents referred to in Article 45, including where they contribute to SESAR implementation, the Agency shall, where the delegated acts referred to in Article 47 so provide:

- a establish and notify to the applicant the detailed specifications for the ATM/ANS systems and ATM/ANS constituents, which are subject to certification in accordance with Article 45(2);
- b establish and make available the detailed specifications for the ATM/ANS systems and ATM/ANS constituents which are subject to a declaration in accordance with Article 45(2);
- c be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(2) with respect to the certificates for, and the declarations

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made in respect of, ATM/ANS systems and ATM/ANS constituents in accordance with Article 45(2).

### *Article 81*

#### **Air traffic controller training organisations certification**

The Agency shall be responsible for the tasks related to certification, oversight, and enforcement in accordance with Article 62(2) with respect to the certificates for the air traffic controller training organisations referred to in Article 51, where those organisations have their principal place of business located outside the territories for which Member States are responsible under the Chicago Convention and, where relevant, their personnel.

### *Article 82*

#### **Third-country aircraft operators and international safety oversight**

1 The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(2) with respect to the authorisations and declarations for the operations of aircraft and for aircraft operators referred to in Article 60 unless a Member State carries out the functions and duties of the state of operator in respect of the aircraft operators concerned.

2 The Agency shall be responsible for the tasks related to certification, oversight and enforcement in accordance with Article 62(2) with respect to the authorisations for aircraft and pilots referred to in point (a) of Article 61(1).

3 The Agency shall, upon request, assist the Commission in the implementation of Regulation (EC) No 2111/2005 by conducting all the necessary safety assessments, including on-site visits, of third country operators and authorities responsible for their oversight. It shall provide the results of those assessments, with appropriate recommendations, to the Commission.

### *Article 83*

#### **Investigations by the Agency**

1 The Agency shall conduct either itself or through national competent authorities or qualified entities the investigations necessary for the performance of its tasks related to certification, oversight and enforcement in accordance with Article 62(2).

2 For the purposes of conducting the investigations referred to in paragraph 1, the Agency shall be empowered to:

- a require the legal or natural persons to whom it has issued a certificate, or who made a declaration to it, to provide the Agency with all necessary information;
- b require those persons to provide oral explanations on any fact, document, object, procedure or other subject matter relevant for determining whether the person complies with this Regulation and with the delegated and implementing acts adopted on the basis thereof;
- c enter relevant premises, land and means of transport of those persons;

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- d examine, copy or make extracts from any relevant document, record or data held by or accessible to those persons, irrespective of the medium on which the information in question is stored.

The Agency shall, where required for determining whether a person to whom it has issued a certificate, or who has made a declaration to it, complies with this Regulation and with the delegated and implementing acts adopted on the basis thereof, also be empowered to exercise the powers set out in the first subparagraph in relation to any other legal or natural person who can reasonably be expected to possess or to have access to information relevant for those purposes. The powers of this paragraph shall be exercised in compliance with the national law of the Member State or of the third country where the investigation takes place, with due regard for the rights and legitimate interests of persons concerned and in compliance with the principle of proportionality.

Where in accordance with the applicable national law prior authorisation from the judicial or administrative authority of the Member State or third country concerned is needed to enter relevant premises, land and means of transport as referred to in point (c) of the first subparagraph, those powers shall be exercised only after obtaining such prior authorisation.

3 The Agency shall ensure that the members of its staff and, where relevant, any other expert participating in the investigation are sufficiently qualified, adequately instructed and duly authorised. Those persons shall exercise their powers upon production of a written authorisation.

4 Officials of the competent authorities of the Member State in whose territory the investigation is to be conducted shall, at the request of the Agency, assist it in carrying out the investigation. Where such assistance is required, the Agency shall, in good time before the investigation, inform the Member State in whose territory the investigation is to be conducted of the investigation and of the assistance required.

#### *Article 84*

### **Fines and periodic penalty payments**

1 The Commission may, at the request of the Agency, impose on a legal or natural person to whom the Agency has issued a certificate, or who has made a declaration to it, in accordance with this Regulation, either one or both of the following:

- a a fine, where that person infringed, intentionally or negligently, one of the provisions of this Regulation or of the delegated and implementing acts adopted on the basis thereof;
- b a periodic penalty payment where that person continues to infringe one of those provisions, in order to compel that person to comply with those provisions.

2 The fines and periodic penalty payments referred to in paragraph 1 shall be effective, proportionate and dissuasive. They shall be set taking account of the gravity of the case, and in particular the extent to which safety or protection of the environment has been compromised, the activity to which the infringement pertains and the economic capacity of the legal or natural person concerned.

The amount of the fines shall not exceed 4 % of the annual income or turnover of the legal or natural person concerned. The amount of the periodic penalty shall not exceed 2,5 % of the average daily income or turnover of the legal or natural person concerned.

3 The Commission shall only impose fines and periodic penalty payments pursuant to paragraph 1 when other measures provided for in this Regulation and in the delegated and

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implementing acts adopted on the basis thereof to address such infringements are inadequate or disproportionate.

4 With regard to the imposition of fines and periodic penalty payments in accordance with this Article, the Commission shall adopt delegated acts in accordance with Article 128, laying down:

- a detailed criteria and a detailed methodology for establishing the amounts of the fines and periodic penalty payments;
- b detailed rules for enquiries, associated measures and reporting, as well as decision-making, including provisions on rights of defence, access to file, legal representation, confidentiality and temporary provisions; and
- c procedures for the collection of the fines and periodic penalty payments.

5 The Court of Justice shall have unlimited jurisdiction to review decisions of the Commission taken pursuant to paragraph 1. It may cancel, reduce or increase the fine or periodic penalty payment imposed.

6 The decisions of the Commission taken pursuant to paragraph 1 shall not be of a criminal law nature.

#### *Article 85*

### **Monitoring of Member States**

1 The Agency shall assist the Commission in monitoring the application by the Member States of this Regulation and of the delegated and implementing acts adopted on the basis thereof by conducting inspections and other monitoring activities. Those inspections and other monitoring activities shall also aim to assist the Member States in ensuring the uniform application of this Regulation and of the delegated and implementing acts adopted on the basis thereof and in sharing best practices.

The Agency shall report to the Commission on the inspections and other monitoring activities conducted pursuant to this paragraph.

2 For the purposes of conducting the inspections and other monitoring activities referred to in paragraph 1, the Agency shall be empowered to:

- a require any national competent authority and any natural and legal person subject to this Regulation to provide the Agency with all necessary information;
- b require those authorities and persons to provide oral explanations on any fact, document, object, procedure or other subject matter relevant for determining whether a Member State complies with this Regulation and with the delegated and implementing acts adopted on the basis thereof;
- c enter relevant premises, land and means of transport of those authorities and persons;
- d examine, copy or make extracts from any relevant document, record or data held by or accessible to those authorities and persons, irrespective of the medium on which the information in question is stored.

The Agency shall, where required for determining whether a Member State complies with this Regulation and with the delegated and implementing acts adopted on the basis thereof, also be empowered to exercise the powers set out in the first subparagraph in relation to any other legal or natural person who can reasonably be expected to possess or have access to information relevant for those purposes.



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The powers of this paragraph shall be exercised in compliance with the national law of the Member State where the inspection or other monitoring activities take place, with due regard for the rights and legitimate interests of the authorities and persons concerned and in compliance with the principle of proportionality. Where in accordance with the applicable national law prior authorisation from the judicial or the administrative authority of the Member State concerned is needed to enter relevant premises, land and means of transport as referred to in point (c) of the first subparagraph, those powers shall be exercised only after obtaining such prior authorisation.

3 The Agency shall ensure that the members of its staff and, where relevant, any other expert participating in the inspection or the other monitoring activity are sufficiently qualified and adequately instructed. In the case of inspections, those persons shall exercise their powers upon production of a written authorisation.

In good time before the inspection, the Agency shall inform the Member State concerned of the subject matter, the purpose of the activity, the date on which it is to begin and of the identity of the members of its staff and any other expert carrying out that activity.

4 The Member State concerned shall facilitate the inspection or the other monitoring activity. It shall ensure that the authorities and persons concerned cooperate with the Agency.

Where a legal or a natural person does not cooperate with the Agency, the competent authorities of the Member State concerned shall provide the necessary assistance to the Agency to enable it to carry out the inspection or other monitoring activity.

5 When an inspection or another monitoring activity conducted in accordance with this Article entails an inspection or another monitoring activity in respect of a legal or a natural person subject to this Regulation, Article 83(2), (3) and (4) shall apply.

6 Upon request of the Member State, reports drawn up by the Agency pursuant to paragraph 1 shall be made available to it in the official Union language or languages of the Member State where the inspection took place.

7 The Agency shall publish a summary of information about the application by each Member State of this Regulation and of the delegated and implementing acts adopted on the basis thereof. It shall include that information in the annual safety review referred to in Article 72(7).

8 The Agency shall contribute to the assessment of the impact of the implementation of this Regulation and of the delegated and implementing acts adopted on the basis thereof, without prejudice to the Commission's assessment under Article 124, having regard to the objectives set out in Article 1.

9 The Commission shall adopt implementing acts laying down detailed rules on the working methods of the Agency for conducting the tasks under this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

## *Article 86*

### **Research and innovation**

1 The Agency shall assist the Commission and the Member States in identifying key research themes in the field of civil aviation to contribute to ensuring consistency and coordination between publicly funded research and development and policies falling within the scope of this Regulation.

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2 The Agency shall support the Commission in the definition and accomplishment of the relevant Union framework programmes for research and innovation activities and of the annual and multi-annual work programmes, including in the conduct of evaluation procedures, in the review of funded projects and in the exploitation of the results of research and innovation projects.

The Agency shall implement civil aviation related parts of the Framework Programme for Research and Innovation where the Commission has delegated the relevant powers to it.

3 The Agency may develop and finance research in so far as is strictly related to the improvement of activities in its field of competence. The Agency's research needs and activities shall be included in its annual work programme.

4 The results of research funded by the Agency shall be published, unless the applicable rules of intellectual property law or the security rules of the Agency referred to in Article 123 preclude such publication.

5 In addition to the tasks set out in paragraphs 1 to 4 of this Article and in Article 75, the Agency may also engage in ad hoc research activities, provided that those activities are compatible with the Agency's tasks and the objectives of this Regulation.

#### *Article 87*

### **Environmental protection**

1 The measures taken by the Agency as regards emissions and noise, for the purpose of the certification of the design of products in accordance with Article 11, shall aim to prevent significant harmful effects on climate, environment and human health caused by the civil aviation products concerned, giving due consideration to the international standards and recommended practices, environmental benefits, technological feasibility and economic impact.

2 The Commission, the Agency, other Union institutions, bodies, offices and agencies and the Member States shall, within their respective fields of competence, cooperate on environmental matters, including those addressed in Directive 2003/87/CE of the European Parliament and of the Council<sup>(1)</sup> and Regulation (EC) No 1907/2006 with a view to ensuring that interdependencies between climate and environmental protection, human health and other, technical, domains of civil aviation are taken into account, giving due consideration to the international standards and recommended practices, environmental benefits, technological feasibility and economic impact.

3 The Agency shall, where it has the relevant expertise, assist the Commission with the definition and coordination of civil aviation environmental protection policies and actions, in particular by conducting studies, simulations and providing technical advice while taking into account the interdependencies between climate and environmental protection, human health and other, technical, domains of civil aviation.

4 In order to inform interested parties and the general public, the Agency shall, at least every three years, publish an environmental review, which shall give an objective account of the state of environmental protection relating to civil aviation in the Union.

When preparing that review, the Agency shall primarily rely on information already available to Union institutions and bodies, as well as on publicly available information.

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The Agency shall associate the Member States and consult relevant stakeholders and organisations in the development of that review.

That review shall also contain recommendations aiming to improve the level of environmental protection in the area of civil aviation in the Union.

#### *Article 88*

### **Interdependencies between civil aviation safety and security**

1 The Commission, the Agency and the Member States shall cooperate on security matters related to civil aviation, including cyber security, where interdependencies between civil aviation safety and security exist.

2 Where interdependencies between civil aviation safety and security exist, the Agency shall, upon request, provide technical assistance to the Commission, where the Agency has the relevant safety expertise, in the implementation of Regulation (EC) No 300/2008 of the European Parliament and of the Council<sup>(2)</sup> and other relevant provisions of Union legislation.

3 To contribute to protecting civil aviation against acts of unlawful interference where interdependencies between civil aviation safety and security exist, the Agency shall where necessary, react without undue delay to an urgent problem which is of common concern to Member States and which falls within the scope of this Regulation by:

- a taking measures under point (h) of Article 77(1) to address vulnerabilities in aircraft design;
- b recommending corrective actions to be taken by the national competent authorities or natural and legal persons subject to this Regulation and/or disseminating relevant information to those authorities and persons, in the case that the problem affects aircraft operation, including the risks to civil aviation arising from conflict zones.

Before taking the measures referred to in points (a) and (b) of the first subparagraph, the Agency shall obtain the agreement of the Commission and consult the Member States. The Agency shall base those measures, where possible, on common Union risk assessments and take into account the need for rapid reaction in emergency cases.

#### *Article 89*

### **Interdependencies between civil aviation safety and socioeconomic factors**

1 The Commission, the Agency, other Union institutions bodies, offices and agencies and the Member States, shall, within their respective fields of competence, cooperate with a view to ensuring that interdependencies between civil aviation safety and related socioeconomic factors are taken into account including in regulatory procedures, oversight and implementation of just culture as defined in Article 2 of Regulation (EU) No 376/2014, to address socioeconomic risks to aviation safety.

2 The Agency shall consult relevant stakeholders when addressing such interdependencies.

3 The Agency shall, every three years, publish a review, which shall give an objective account of the actions and measures undertaken, in particular those addressing the interdependencies between civil aviation safety and socioeconomic factors.

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## Article 90

### International cooperation

1 The Agency shall, upon request, assist the Commission in its management of relations with third countries and international organisations relating to matters covered by this Regulation. Such assistance shall in particular contribute to the harmonisation of rules, the mutual recognition of certificates, in the interest of European industry, and the promotion of European aviation safety standards.

2 The Agency may cooperate with the competent authorities of third countries and with international organisations competent in matters covered by this Regulation. To this end, the Agency, in prior consultation with the Commission, may establish working arrangements with those authorities and international organisations. Those working arrangements shall not create legal obligations incumbent on the Union and its Member States.

3 The Agency shall assist Member States in exercising their rights and fulfilling their obligations under international agreements relating to matters covered by this Regulation, in particular their rights and obligations under the Chicago Convention.

The Agency may act as a Regional Safety Oversight Organisation in the ICAO framework.

4 The Agency shall, in cooperation with the Commission and the Member States, include and update where necessary, the following information in the repository referred to in Article 74:

- a information on the compliance of this Regulation and of the delegated and implementing acts adopted on the basis thereof and of the measures taken by the Agency under this Regulation with the international standards and recommended practices;
- b other information related to the implementation of this Regulation, which is common to all Member States and which is relevant for monitoring by ICAO of the compliance of Member States with the Chicago Convention and international standards and recommended practices.

The Member States shall use that information when implementing their obligations under Article 38 of the Chicago Convention and when providing to ICAO information under the ICAO Universal Safety Oversight Audit Programme.

5 Without prejudice to the relevant Treaty provisions, the Commission, the Agency and the national competent authorities who are involved in ICAO activities shall collaborate, through a network of experts, on technical matters falling within the scope of this Regulation and related to the work of ICAO. The Agency shall provide this network with the necessary administrative support, including assistance for the preparation and organisation of its meetings.

6 In addition to the tasks set out in paragraphs 1 to 5 of this Article and in Article 75, the Agency may also engage in ad hoc technical cooperation, and research and assistance projects with third countries and international organisations, provided that those activities are compatible with the Agency's tasks and the objectives set out in Article 1.

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## Article 91

### Aviation Crisis Management

1 The Agency shall, within its field of competence, contribute to a timely response to and mitigation of aviation crises, in coordination, with other appropriate stakeholders.

2 The Agency shall participate in the European Aviation Crisis Coordination Cell ('EACCC') established in accordance with Article 18 of Commission Regulation (EU) No 677/2011<sup>(3)</sup>.

## Article 92

### Aviation training

1 In order to promote best practices and uniformity in the implementation of this Regulation and of the delegated and implementing acts adopted on the basis thereof, the Agency may, upon request by a provider of aviation training, assess the compliance of that provider and of its training courses with the requirements established by the Agency and published in its official publication. Upon having established such compliance, the provider shall be entitled to provide Agency-approved training courses.

2 The Agency may provide training primarily addressed to its and national competent authorities' staff, but also to competent authorities of third countries, international organisations, the natural and legal persons subject to this Regulation and other interested parties, either through its own training resources or, where necessary, by relying on external training providers.

## Article 93

### Implementation of Single European Sky

The Agency shall, where it has the relevant expertise and upon request, provide technical assistance to the Commission, in the implementation of the Single European Sky, in particular by:

- (a) conducting technical inspections, technical investigations, and studies;
- (b) contributing, in matters covered by this Regulation, in cooperation with the Performance Review Body provided for in Article 11 of Regulation (EC) No 549/2004, to the implementation of a performance scheme for air navigation services and network functions;
- (c) contributing to the implementation of the ATM Master Plan, including the development and deployment of the SESAR programme.

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## SECTION II

### **Internal structure**

#### *Article 94*

#### **Legal status, seat and local offices**

- 1 The Agency shall be a body of the Union. It shall have legal personality.
- 2 In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.
- 3 The seat of the Agency shall be Cologne, Federal Republic of Germany.
- 4 The Agency may establish local offices in the Member States or co-locate staff in Union delegations in third countries, in accordance with Article 104(4).
- 5 The Agency shall be legally represented by its Executive Director.

#### *Article 95*

#### **Staff**

- 1 The Staff Regulations of Officials of the European Union, the Conditions of Employment of Other Servants of the European Union<sup>(4)</sup> and the rules adopted by agreement between the institutions of the Union for giving effect to those Staff Regulations and Conditions of Employment shall apply to the staff employed by the Agency.
- 2 The Agency may make use of seconded national experts or other staff not employed by the Agency. The Management Board shall adopt a decision laying down rules on the secondment of national experts to the Agency.

#### *Article 96*

#### **Privileges and immunities**

The Protocol No 7 on the Privileges and Immunities of the European Union, annexed to the TEU and to the TFEU, shall apply to the Agency and its staff.

#### *Article 97*

#### **Liability**

- 1 The contractual liability of the Agency shall be governed by the law applicable to the contract in question.
- 2 The Court of Justice shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.

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3 In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or by its staff in the performance of their duties.

4 The Court of Justice shall have jurisdiction in disputes over compensation for damages referred to in paragraph 3.

5 The personal liability of its staff towards the Agency shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

### *Article 98*

#### **Functions of the Management Board**

1 The Agency shall have a Management Board.

2 The Management Board shall:

- a appoint the Executive Director, and where relevant extend his or her term of office or remove him or her from office, in accordance with Article 103;
- b adopt a consolidated annual activity report on the Agency's activities and send it by 1 July each year to the European Parliament, the Council, the Commission and the Court of Auditors. The consolidated annual activity report shall be made public;
- c adopt each year the Agency's programming document by a majority of two-thirds of members entitled to vote and in accordance with Article 117;
- d adopt the annual budget of the Agency by a majority of two-thirds of the members entitled to vote and in accordance with Article 120(11);
- e establish procedures for making decisions by the Executive Director as referred to in Articles 115 and 116;
- f carry out its functions relating to the Agency's budget pursuant to Articles 120, 121 and 125;
- g appoint the members of the Board of Appeal pursuant to Article 106;
- h exercise disciplinary authority over the Executive Director;
- i give its opinion on the rules relating to fees and charges referred to in Article 126;
- j adopt its Rules of Procedure;
- k decide on the linguistic arrangements for the Agency;
- l take decisions on the establishment of the internal structures of the Agency at directors' level and, where necessary, their modifications;
- m in accordance with paragraph 6, exercise, with respect to the staff of the Agency, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment ('the appointing authority powers');
- n adopt appropriate implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;
- o adopt rules for the prevention and management of conflicts of interest in respect of its members, as well as of the members of the Board of Appeal;
- p ensure adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-fraud Office ('OLAF')<sup>(5)</sup>;
- q adopt the financial rules applicable to the Agency in accordance with Article 125;

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- r appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of Other Servants, who shall be totally independent in the performance of his or her duties;
  - s adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;
  - t give its opinion on the draft of the European Aviation Safety Programme in accordance with Article 5;
  - u adopt the European Plan for Aviation Safety in accordance with Article 6;
  - v take duly reasoned decisions in relation to waiver of immunity in accordance with Article 17 of Protocol No 7 on the privileges and immunities of the European Union, annexed to the TEU and to the TFEU;
  - w establish procedures for expedient cooperation of the Agency with national judicial authorities, without prejudice to Regulations (EU) No 996/2010 and (EU) No 376/2014.
- 3 The Management Board may advise the Executive Director on any matter related to areas covered by this Regulation.

4 The Management Board shall establish an advisory body representing the full range of interested parties affected by the work of the Agency, which it shall consult prior to making decisions in the fields referred to in points (c), (e), (f) and (i) of paragraph 2. The Management Board may also decide to consult the advisory body on other issues referred to in paragraphs 2 and 3. The Management Board shall not, in any case, be bound by the opinion of the advisory body.

5 The Management Board may establish working bodies to assist in carrying out its tasks, including the preparation of its decisions and monitoring the implementation thereof.

6 The Management Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants, delegating relevant appointing authority powers to the Executive Director and defining the conditions under which that delegation of powers can be suspended. The Executive Director shall be authorised to sub-delegate those powers.

Where exceptional circumstances so require, the Management Board may, by way of a decision, temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

#### *Article 99*

### **Composition of the Management Board**

1 The Management Board shall be composed of representatives from Member States and from the Commission, all with voting rights. Each Member State shall appoint one member of the Management Board and two alternates. An alternate shall only represent the member in his or her absence. The Commission shall appoint two representatives and their alternates. The term of office for members and their alternates shall be four years. That term shall be extendable.

2 Members of the Management Board and their alternates shall be appointed because of their knowledge, recognised experience and commitment in the field of civil aviation, taking into account relevant managerial, administrative and budgetary expertise, which are to be used



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to further the objectives of this Regulation. The members shall have overall responsibility at least for civil aviation safety policy in their respective Member States.

3 All parties represented in the Management Board shall make efforts to limit turnover of their representatives, in order to ensure continuity of the work of the Management Board. All parties shall aim to achieve a balanced representation between men and women on the Management Board.

4 Where appropriate, the participation of representatives of European third countries in the Management Board with observer status and the conditions for such participation shall be established in the agreements referred to in Article 129.

5 The advisory body referred to in Article 98(4) shall appoint four of its members to participate with observer status in the Management Board. They shall represent, as broadly as possible, the different views represented in the advisory body. The initial term of office shall be 48 months and shall be extendable.

#### *Article 100*

### **Chairperson of the Management Board**

1 The Management Board shall elect a Chairperson and a Deputy Chairperson from among its members with voting rights. The Deputy Chairperson shall *ex officio* replace the Chairperson in the event of his or her inability of attending to his or her duties.

2 The term of office of the Chairperson and Deputy Chairperson shall be four years and shall be extendable once for a further four years. If their membership of the Management Board ceases at any time during their term of office, their term of office shall automatically expire on that date.

#### *Article 101*

### **Meetings of the Management Board**

1 Meetings of the Management Board shall be convened by its Chairperson.

2 The Management Board shall hold at least two ordinary meetings a year. In addition it shall meet at the request of the Chairperson, of the Commission or of at least one third of its members.

3 The Executive Director of the Agency shall take part in the deliberations, without the right to vote.

4 The members of the Management Board may, in accordance with its Rules of Procedure, be assisted by their advisers or experts.

5 The Management Board may invite any person whose opinion might be of interest to attend its meetings with observer status.

6 The Agency shall provide the secretariat for the Management Board.

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## Article 102

### **Voting rules of the Management Board**

1 Without prejudice to points (c) and (d) of Article 98(2) and Article 103(7), the Management Board shall take decisions by majority of its members with voting rights. At the request of a member of the Management Board, the decision referred to in point (k) of Article 98(2) shall be taken by unanimity.

2 Each member appointed pursuant to Article 99(1) shall have one vote. In the absence of a member, his or her alternate shall be entitled to exercise his or her right to vote. Neither observers nor the Executive Director of the Agency shall have the right to vote.

3 The Rules of Procedure of the Management Board shall establish more detailed voting arrangements, in particular the conditions under which a member may act on behalf of another member, as well as any quorum requirements, where appropriate.

4 In order for them to be adopted, decisions on budgetary or human resources matters, in particular matters referred to in points (d), (f), (h), (m), (n), (o), and (q) of Article 98(2), require a positive vote from the Commission.

## Article 103

### **Executive Director**

1 The Executive Director shall be engaged as a temporary agent of the Agency under point (a) of Article 2 of the Conditions of Employment of Other Servants.

2 The Executive Director shall be appointed by the Management Board on grounds of merit and of documented competence and experience relevant for civil aviation, from a list of candidates proposed by the Commission, following an open and transparent selection procedure.

For the purpose of concluding the contract with the Executive Director, the Agency shall be represented by the Chairperson of the Management Board.

Before appointment, the candidate selected by the Management Board shall be invited to make a statement before the competent committee of the European Parliament and to answer questions put by its members.

3 The term of office of the Executive Director shall be five years. By the end of that period the Commission shall undertake an assessment that takes into account an evaluation of the Executive Director's performance and the Agency's future tasks and challenges. At the midway point, the Executive Director may be invited to make a statement to the competent committee of the European Parliament and answer questions from its members regarding the Executive Director's performance.

4 The Management Board, acting on a proposal from the Commission that takes into account the assessment referred to in paragraph 3, may extend the term of office of the Executive Director once, for no more than five years. Before extending the term of office of the Executive Director, the Management Board shall inform the European Parliament that it intends to extend the Executive Director's term of office. Within one month before any such extension, the Executive Director may be invited to make a statement before the competent committee of the Parliament and answer questions put by its members.

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5 An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.

6 The Executive Director may be removed from office only upon a decision of the Management Board acting on a proposal from the Commission.

7 The Management Board shall reach decisions on appointment, extension of the term of office or removal from office of the Executive Director on the basis of a two-thirds majority of its members with voting rights.

8 The Executive Director may be assisted by one or more Directors. If the Executive Director is absent or indisposed, one of the Directors shall take his or her place.

#### *Article 104*

### **Responsibilities of the Executive Director**

1 The Executive Director shall manage the Agency. The Executive Director shall be accountable to the Management Board. Without prejudice to the powers of the Commission and of the Management Board, the Executive Director shall be independent in the performance of his or her duties and shall neither seek nor take instructions from any government or from any other body.

2 The Executive Director shall report to the European Parliament on the performance of his or her duties when invited to do so. The Council may invite the Executive Director to report on the performance of those duties.

3 The Executive Director shall be responsible for the implementation of the tasks assigned to the Agency by this Regulation or other Union acts. In particular, the Executive Director shall be responsible for:

- a approving the measures of the Agency as defined in Article 76 within the limits specified by this Regulation and by the delegated and implementing acts adopted on the basis thereof;
- b deciding on investigations, inspections, and other monitoring activities as provided for in Articles 83 and 85;
- c deciding on allocation of tasks to qualified entities in accordance with Articles 69(1) and on the conduct of investigations on behalf of the Agency by national competent authorities or qualified entities in accordance with Article 83(1);
- d taking the necessary measures concerning the activities of the Agency related to international cooperation in accordance with Article 90;
- e taking all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the proper functioning of the Agency in accordance with this Regulation;
- f implementing decisions adopted by the Management Board;
- g preparing the consolidated annual report on the Agency's activities and submitting it to the Management Board for adoption;
- h preparing the Agency's draft statement of estimates of revenue and expenditure pursuant to Article 120, and implementing its budget pursuant to Article 121;
- i delegating the powers of the Executive Director to other members of the Agency's staff. The Commission shall adopt implementing acts laying down the rules applicable to such delegations. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 127(2);

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- j preparing the programming document referred to in Article 117(1), and submitting it to the Management Board for adoption, after obtaining the opinion of the Commission;
- k implementing the programming document referred to in Article 117(1), and report to the Management Board on its implementation;
- l preparing an action plan following up conclusions of internal or external audit reports and evaluations, as well as investigations by OLAF, and reporting on progress twice a year to the Commission and regularly to the Management Board;
- m protecting the financial interests of the Union by applying preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative and financial penalties;
- n preparing an anti-fraud strategy for the Agency and present it to the Management Board for adoption;
- o preparing draft financial rules applicable to the Agency;
- p preparing the European Plan for Aviation Safety and its subsequent updates, and submitting them to the Management Board for adoption;
- q reporting to the Management Board on the implementation of the European Plan for Aviation Safety;
- r responding to requests for assistance from the Commission made in accordance with this Regulation;
- s accepting the reallocation of responsibilities to the Agency in accordance with Articles 64 and 65;
- t the day-to-day administration of the Agency;
- u taking all decisions on the establishment of the internal structures of the Agency and, where necessary, on any changes to them, except for those at directors' level, which will be approved by the Management Board;
- v adopting rules for the prevention and management of conflicts of interest in respect of participants in working groups and groups of experts, and other members of staff not covered by the Staff Regulations, which shall include provisions on declarations of interest and, where appropriate, post-employment occupational activities.

4 The Executive Director shall also be responsible for deciding whether it is necessary for the purpose of carrying out the Agency's tasks in an efficient and effective manner to establish one or more local offices in one or more Member States or to co-locate staff in Union delegations in third countries subject to the appropriate agreements with the European External Action Service. That decision requires the prior consent of the Commission, the Management Board and, where applicable, the Member State where the local office is to be established. That decision shall specify the scope of the activities to be carried out at that local office or by that co-located staff in a manner that avoids unnecessary costs and duplication of administrative functions of the Agency.

#### *Article 105*

### **Powers of the Board of Appeal**

1 A Board of Appeal shall be established as part of the administrative structure of the Agency. The Commission is empowered to adopt delegated acts, in accordance with Article 128, to determine the organisation and composition of the Board of Appeal.

2 The Board of Appeal shall be responsible for deciding on appeals against the decisions referred to in Article 108. The Board of Appeal shall be convened as necessary.

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## Article 106

### Members of the Board of Appeal

1 The members and their alternates shall be appointed by the Management Board from a list of qualified candidates established by the Commission.

2 The term of office of the members of the Board of Appeal, including the Chairperson and any alternates, shall be five years and shall be extendable for a further five years.

3 The members of the Board of Appeal shall be independent. In making their decisions they shall neither seek nor take instructions from any government or from any other body.

4 The members of the Board of Appeal shall not perform any other duties within the Agency. The members of the Board of Appeal may work on a part-time basis.

5 The members of the Board of Appeal shall not be removed from office or from the list of qualified candidates during their term of office, unless there are serious grounds for such removal and the Commission, after receiving the opinion of the Management Board, has taken a decision to that effect.

6 The Commission is empowered to adopt delegated acts, in accordance with Article 128, to determine the qualifications required for the members of the Board of Appeal, their status and contractual relationship with the Agency, the powers of individual members in the preparatory phase of decisions and the rules of, and procedures for, voting.

## Article 107

### Exclusion and objection

1 The members of the Board of Appeal shall not take part in any appeal proceedings if they have any personal interest therein, if they have previously been involved as representatives of one of the parties to the proceedings or if they participated in the adoption of the decision under appeal.

2 If, for one of the reasons listed in paragraph 1 or for any other reason, a member of the Board of Appeal considers that he or she should not take part in any appeal proceeding, he or she shall inform the Board of Appeal accordingly.

3 Any party to the appeal proceedings may object to any member of the Board of Appeal on any of the grounds given in paragraph 1, or if the member is suspected of partiality. Any such objection shall not be admissible if, while being aware of a reason for objecting, the party to the appeal proceedings has taken a procedural step. No objection may be based on the nationality of members.

4 The Board of Appeal shall decide as to the action to be taken in the cases specified in paragraphs 2 and 3 without the participation of the member concerned. For the purposes of taking this decision, the member concerned shall be replaced on the Board of Appeal by his or her alternate.

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## Article 108

### Decisions subject to appeal

1 An appeal may be brought against decisions of the Agency taken pursuant to Article 64, 65, Article 76(6), Article 77 to 83, 85 or 126.

2 An appeal lodged pursuant to paragraph 1 shall not have suspensory effect. Where the Executive Director considers that circumstances so permit, he or she may suspend the application of the decision appealed against.

3 An appeal against a decision which does not terminate proceedings as regards one of the parties may only be made in conjunction with an appeal against the final decision, unless the decision provides for separate appeal.

## Article 109

### Persons entitled to appeal

Any natural or legal person may appeal against a decision addressed to that person, or against a decision which, although in the form of a decision addressed to another person, is of direct and individual concern to the former. The parties to proceedings may be party to the appeal proceedings.

## Article 110

### Time limit and form

The appeal, together with a substantiated statement of grounds thereof, shall be filed in writing at the Board of Appeal's secretariat within two months of the notification of the measure to the person concerned or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

## Article 111

### Interlocutory revision

1 Before examining the appeal, the Board of Appeal shall give the Agency the opportunity to review its decision. If the Executive Director considers the appeal to be well founded, he or she shall rectify the decision within two months from being notified by the Board of Appeal. That shall not apply where the appellant is opposed to another party to the appeal proceedings.

2 If the decision is not rectified, the Agency shall forthwith decide whether or not to suspend the application of the decision pursuant to Article 108(2).

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## *Article 112*

### **Examination of appeals**

- 1 The Board of Appeal shall assess whether the appeal is admissible and well founded.
- 2 When examining the appeal pursuant to paragraph 1, the Board of Appeal shall act expeditiously. It shall as often as necessary invite the parties to the appeal proceedings to file, within specified time limits, written observations on notifications issued by itself or on communications from other parties to the appeal proceedings. The Board of Appeal may decide to hold an oral hearing, either of its own motion or at the substantiated request of one of the parties to the appeal.

## *Article 113*

### **Decisions on appeal**

Where the Board of Appeal finds that the appeal is not admissible or that the grounds for appeal are not founded, it shall reject the appeal. Where the Board of Appeal finds that the appeal is admissible and that the grounds for appeal are founded, it shall remit the case to the Agency. The Agency shall take a new reasoned decision taking into account the decision by the Board of Appeal.

## *Article 114*

### **Actions before the Court of Justice**

- 1 Actions may be brought before the Court of Justice for the annulment of acts of the Agency intended to produce legal effects vis-à-vis third parties, for failure to act and, in accordance with Article 97, for the non-contractual liability and, pursuant to an arbitration clause, the contractual liability for damages caused by acts of the Agency.
- 2 Actions for the annulment of decisions of the Agency taken pursuant to Articles 64, 65, 76(6), 77 to 83, 85 or 126 may be brought before the Court of Justice only after all appeal procedures within the Agency have been exhausted.
- 3 Union institutions and Member States may bring actions against decisions of the Agency directly before the Court of Justice, without being required to exhaust the appeal procedures within the Agency.
- 4 The Agency shall take all necessary measures to comply with the judgment of the Court of Justice.

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### SECTION III

#### **Working methods**

##### *Article 115*

#### **Procedures for the development of opinions, certification specifications and other detailed specifications, acceptable means of compliance and guidance material**

1 The Management Board shall establish transparent procedures for issuing opinions, certification specifications and other detailed specifications, acceptable means of compliance and guidance material referred to in Article 76(1) and (3). Those procedures shall:

- a draw on the expertise of the civil and, where appropriate, military aviation authorities of the Member States;
- b whenever necessary, involve experts from relevant interested parties or draw on the expertise of the relevant European standardisation bodies or other specialised bodies;
- c ensure that the Agency publishes documents and widely consults interested parties, in accordance with a timetable and a procedure which includes an obligation on the Agency to give a written response to the consultation process.

2 When the Agency, pursuant to Article 76(1) and (3), develops opinions, certification specifications and other detailed specifications, acceptable means of compliance and guidance material, it shall establish a procedure for the prior consultation of the Member States. To that effect, it may create a working group in which each Member State is entitled to designate an expert. When consultation relating to military aspects is required, the Agency shall, in addition to Member States, consult the European Defence Agency and other competent military experts designated by the Member States. When consultation relating to the possible social impact of those measures of the Agency is required, the Agency shall involve the Union social partners and other relevant stakeholders.

3 The Agency shall publish the opinions, certification specifications and other detailed specifications, acceptable means of compliance and guidance material developed pursuant to Article 76(1) and (3) and the procedures established pursuant to paragraph 1 of this Article in the official publication of the Agency.

##### *Article 116*

#### **Procedures for taking decisions**

1 The Management Board shall establish transparent procedures for taking individual decisions as provided for in Article 76(4).

Those procedures shall in particular:

- a ensure the hearing of the natural or legal person to be addressed in the decision and of any other party with a direct and individual concern;
- b provide for notification of the decision to natural or legal persons and for its publication, subject to the requirements of Articles 123 and 132(2);
- c provide for the natural or legal person to whom the decision is addressed, and any other parties to proceedings, to be informed of the legal remedies available to them under this Regulation;
- d ensure that the decision contains a statement of reasons.



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2 The Management Board shall establish procedures specifying the conditions under which decisions are notified to the persons concerned, including information on the available appeal procedures as provided for in this Regulation.

### *Article 117*

#### **Annual and multi-annual programming**

1 By 31 December each year, in accordance with point (c) of Article 98(2), the Management Board shall adopt a programming document containing multi-annual and annual programming, based on a draft put forward by the Executive Director six weeks before its adoption, taking into account the opinion of the Commission and in relation to multi-annual programming after consulting the European Parliament. The Management Board shall forward it to the European Parliament, the Council and the Commission. The programming document shall become definitive after final adoption of the general budget and, if necessary, shall be adjusted accordingly.

2 The annual work programme shall comprise detailed objectives and expected results including performance indicators and shall take into account the objectives of the European Plan for Aviation Safety. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management, indicating which activities are to be financed through the regulatory budget and which activities are to be financed through fees and charges received by the Agency. The annual work programme shall be coherent with the multi-annual work programme referred to in paragraph 4 of this Article. It shall clearly indicate tasks that have been added, changed or deleted in comparison with the previous financial year. Annual programming shall include the Agency's strategy concerning its activities related to international cooperation in accordance with Article 90 and the Agency's actions linked to that strategy.

3 The Management Board shall amend the adopted annual work programme when a new task is given to the Agency. Any substantial amendment to the annual work programme shall be adopted by the same procedure as the initial annual work programme. The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the Executive Director.

4 The multi-annual work programme shall set out overall strategic programming including objectives, expected results and performance indicators. It shall also set out resource programming including multi-annual budget and staff.

The resource programming shall be updated annually. The strategic programming shall be updated where appropriate, and in particular to address the outcome of the evaluation referred to in Article 124.

### *Article 118*

#### **Consolidated annual activity report**

1 The consolidated annual activity report shall describe the way in which the Agency has implemented its annual work programme, budget and staff resources. It shall clearly indicate which of the mandates and tasks of the Agency have been added, changed or deleted in comparison with the previous year.

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2 The report shall outline the activities carried out by the Agency and evaluate the results thereof with respect to the objectives, performance indicators and timetable set, the risks associated with those activities, the use of resources and the general operations of the Agency, and the efficiency and effectiveness of the internal control systems. It shall also indicate which activities have been financed through the regulatory budget and which activities have been financed through fees and charges received by the Agency.

#### *Article 119*

### **Transparency and communication**

1 Regulation (EC) No 1049/2001 shall apply to documents held by the Agency. This shall be without prejudice to the rules on access to data and information set out in Regulation (EU) No 376/2014 and in the implementing acts adopted on the basis of Articles 72(5) and 74(8) of this Regulation.

2 The Agency may engage in communication activities on its own initiative within its field of competence. It shall ensure in particular that, in addition to the publication specified in Article 115(3), the general public and any interested party are rapidly given objective, reliable and easily understandable information with regard to its work. The Agency shall ensure that the allocation of its resources to communication activities shall not be detrimental to the effective exercise of the tasks referred to in Article 75.

3 The Agency shall translate safety promotion material into the official languages of the Union, where appropriate.

4 National competent authorities shall assist the Agency by effectively communicating relevant safety information within their respective jurisdictions.

5 Any natural or legal person shall be entitled to address the Agency in writing in any of the official languages of the Union and shall have the right to receive an answer in the same language.

6 The translation services required for the functioning of the Agency shall be provided by the Translation Centre of the Bodies of the European Union.

#### *SECTION IV*

### ***Financial requirements***

#### *Article 120*

### **Budget**

- 1 Without prejudice to other revenues, the revenues of the Agency shall comprise:
- a a contribution from the Union;
  - b a contribution from any European third country with which the Union has concluded an international agreements as referred to in Article 129;
  - c the fees paid by applicants for, and holders of, certificates issued by the Agency, and by persons who have registered declarations with the Agency;
  - d charges for publications, training and any other services provided and for the processing of appeals by the Agency;

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- e any voluntary financial contribution from Member States, third countries or other entities, provided that such a contribution does not compromise the independence and impartiality of the Agency;
- f grants.

2 The expenditure of the Agency shall include staff, administrative, infrastructure and operational expenditure. In respect of operational expenditure, budgetary commitments for actions which extend over more than one financial year may be broken down over several years into annual instalments, where necessary.

3 Revenue and expenditure shall be in balance.

4 Regulatory budgets, the fees set and collected for certification activities and charges levied by the Agency shall be dealt with separately in the Agency's accounts.

5 The Agency shall, during the financial year, adapt its staff planning and management of activities financed from resources related to fees and charges in a manner that enables it to swiftly respond to work load and fluctuations of those revenues.

6 Each year, the Executive Director shall draw up a draft statement of estimates of the Agency's revenue and expenditure for the following financial year, including a draft establishment plan, and send it to the Management Board together with explanatory material on the budgetary situation. That draft establishment plan shall, in relation to posts financed from fees and charges, be based on a limited set of indicators approved by the Commission to measure the Agency's workload and efficiency, and shall set out the resources required to meet demands for certification and other activities of the Agency in an efficient and timely manner, including those resulting from reallocations of responsibility in accordance with Articles 64 and 65.

The Management Board shall, on the basis of that draft, adopt a provisional draft estimate of revenue and expenditure of the Agency for the following financial year. The provisional draft estimate of the Agency's revenue and expenditure shall be sent to the Commission by 31 January each year.

7 The Management Board shall send the final draft estimate of the revenue and expenditure of the Agency, which shall include the draft establishment plan together with the provisional work programme, by 31 March at the latest to the Commission and to the European third countries with which the Union has concluded international agreements as referred to in Article 129.

8 The Commission shall send the statement of estimates to the European Parliament and the Council together with the draft general budget of the European Union.

9 On the basis of the statement of estimates, the Commission shall enter in the draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the contribution to be charged to the general budget, which it shall place before the European Parliament and the Council in accordance with Articles 313 and 314 TFEU.

10 The European Parliament and the Council shall authorise appropriations for the contribution to the Agency and shall adopt the establishment plan of the Agency, taking into account the indicators related to Agency workload and efficiency referred to in paragraph 6.

11 The budget shall be adopted by the Management Board. It shall become final following final adoption of the general budget of the Union. Where appropriate, it shall be adjusted accordingly.

12 The Management Board shall, as soon as possible, notify the European Parliament and the Council of its intention to implement any project which may have significant financial

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implications for the funding of the budget, in particular any projects relating to property, such as the rental or purchase of buildings, and it shall inform the Commission thereof. For any building project likely to have significant implications for the budget of the Agency, Commission Delegated Regulation (EU) No 1271/2013<sup>(6)</sup> shall apply.

Where the European Parliament or the Council has notified its intention to deliver an opinion, it shall forward its opinion to the Management Board within a period of six weeks from the date of notification of the project.

### *Article 121*

#### **Implementation and control of the budget**

- 1 The Executive Director shall implement the budget of the Agency.
- 2 By 1 March following each financial year, the Agency's accounting officer shall communicate the provisional accounts to the Commission's accounting officer and to the Court of Auditors. The Agency's accounting officer shall also send a report on the budgetary and financial management for that financial year to the Commission's accounting officer by 1 March following each financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 147 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>(7)</sup>.
- 3 By 31 March following each financial year, the Executive Director shall forward the report on the budgetary and financial management for that financial year to the European Parliament, the Council, the Commission and the Court of Auditors.
- 4 Pursuant to Article 148 of Regulation (EU, Euratom) No 966/2012, on receipt of the Court of Auditors' observations on the Agency's provisional accounts, the accounting officer shall draw up the Agency's final accounts under his or her own responsibility and the Executive Director shall submit them to the Management Board for an opinion.
- 5 The Management Board shall deliver an opinion on the Agency's final accounts.
- 6 The Agency's accounting officer shall, by 1 July following each financial year, forward the final accounts to the European Parliament, the Council, the Commission and the Court of Auditors, together with the Management Board's opinion.
- 7 The final accounts shall be published in the *Official Journal of the European Union* by 15 November following each financial year.
- 8 The Executive Director shall send the Court of Auditors a reply to its observations by 30 September following each financial year. He or she shall also send that reply to the Management Board and the Commission.
- 9 The Executive Director shall submit to the European Parliament, at the latter's request, any information necessary for the smooth application of the discharge procedure for the financial year in question, as provided for by Article 165(3) of Regulation (EU, Euratom) No 966/2012.
- 10 The European Parliament, on a recommendation from the Council acting by a qualified majority, shall, before 15 May of year  $n + 2$ , decide on the discharge to the Executive Director in respect of the implementation of the budget for year  $n$ .

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## Article 122

### Combating fraud

1 In order to combat fraud, corruption and other unlawful activities, the Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>(8)</sup> shall apply without restriction.

2 The Agency shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-fraud Office (OLAF)<sup>(9)</sup> within six months from 11 September 2018 and shall adopt the appropriate provisions applicable to its staff using the template set out in the Annex to that Agreement.

3 The Court of Auditors shall have the power of audit, on the basis of documents and of on-the-spot inspections, over all grant beneficiaries, contractors and subcontractors who have received Union funds from the Agency.

4 OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/96<sup>(10)</sup>, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the Agency.

5 Without prejudice to paragraphs 1 to 4, cooperation agreements with third countries and international organisations, contracts, grant agreements and grant decisions of the Agency shall contain provisions expressly empowering the Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences.

## Article 123

### Security rules on the protection of classified and sensitive non-classified information

The Agency shall adopt own security rules equivalent to the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information, as set out in the Commission Decisions (EU, Euratom) 2015/443<sup>(11)</sup> and (EU, Euratom) 2015/444<sup>(12)</sup>. The security rules of the Agency shall cover, inter alia, provisions for the exchange, processing and storage of such information.

## Article 124

### Evaluation

1 Not later than 12 September 2023, and every five years thereafter, the Commission shall perform an evaluation in compliance with the Commission guidelines to assess the Agency's performance in relation to its objectives, mandate and tasks. The evaluation shall assess the impact of this Regulation, the Agency and its working practices in establishing a high level of civil aviation safety. The evaluation shall also address the possible need to modify the mandate of the Agency, and the financial implications of any such modification. The evaluation shall take into account the views of the Management Board and of stakeholders at both Union and national level.

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2 Where the Commission considers that the continuation of the Agency is no longer justified with regard to its assigned objectives, mandate and tasks, it may propose that this Regulation be amended accordingly or repealed.

3 The Commission shall forward the evaluation findings, together with its conclusions, to the European Parliament, the Council and the Management Board. An action plan with a timetable shall be included, if appropriate. The findings of the evaluation and the recommendations shall be made public.

#### *Article 125*

### **Financial rules**

The financial rules applicable to the Agency shall be adopted by the Management Board after consultation of the Commission. They shall not depart from Delegated Regulation (EU) No 1271/2013, unless such departure is specifically required for the Agency's operation and the Commission has given its prior consent.

#### *Article 126*

### **Fees and charges**

- 1 Fees and charges shall be levied for:
- a the issuing and renewal of certificates and the registration of declarations by the Agency pursuant to this Regulation, as well as its oversight activities concerning the activities to which those certificates and declarations relate;
  - b publications, training and the provision of any other service by the Agency, which shall reflect the actual cost of each individual service provided;
  - c the processing of appeals.

All fees and charges shall be expressed, and payable, in euro.

2 The amount of the fees and charges shall be fixed at such a level as to ensure that the revenue in respect thereof covers the full cost of the activities related to the services delivered, and to avoid a significant accumulation of surplus. All expenditure of the Agency attributed to staff involved in activities referred to in paragraph 1, in particular the employer's pro-rata contribution to the pension scheme, shall be reflected in that cost. The fees and charges shall be assigned revenues for the Agency for activities related to services for which fees and charges are due.

3 Budgetary surpluses generated through fees and charges shall fund future activities related to fees and charges or offset losses. Where a significant positive or negative budget result becomes recurrent, the level of fees and charges shall be revised.

4 After consulting the Agency in accordance with point (i) of Article 98(2), the Commission shall adopt implementing acts laying down detailed rules relating to fees and charges levied by the Agency, specifying in particular the matters for which fees and charges pursuant to points (c) and (d) of Article 120(1) are due, and the amount of the fees and charges and the way in which they are paid. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

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- (1) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC ([OJ L 275, 25.10.2003, p. 32](#)).
- (2) Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 ([OJ L 97, 9.4.2008, p. 72](#)).
- (3) Commission Regulation (EU) No 677/2011 of 7 July 2011 laying down detailed rules for the implementation of air traffic management (ATM) network functions and amending Regulation (EU) No 691/2010 ([OJ L 185, 15.7.2011, p. 1](#)).
- (4) Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission ([OJ L 56, 4.3.1968, p. 1](#)).
- (5) Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 ([OJ L 248, 18.9.2013, p. 1](#)).
- (6) Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ([OJ L 328, 7.12.2013, p. 42](#)).
- (7) Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 ([OJ L 298, 26.10.2012, p. 1](#)).
- (8) Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 ([OJ L 248, 18.9.2013, p. 1](#)).
- (9) [OJ L 136, 31.5.1999, p. 15](#).
- (10) Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ([OJ L 292, 15.11.1996, p. 2](#)).
- (11) Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission ([OJ L 72, 17.3.2015, p. 41](#)).
- (12) Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information ([OJ L 72, 17.3.2015, p. 53](#)).

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