

General

Where can I find guidance on the use of ‘shall’, ‘must’, ‘should’ and ‘may’ in the Agency’s rulemaking publications and generally in EU legislation?

Answer

This question relates to the English writing standards used in Community legislation. Points 10.23 to 10.32 of the [English Style Guide](#), prepared by the European Commission’s Directorate-General for Translation, provide guidance concerning the use of modal verbs in legislation, contracts and the like, as well as an explanation of the distinction between modal verbs used in enacting and non-enacting terms.

Further, points 2.3, 10 and 12 of the [Joint Practical Guide of the European Parliament, the Council and the Commission for persons involved in the drafting of European Union legislation](#) also provide guidelines on the principles of drafting Community legislation.

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23/05/2023

Link:

<https://www.easa.europa.eu/en/faq/18999>

What is the difference between European Community (EC) and European Union (EU) in the regulation reference?

Answer

The Lisbon Treaty, the latest primary treaty at EU level, was signed on 13 December 2007 and entered into force on 1 December 2009.

The European Union has been given a single legal personality under this Treaty.

Previously, the European Community and the European Union had different statutes and did not operate the same decision-making rules. The Lisbon Treaty ended this dual system.

On practical terms, all EU legislation has the reference to the EU since 1 December 2009. Up till then, the reference was made to the European Community (EC) as only this body had legal personality.

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<https://www.easa.europa.eu/en/faq/19000>

Why has the numbering of the EU regulations changed as of 2015?**Answer**

Starting with 2015, the European Union adopts a new numbering system for its legal acts. (see [Harmonising the numbering of EU Legal Acts](#))

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<https://www.easa.europa.eu/en/faq/19064>

What is the definition of an IR, AMC and CS and GM and what differences can be proposed?**Answer**

Implementing Rules (IR) are binding in their entirety and used to specify a high and uniform level of safety and uniform conformity and compliance. The IRs are adopted by the European Commission in the form of Regulations.

Acceptable Means of Compliance (AMC) are non-binding. The AMC serves as a means by which the requirements contained in the Basic Regulation, and the IR, can be met. However, applicants may decide to show compliance with the requirements using other means. Both NAAs and organisations may propose alternative means of compliance. 'Alternative Means of Compliance' are those that propose an alternative to an existing AMC. Those Alternative Means of Compliance proposals must be accompanied by evidence of their ability to meet the intent of the IR. Use of an existing AMC gives the user the benefit of compliance with the IR.

Certification Specifications (CS) are non-binding technical standards adopted by the EASA to meet the essential requirements of the Basic Regulation. CSs are used to establish the certification basis (CB) as described below. Should an aerodrome operator not meet the recommendation of the CS, they may propose an Equivalent Level of Safety (ELOS) that demonstrates how they meet the intent of the CS. As part of an agreed CB, the CS become binding on an individual basis to the applicant.

Special Conditions (SC) are non-binding special detailed technical specifications determined by the NAA for an aerodrome if the certification specifications established by the EASA are not adequate or are inappropriate to ensure conformity of the aerodrome with the essential requirements of Annex Va to the Basic Regulation. Such inadequacy or inappropriateness may be due to:

- the design features of the aerodrome; or
- where experience in the operation of that or other aerodromes, having similar design features, has shown that safety may be compromised.

SCs, like CSs, become binding on an individual basis to the applicant as part of an agreed CB.

Guidance Material (GM) is non-binding explanatory and interpretation material on how to achieve the requirements contained in the Basic Regulation, the IRs, the AMCs and the CSs. It contains information, including examples, to assist the user in the interpretation and application of the Basic Regulation, its IRs, AMCs and the CSs.

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<https://www.easa.europa.eu/en/faq/19026>

Implementing Rules are available in all of the national languages of the EASA Member States. How is the quality of these translations assured? Who is responsible for the translations?

Answer

EASA is committed to facilitating the production of good quality translations. To ensure this and, where necessary, to improve, EASA has set up a Translation

Working Group in 2008. This Working Group is made up of members of the National Aviation Authorities (NAAs), the Translation Centre of the EU Bodies (CdT), as well as EASA staff members. Also, EASA in cooperation with NAAs and CdT, is developing glossaries in the different aviation domains, such as Air Operations or Air Traffic Management, to enhance the quality of translations. The Member States also contribute to this project in order to capitalise on existing material and experience.

The final responsibility for translations lies with the EU Commission. The correction of translation mistakes of the Implementing Rules follows the same formal procedure as for their adoption: 1. preparation of the proposal, 2. interservice consultation, 3. committee, 4. scrutiny of European Parliament and of European Council, and 5. adoption. For minor mistakes, the procedure may be shorter. In any case, the linguistic changes will have to be agreed by the Commission's translation services. These linguistic services will check that no substantial change is introduced, that the term used is acceptable according to an internal translation code or that the same change is included in all linguistic versions.

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<https://www.easa.europa.eu/en/faq/19001>

What is the progress of a regulation towards publication?

Answer

The Agency drafts regulatory material as Implementing Rules, Acceptable Means of Compliance, Guidance Material and Certification Specifications. These are available for consultation (as Terms of Reference, Notices of Proposed Amendment and Comment Response Documents). After consultation, the Implementing Rules are sent to the European Commission as Opinions.

Following publication of the Opinions, responsibility for completing the decision-making process prior to the Regulation's publication in the [Official Journal of the European Union](#) passes onto the European Commission. The Opinions' progress can be followed via the European Commission's [comitology website](#). It is advisable to search by year and for the committee dealing with these Opinions: Committee for the application of common safety rules in the field of civil aviation. As several Opinions may be negotiated in one such committee meeting, it is difficult to search

by rule or title.

Once the committee has adopted the draft regulation, it is passed on to the European Parliament and Council for scrutiny. Further information and links to the documents under scrutiny can be found via the [European Parliament's Register of Documents](#).

The Agency is responsible for finalising the associated Acceptable Means of Compliance (AMC), Guidance Material (GM) and Certification Specifications. As these need to take into account any changes made to the Cover Regulation and Implementing Rules by the EASA Committee, European Parliament and Council, the Decisions are published on the Agency website shortly after the date when their corresponding regulation has been published in the Official Journal.

The Agency also publishes a rulemaking programme, listing the tasks that are ongoing and advance planning. It is available [here](#).

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<https://www.easa.europa.eu/en/faq/18995>

What is the legal status of documents published during the EASA Rulemaking process such as Notice of Proposed Amendment (NPA), Comment Response Document (CRD) or an Opinion? Can they be used if there is no EU rule available?

Answer

The proposed draft rules published during the EASA Rulemaking process are not binding documents as they are still subject to change. This may occur either during the EASA rulemaking process or through the Commission's comitology process. Consequently, NPAs, CRDs and Opinions cannot be used in place of an EU rule.

NPAs and CRDs are part of the Agency's rulemaking process, at different stages. They inform and consult stakeholders on possible rule changes or new rules. The NPAs include an explanatory note, the proposed draft rules, a regulatory impact assessment (RIA) — if applicable, and proposed actions to support implementation. They are published on the Agency's website to allow any person or organisation with an interest in or being affected by the draft proposed rule to submit their comments.

The CRD to a particular NPA is published after the comments have been reviewed and contains a summary of the comments received, along with all the comments submitted by stakeholders on that particular NPA and EASA's responses to those comments.

Most of the times, the EASA rulemaking process also leads to the issuance of Opinions, which contain proposals of implementing and delegated acts. They are submitted to the European Commission, as a proposal to change existing regulations or create new ones.

More information on [EASA rulemaking](#).

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Link:

<https://www.easa.europa.eu/en/faq/19121>

What is the comitology procedure?

Answer

Please refer to the information provided by the European Commission at:

https://ec.europa.eu/info/implementing-and-delegated-acts/comitology_en

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<https://www.easa.europa.eu/en/faq/18997>

What does 'Cover' Regulation mean?

Answer

Implementing rules are Commission regulations. A regulation is usually composed of a short introductory regulation, colloquially known as 'cover regulation', and Annexes thereto, containing the technical requirements for implementation. In the EASA system, these Annexes are usually called Parts (e.g. Part-21 is an annex to Regulation 1702/2003; Part-ORO is an annex to Regulation (EU) No 965/2012).

The 'cover' regulation is usually short (a few pages) and it includes:

- The preamble made up of:
 - Citations (the paragraphs introduced by 'Having regard to...'); and
 - Recitals (clauses introduced by 'whereas'), explaining the reasons for the contents of the enacting terms (i.e. the articles) of an act, the background principles and considerations that lead the legislator to adopt the regulation;
- The articles of the regulation, which contain:
 - A description of the objective and scope of the regulation;
 - Definitions that are used throughout the regulation and its annexes;
 - The establishment of the applicability of its annex(es);
 - Conversion and transition measures.

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<https://www.easa.europa.eu/en/faq/18998>

Can the information provided in EASA's FAQ be considered legally binding?**Answer**

No, the information included in the Agency's FAQs cannot be considered in any way to be legally binding. EASA is not the competent authority to interpret EU Law. Such responsibility rests with the judicial system, and ultimately with the Court of Justice of the European Union. Therefore any information included in these FAQs shall only be considered as EASA's technical understanding on a specific matter.

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<https://www.easa.europa.eu/en/faq/19115>