

European Aviation Safety Agency

DECISION OF THE MANAGEMENT BOARD¹ OF THE EUROPEAN AVIATION SAFETY AGENCY ON GUIDELINES FOR THE ALLOCATION OF CERTIFICATION TASKS TO NATIONAL AVIATION AUTHORITIES AND QUALIFIED ENTITIES

The Management Board,

Having regard to Regulation (EC) N° 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC, hereinafter referred to as the "Regulation", and in particular to article 33 thereof,

Whereas:

- Article 20, paragraphs 1.e and 2.a, Article 21, paragraph 1.a and 2.a and Article 23, paragraphs 1.a and 2.b require the Agency to conduct itself or through national aviation authorities or qualified entities the certification tasks incumbent upon it;
- Article 55 gives the Agency or national aviation authorities or qualified entities acting on its behalf the necessary investigation and audit powers to execute such certification tasks;
- The need to ensure a smooth transition in the transfer of certification tasks from national aviation authorities requires that the best use of existing human resources and expertise is made by both the Agency and national aviation authorities, without disturbing the current functioning of the aviation regulatory system; therefore the Agency should rely on national aviation authorities to execute certification tasks they currently execute, while taking over responsibility for the relevant certification decisions as mandated by the Regulation and progressively building its own capabilities;
- Use of the certification system of third countries should be made as much as possible to facilitate the continuous flow of products and services with these countries;

¹ Adopted at MB 01/2009 of 10 February 2009;

- Allocation of certification tasks to qualified entities, which are not national aviation authorities, requires further analysis and evaluation, the scope of such allocation should in a first instance be limited to national aviation authorities;
- Certification tasks should only be allocated to national aviation administrations that are fit and able to execute them, an accreditation procedure should be established; in order to facilitate the transition, such procedure should be based on the JAA standardisation process and allow national aviation authorities standardised under the JAA system for a specific activity to be accredited for the same;
- Flexibility should be provided to allow the Agency to allocate certification tasks to national aviation authorities in domains where they have a demonstrated capability without imposing a prior accreditation;
- Detailed procedures and arrangements should be developed and concluded by the Executive Director for the implementation of this decision, specifying in particular the contractual links between the Agency and the accredited national aviation authorities, including the allocation of responsibilities and the charging arrangements;
- Article 33(2)(d) of the Basic Regulation instructs the Management Board to adopt guidelines for the allocation of certification tasks to national aviation authorities and qualified entities in agreement with the Commission;

Has adopted the annexed decision in agreement with the European Commission.

Done at Cologne,

[Signed]

Michael Smethers
Chair of the Management Board

Article 1 - Objective

1. The objective of this decision is to establish the guidelines in the framework of which the Executive Director may allocate certification tasks to national aviation authorities ².
2. Without prejudice to bilateral agreements concluded by Member States or the Community with such countries, certification tasks may be allocated to third countries' national aviation authorities, subject to appropriate co-ordination with the Commission to ensure consistency with Community external policies.

Article 2 - Definitions

For the purpose of this decision:

- "Allocation" shall be the assignment of the performance of a technical task including the technical management function.
- "Bilateral agreement" shall be an international treaty as specified in article 12 of the Regulation.
- "Certification tasks" means all or part of the investigations and audits necessary for the issuing of certificates or approvals to, as well for the continued oversight of products, parts, appliances organisations, pilots and operators, as specified by the Regulation and its implementing rules.

² It is to be noted that allocation of certification tasks to qualified entities that are not national aviation authorities, will be considered following appropriate evaluation in accordance with the fifth whereas of this Decision.

Section 1 - Outsourcing principles

Article 3 - Allocation of certification tasks

1. Certification tasks may be allocated only to National Aviation Authorities. This however does not affect the sharing of tasks between such authorities and entities acting on their behalf.
2. Certification tasks may only be allocated to National Aviation Authorities that have been accredited therefore in accordance with section 2 of this decision.

Article 4 - Scope

1. National Aviation Authorities may only be allocated certification tasks for products, parts and appliances for which they are state of design.
2. National Aviation Authorities may be allocated certification tasks for the approval of changes and repairs designed by organisations whose main place of business and main establishment, if any, is located in the territory where they exercise executive powers.
3. National Aviation Authorities may only be allocated certification tasks for organisations whose main place of business and main establishment, if any, is located in the territory where they exercise executive powers.
4. By derogation to the previous paragraphs, National Aviation Authorities of States subject to the Regulation may be allocated certification task for foreign organisations or for imported products, parts and appliances, as well as for changes and repairs designed by foreign organisations, as agreed with the Executive Director.
5. Notwithstanding the provisions of paragraphs 4(1), (2) and (3) certification tasks may be allocated to other National Aviation Authorities, if the NAA originally foreseen in those sub-Articles is not accredited, or not able or willing to perform the task in accordance with the Agency's procedures, within the required timeframe.

Article 5 - Relations between the Agency and the National Aviation Authority

1. When executing allocated certification tasks, a National Aviation Authority is accountable to the Executive Director who shall make the final decisions in relation to the issuing, modification, suspension or revocation of certificates, including the issuing of airworthiness directives or the granting of exemptions or the adoption of certification bases.
2. Allocated tasks shall be executed in accordance with the certification procedures adopted in accordance with article 53 of the Regulation.
3. The allocation of certification tasks shall be subject to the establishment of appropriate legal arrangements in accordance with the Regulation, specifying in particular:
 - the exact scope of allocated tasks,
 - the responsibilities and accountability,
 - the charging arrangements and
 - training arrangements.

Section 2 - Accreditation principles

Article 6 - Objective

The objective of the accreditation is to ensure that a National Aviation Authority has the necessary organisation and expertise to execute the allocated certification tasks in accordance with the applicable certification procedures.

Article 7 - Initial accreditation

1. An application to be accredited must be made in writing to the Executive Director. The application must specify the scope of tasks for which the acceptance is sought and contain an organisation handbook showing that the certification tasks shall be carried out following a documented procedure. The application should contain a translation in the English language. The applicant shall appoint a coordinator for the accreditation process.
2. The Executive Director shall acknowledge to the applicant receipt of the application and provide information about further progressing and acceptance in principle. Such acceptance will depend on the ability of the Agency to execute itself the relevant tasks and on the principles contained in article 4. The acknowledgement shall be given within one month. In case in this period the acceptance in principle can not be given, the applicant should be informed of the reasons therefore.
3. The Executive Director shall appoint an audit team who will conduct an investigation of the organisation. The audit team shall consist of experienced independent experts appropriate to the scope for which acceptance can be granted.

The audit team will visit the applicant and evaluate:

- the organisation of the applicant,
 - the existence and functioning of the applicant's internal monitoring procedures,
 - the resources and expertise of the applicant,
 - the ability to maintain the expertise of the personnel at adequate level and
 - the conformity of the organisation handbook with the applicable certification procedures.
4. The audit team will produce a report about its investigation.

The investigation report shall:

- contain the findings about the evaluation,
- propose compensating factors if necessary and
- list the scope and tasks for which accreditation could be given.

The applicant will be requested for its endorsement of the investigation report. Any disagreement shall be referred to the relevant panels of experts established by the Management Board Decisions on certification procedures.

5. On acceptance of the investigation report, the Executive Director will notify in writing the applicant of its accredited scope and related conditions. Such scope and related conditions shall be published in the official publication of the Agency.

Article 8 - Changes to the scope of accreditation

6. An accredited entity must notify the Executive Director of any major changes in its organisation, procedures and personnel which are likely to affect its accreditation. It shall also apply for any extension to the scope of its accreditation.
7. The Executive Director shall then evaluate the impact of the proposed major changes and decide whether to organise, as appropriate, a subsequent or extension audit of the accredited entity. Such audit shall be done in accordance with the procedure of article 7.

Article 9 - Surveillance of accredited entities

The objective of surveillance is to verify:

- that confidence in the accredited entity remains,
- that the accredited entity operates in accordance with the handbook,

- that the accredited entity expertise remains appropriate;
 - the good functioning of the accredited entity 's internal monitoring procedures,
 - compliance with the applicable certification procedures and
 - compliance with latest amendments of applicable requirements.
2. The Agency shall establish an annual programme of surveillance visits on the basis that each qualified entity shall be visited normally at a 2 year interval.

Additional specific investigations should be carried out for the following cases:

- changes in the accredited entity having an impact on its certification activities or
 - major deficiencies resulting from experience with the products, parts, appliances and organisations for which the accredited entity is allocated certification tasks.
3. The scope of the surveillance visit shall address those areas for which the entity has been accredited.

The depth of the surveillance visit shall be appropriate to ensure that allocated certification tasks are performed as expected and that the accredited entity fully understands its obligations under the certification procedures.

The audit team shall in particular assess:

- any organisational changes,
- any changes to staff, technical and administrative expertise,
- summaries on activities performed since last Audit Team visit and
- any novelties or difficulties experienced in the execution of allocated certification tasks.

Article 10 - Recording

The Executive Director shall retain a complete file for each accredited entity, including at least the organisation handbook, the audit reports, the surveillance visit reports and any associated correspondence.

Section 3 - Final provisions

Article 11 - Implementing measures

1. The Executive Director shall ensure that the guidelines prescribed in this Decision are applied when certification tasks are allocated to National Aviation Authorities or Qualified Entities.
2. The Executive Director shall establish the necessary internal procedures for the implementation of this Decision, in particular with regard to articles 5, 7, 8 and 9 thereof.

Such procedures shall detail in particular the audit and surveillance processes, including checklists, formats for report, guidance on scope and depth of evaluation and guidance on the establishment of compensating factors or corrective actions.

Article 12 - Transitional measures

1. National Aviation Authorities which have been recognised in accordance with JAA standardisation procedures as fit and able to execute a specific certification task shall be exempted from the procedure described in article 7 paragraphs 1, 2, 3 and 4 for the same certification task and may be allocated that task without initial accreditation. They shall however be subject to the requirements of articles 8 and 9.
2. National Aviation Authorities may be allocated certification tasks without prior accreditation in accordance with the provisions of article 7 paragraphs 1, 2, 3 and 4 when strictly limited to the approval of:
 - changes to, or repairs of, products, designed by organisations located in the territory where they exercise executive powers or
 - parts and appliances and changes thereof designed by organisations located in the territory where they exercise executive powers or
 - aircraft not covered by existing JARs when designed by organisations whose main place of business and main establishment, if any, is located in the territory where exercise executive powers.

Article 13 – Review

The Management Board shall review the functioning of this decision on the basis of a report to be presented by the ED in two years and adjust

its provisions as appropriate.

Article 14 - Entry into force

This decision enters into force from the date of its adoption. It shall be published in the official publication of the Agency.

Article 15 - Repeal

Management Board Decision 10-2007 of 1 October 2007 on the guidelines for the allocation of certification tasks to National Aviation Authorities or qualified entities is hereby repealed.