



Presentation of the EASA Rulemaking activities



Presentation plan:

- I. The institutional framework**
- II. Rule making in the EASA context**
- III. The Rule making Directorate**



The institutional framework

The principles

DECENTRALISATION IS THE RULE...

The EC Treaty is based on the principle that the Community **acts as a legislator**, while **Member States apply** Community law under Community control.

Community law is directly applicable (full part of Member States legal order).

Legal remedies for individuals and enforcement means are provided by Member States judicial systems.



The institutional framework

The principles

... CENTRALISATION THE EXCEPTION

The EC Treaty provides however for the **delegation of executive powers to the Commission**, including the setting of binding standards.

In such cases:

- ➔ Delegated powers shall be strictly defined to allow judicial control of executive acts
- ➔ Judicial remedies available to individuals and enforcement means shall be specified when delegated powers allow individual decisions



The institutional framework

The principles

... CENTRALISATION THE EXCEPTION

The application of Community law, in particular the evaluation of conformity with binding standards, may also be delegated to a **Community Agency**.

The exercise of such powers shall **be subject to the necessary political and judicial controls**.



The institutional framework

✈ actors:

- ✧ the Council and the Parliament: legislative level
- ✧ the Commission)
- ✧ the Agency)
- ✧ the Member States) : executive level
- ✧ the industry)
- ✧ the national Courts) : judicial level
- ✧ the Court of Justice)

✈ tasks:

- ✧ establishing the legal framework): legislative level
- ✧ setting standards) : executive level
- ✧ conformity assessment)
- ✧ enforcement / remedies) : judicial level



The institutional framework

The legislative level:

The Legislator, through a “regulation” (the Basic Regulation):

- ➔ Defines the scope of **powers transferred** to the Community (what products, organisations and personnel shall be regulated by the Community in the public interest)
- ➔ adopts the **essential requirements** specifying the objectives (level of protection) to be met (obligations of results / means)



The institutional framework

The legislative level:

- allocates the **executive tasks** among the executive actors;
- establishes the means of judicial control when executive powers are allocated to Community bodies
- harmonises enforcement means (rarely)



The institutional framework

The executive level :

Binding standards for implementing the Basic Regulation may be adopted by **the Commission** (implementing rules) or **Member States** (subsidiarity)

Non binding standards for implementing the Basic Regulation and implementing rules may be adopted by the **Agency** (certification specifications) or the **industry** (industry standards)



The institutional framework

The executive level:

Certification may be done by:

- the **Agency** (when centralised action is more efficient)
- **national administrations** (Commission is watchdog with help of the Agency)
- the **industry** (self certification by accredited organisations)



The institutional framework

The judicial level:

- Enforcement means and legal remedies are provided by national systems under supervision of national courts. Interpretation of EU law by the European Court of Justice.
- EU Court competent for remedies when the certification tasks are executed by the Agency.



Rulemaking in EASA context

Currently the EASA regulation establishes Community competence only for the regulation of the **airworthiness and environmental compatibility** of products.

Work is being done to extend the scope of this regulation to **air operations and flight crew licensing**

Ultimately it could also cover the safety regulation of **airport operations and air traffic control services**.



Rulemaking in EASA context

The Commission:

- adopts implementing rules (Commission Regulations 1702/2003 and 2042/2003)
- oversees the implementation of common rules by NAAs, including use of safeguard provisions
- negotiates international agreements



Rulemaking in EASA context

The Agency:

- develops common rules (EASA regulation and implementing rules)
- issues material for the application of common rules (certification specifications, airworthiness codes, acceptable means of compliance and guidance material)
- acts as focal point vis-à-vis third countries and international organisations for the harmonisation of rules and the recognition / validation of certificates



Rulemaking in EASA context

Member States National Aviation Authorities:

- ➔ provide expertise as appropriate for rulemaking tasks;
- ➔ develop national rules for the implementation and enforcement of common rules (administrative procedures)
- ➔ may take action on a case by case basis if so required to ensure safety or appropriate operational flexibility (safeguards).



Rulemaking in EASA context

Differences with the JAA system

The Community being a **supranational organisation**, Member States may no more:

- deviate from common rules,
- impose additional requirements nor
- conclude arrangements with third countries.

As a consequence they can no more take position in the JAA. The Agency has become a JAA member to take over their role in that organisation



Rulemaking in EASA context

Basic Regulation
Regulation (EC) 1592/2002 of 15 July 2002

**Annex I : Essential Requirements
for Airworthiness**

Annex II : Excluded Aircraft

**Agency
Opinion**

**Regulation (EC) 1702/2003 on Airworthiness
and Environmental Certification**

Annex (Part 21)

**Section A: Application
Requirements**

**Section B: administrative
Procedures**

Appendices: EASA forms

**Guidance
Material**

Part 21

**Certification
Specifications**

AMC 20	CS AWO	CS 22
AMC 21	CS ETSO	CS 23
CS 25	CS Definitions	CS 27
CS 34		CS 29
CS 36		CS VLA
CS E		CS VLR
CS P		
CS APU		

**Regulation (EC) 2042/2003
on Continuing Airworthiness**

**Annex I (Part-M):
Continuing Airworthiness
Requirements**

**Section A: Technical
Requirements**

**Section B: Administrative
Procedures**

Appendices: EASA forms

**Annex II (Part-145): Maintenance
Organisation Approvals**

**Annex III (Part-66):
Certifying Staff**

**Annex IV (Part-147):
Training Organisation
Requirements**

**AMC &
Guidance
Material**

Part M, 145,66,147

**Agency
Opinion**

**Agency
CS,
AMC &
GM**

Parliament and Council

European Commission

EASA



The Rulemaking Directorate

