



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR ENERGY AND TRANSPORT  
DIRECTORATE F – Air Transport  
**F2 Single Sky & Modernisation of ATC**

Brussels, 07 November 2010

## **AMENDMENT TO THE MANDATE TO EUROCONTROL FOR SUPPORT ON DEVELOPMENT OF STANDARDISED EUROPEAN RULES OF THE AIR (SERA)**

### **1. INTRODUCTION**

The Commission Mandate to Eurocontrol dated 14 August 2009 to support the European Commission and European Aviation Safety Agency (EASA) in the development of Standardised European Rules of the Air (SERA) shall be amended as follows to take account of institutional developments, extension of EASA Basic Regulation to ATM/ANS and the need to ensure consistency between the SERA regulations and future rules on Air Traffic Services.

### **2. PURPOSE OF THIS MANDATE**

Eurocontrol is mandated to support the European Commission and European Aviation Safety Agency (EASA) regulatory initiative to develop common and standardised European rules of the air, with a view to supporting implementation of Functional Airspace Blocks (FAB's), helping free movement of aircraft across Europe's borders, increasing safety and minimising the inconvenience and risk of misunderstandings caused by varying national sets of rules of the air. Due to the requirements for timely delivery of regulatory proposals within the Single European Sky, as well as current experiences on the development of implementing rules in the first phase of SES, there is also a need to update some of the mandate arrangements (e.g. drafting and consultation process), with a more active involvement of Commission and other relevant parties.

### **3. JUSTIFICATION**

This mandate is related to the achievement of the objective of Article 4 of the airspace Regulation (Regulation 551/2004 as amended by Regulation 1070/2009). It lays down that implementing rules should be adopted to incorporate the appropriate provisions of ICAO standards and recommended practises on rules of the air and in particular to harmonise the application of ICAO airspace classifications. Where necessary, this should be done with appropriate adaptations and improvements, whilst maintaining the general objective of the Single European Sky regulations (Art 1 Regulation 549/2004 as amended by Regulation 1070/2009) to support the uniform implementation of ICAO provisions through inclusion in Community legislation.

Part 1 of the essential requirements for air traffic management and air navigation services of the EASA basic regulation (Regulation 216/2008 as amended by Regulation 1108/2009) foresees the need to develop a common general application of operating rules and procedures in order to ensure the safety of air traffic in Europe. As foreseen in articles 18 and 19 of the same regulation, this may be achieved by either binding implementing rules or non-binding Certification Specifications (CS), Guidance Material (GM) or Acceptable Means of Compliance (AMC). To certain extent these rules are also covered by the existing scope of the said regulation (art 4(3)) and the corresponding proposals for IR's and AMC's for aircraft operations (OPS).

This mandate is also related to the achievement of the existing objectives of the interoperability Regulation. Article 1 (b) of the interoperability Regulation (Regulation 552/2004 as amended by Regulation 1070/2009) states that one of the objectives of the regulation is to achieve interoperability between the different procedures found in the European ATM network, taking due account of the relevant international rules. The Regulation aims also at ensuring the coordinated and rapid introduction of new concepts of operations in air traffic management. Furthermore Articles 3 and 4 of that regulation foresee the development of binding implementing rules and non-binding documents to fulfil the objectives of the regulation.

#### **4. BACKGROUND**

In order to ensure safe, efficient and expeditious international air traffic, a common set of rules has to be created and adhered to by all participants of the air traffic system. These aerial traffic regulations should ensure the common understanding of signs, collision avoidance procedures, air traffic services instructions, phraseology etc. To achieve this goal, the International Civil Aviation Organisation (ICAO) has incorporated an extensive set of rules of the air into its Standards and Recommended Practises (SARPS) as well as the associated ICAO Procedures for Air Navigation Services (PANS-OPS and PANS-ATM). Due to historical reasons not all of these rules or recommendations are contained in Annex 2 (“Rules of the Air”), but are spread over several annexes and documents. Most notably these rules are found in:

- ICAO Annex 2 – Rules of the Air
- ICAO Annex 6 – Operation of Aircraft
- ICAO Annex 10 – Communication Procedures
- ICAO Annex 11 – Air Traffic Services
- ICAO Document 4444 – PANS-ATM
- ICAO Document 8168 – PANS-OPS
- ICAO Document 7030 – EUR Regional Supplementary Procedures

However, as vital as this standardisation work has been for the global air traffic network, the ICAO convention allows Member States to file differences to ICAO SARPS, where indispensable to local conditions, with the notable exception of Annex 2 over the high seas areas entrusted to those Member States. The unintended consequence of this provision has been the establishment of widely varying sets of national rules, which in many cases negate the original intention of increasing safety and efficiency through common rules.

In 2007 a joint project was created between European Commission, Eurocontrol and ICAO to chart the national differences filed against ICAO rules of the air and to use the results of this study to prepare drafts for Commission implementing rules. The work of this group has now advanced sufficiently to commence the drafting phase and thus it would be appropriate to continue the work under the auspices of a formal mandate to Eurocontrol.

Since the institutional developments in this field - in particular EASA's extension to ATM, which will cover also the safety related aspects of Rules of the Air – are also at advanced stage, it is necessary to perform the mandate in a manner that supports these developments, the new role of EASA and the consistency between the draft rules and existing or planned rulemaking activities in OPS, ATM and other affected fields.

## **5. SUBJECT OF THE MANDATE**

The approach taken by Eurocontrol in this area shall take into account the provisions of the Single European Sky regulations (549-552/2004 as amended by Regulation 1070/2009) and of the EASA basic regulation (216/2008 as amended by Regulation 1108/2009). It should also take into account the recently developed procedures (see 5.1 below regarding the 3-level approach) on how to handle differences with ICAO provisions.

### **5.1 ORGANISATION AND SPECIFIC ISSUES**

The SERA work should lead primarily to the creation of a draft Commission implementing rule. The Rule should prioritise ICAO compliant solutions, but in cases, where the ICAO solution is deemed to be insufficient, or leading to non-optimal results – in particular in cases where a large number of Member States have filed similar differences – consideration should be given to solutions, that allow for common EU differences to be developed.

In cases, where full harmonisation is not required, Certification specifications (CSs) Acceptable Means of Compliance (AMCs), or Guidance Material (GM), may also be considered if necessary. In general the material of ICAO SARPS and PANS should be classified into three categories, with draft texts being developed for each as appropriate:

1. Provisions that should be implemented as binding implementing rules, without differences to ICAO.
2. Provisions, where binding implementing rules are considered necessary, but the ICAO baseline should be enhanced through adaptations or improvements leading to a Common difference being filed by all Member States.

3. Provisions, which are of local nature, or of a nature, where full standardisation is not necessary. In these cases the usage of AMC's or CS's or GMs may be considered, if that is considered useful for Member States implementation of ICAO provisions.

In co-operation with the EASA ATM.001 rulemaking group, a concise joint drafting group should be formed on basis of existing arrangements, servicing the needs of both groups and containing experience of ICAO, EC and EASA rulemaking group ATM.001 to draft proposals for these rules and provisions. Initial consultation arrangements should also be put in place relying mainly on existing EASA consultation mechanisms, before going through the official EC consultation and approval process.

Drafts to be developed under this mandate must be consistent with ICAO and existing or planned European regulations, and should include mechanisms to ensure an efficient process of maintenance and update which enables ongoing consistency with new ICAO rules. The work should build directly on the work already performed under a request for support-contract from European Commission, avoiding any overlap or repetition with either this work or work performed by EASA in its respective fields. To ensure efficiency and consistency between different fields, the drafting group should include representatives of ICAO, Eurocontrol, European Commission and EASA ATM.001 group. Depending on the development of the Community framework, the actual working arrangements may be further updated to fit with the EASA rulemaking program, as necessary.

## 5.2 CONSULTATION PROCESS

For formal consultation of stakeholders the EASA Notice of Proposed Amendment (NPA) process shall be used, supported by cross-referencing from the Eurocontrol website. Eurocontrol shall work with EASA on carrying out this consultation process supplemented as necessary by informal discussions in Eurocontrol working groups and aiming to take into account the opinions of stakeholders, including:

- Relevant national authorities (Civil and Military),
- Relevant Civil and Military airspace users' and their organisations,
- Civil and Military air navigation services providers,
- Relevant social and industry representatives,
- Relevant European organisations and Community Agencies,
- Airports.

The consultation process shall aim at collecting views and opinions from all stakeholders on the proposed rules/provisions. The comments of stakeholders collected during this stage will be analysed and shall at minimum include the following:

- Invite comments,
- Evaluate and publish a report on the comments made.

During the consultation process and in line with the available resources, Eurocontrol shall be available for reasonable requests by individual stakeholders for meetings and discussions.

### 5.3 MATERIAL TO BE USED

In the elaboration of the rules/provisions any relevant material should be taken into account, in particular ICAO standards, European regulations or standards or any other available documents. The drafts shall be specifically based on the content of following documents:

- Convention on International Civil Aviation, Chicago 1944
- ICAO Annex 2 – Rules of the Air
- ICAO Annex 6 – Operation of Aircraft
- ICAO Annex 10, Volume II – Communication Procedures
- ICAO Annex 11 – Air Traffic Services
- ICAO Document 4444 – PANS-ATM
- ICAO Document 8168 – PANS-OPS
- ICAO Document 7030 EUR Regional Supplementary Procedures
- Results of work already performed in charting out national differences
- EASA rules, in particular the proposals for OPS rules

## 6 REPORTS AND DELIVERABLES

Eurocontrol shall deliver an initial plan and a final report for each stage of the work as follows:

- The initial plan will describe in detail the work programme, the proposed methodology and processes, the timing and planning of the project, including consultations and visits planned. Eurocontrol may propose (in writing) additional or refined points to the Commission for consideration in this request.
- The final reports will contain the results achieved for each stage as agreed separately. The main part for each final report will consist of the draft rules/provisions relevant to that stage and the outcome of the consultations performed. The final report for the second stage of work, which starts in 2010, shall be delivered to the Commission, via the EASA ATM.001 group and its working arrangements.

## 7 TIMETABLE

The initial plan for the second stage of work will be delivered by Eurocontrol within two

months from receipt of this amended mandate.

The work should take into account the three categories of provisions specified in paragraph 5.1. The timetable for the delivery of the final report on the second phase work will be such as to enable approval of the draft text in the Single Sky Committee by the end of 2011.

The detailed scope and timescale of the work will be reviewed as appropriate with the European Commission on the basis of progress achieved.

## **POINT OF CONTACT**

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*Note: the present document is a EUROCONTROL unofficial consolidated version of the amendments made to the initial SERA mandate (dated 14/08/2009) by the European Commission through its letter MOVE E2/JP/sr dated 15/10/2010. Those amendments are marked in red.*