



Development of Implementing Rules and AMC/GM for Air Operations

EASA OPS Workshop
Cologne, 5 November 2008



AGENDA

1. The EU legal framework
2. Differences with the JAA system
3. OPS.001 and MDM.032 RM groups
4. The OPS NPA Schedule



1. The EU legal framework



The EU legal framework

Main mission:

- to establish and maintain a **high uniform** level of civil aviation **safety and environmental compatibility**

Additional objectives:

- **Free movement** of goods, persons and services
 - **Cost efficiency** of regulatory processes
 - Effective uniform implementation of **ICAO SARPS**
 - Promoting Community views at the **global level**
-



The EU legal framework

EASA has been established as an **independent** regulator to meet these objectives by:

- **Preparing** the necessary proportionate rules
- **Overseeing** their actual **implementation**

But EASA does not take over all regulatory functions and is therefore not a « European FAA »



The EU legal framework

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 EU legal framework

National Aviation (or Supervisory) Authorities are the **legitimate executive arms** of the Community.

It is their role to **implement** Community law.

No one else has the **local presence** to do so or the **capability** to grant **exemptions** when local conditions or exceptional situations so require.

No one else can trigger the national **enforcement** system.



The EU legal framework

Member States act under the **control** of the **Commission**, whose role is to ensure effective and uniform implementation of Community law. Such role is essentially of an **enforcement** nature (infringement procedure).

EASA **assists the Commission** through standardisation inspections. This provides for the opportunity to **also assist** National Aviation Authorities in **identifying** their weaknesses and in **rectifying** them before an infringement procedure is initiated.



The EU legal framework

EASA **assists the Commission** in its legislative role by:

- Preparing **essential requirements** to transpose political **objectives** into technical terms
- Preparing detailed **implementing rules** that **clarify** what all those involved shall do to **comply**
- **Evaluating** the **results** achieved on the field to feed a process for **continuously improving** the quality of rules



The EU legal framework

EASA **assists National Aviation Authorities** in their implementing role by:

- Adopting and disseminating **best practices** (acceptable means of compliance) and **guidance material**
- Providing them and applicants with advise on **interpretation** of rules
- Organising **training and workshops** so as to help understanding and applying rules



The EU legal framework

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

Such an option is preferred when **centralised** action is the best means to achieve **uniform** implementation.

In such case the empowering act shall specify the **judicial remedies** available to individuals. This implies giving them access to the European Court of Justice.



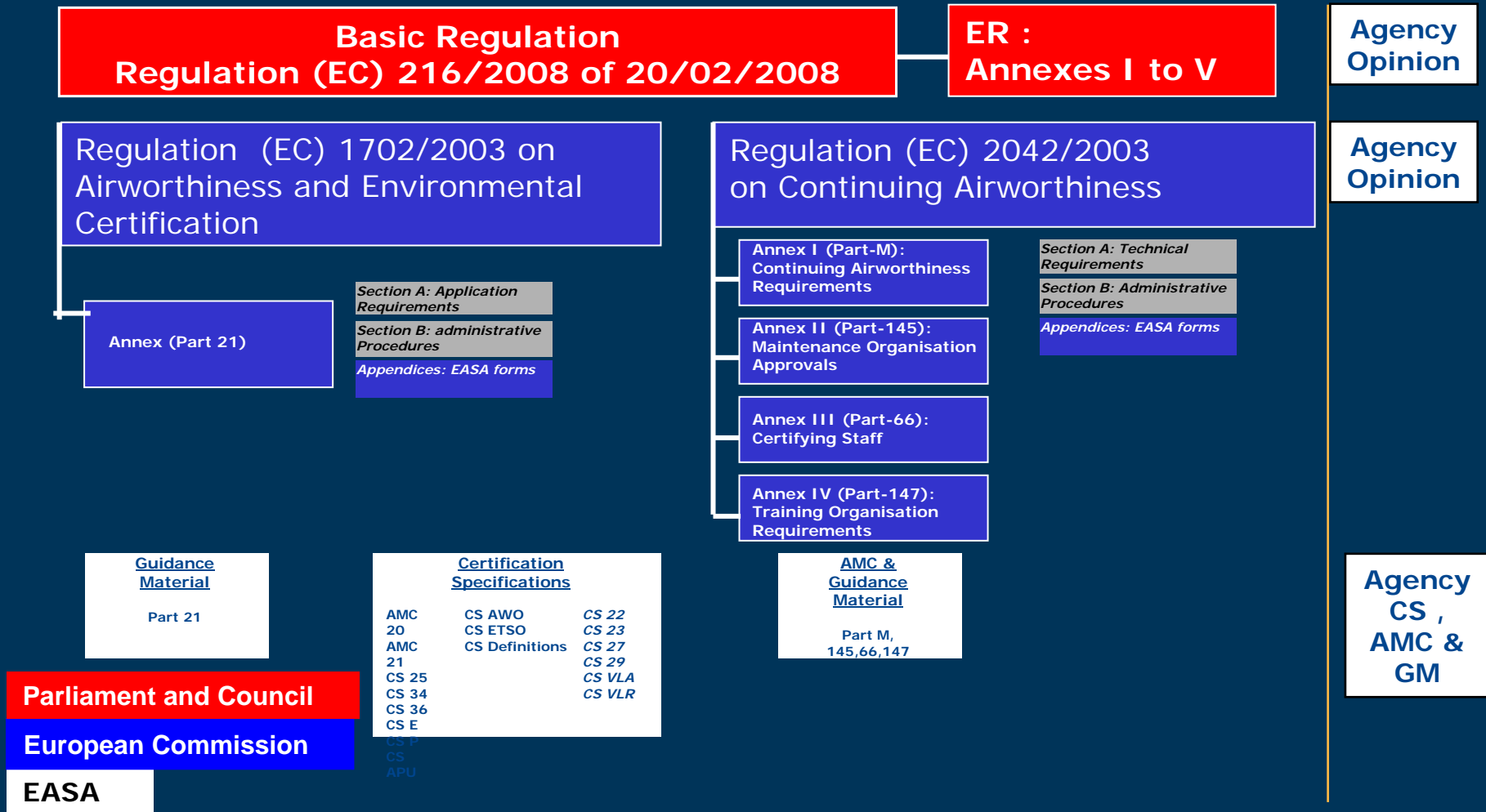
The EU legal framework

	PL	Ratings, certificates	MC	ATO	FSTD	AeMC	OPS
EASA country	MS	MS	MS	MS	MS ¹	MS	MS
Non- EASA country	MS	MS	MS	EASA	EASA	EASA	EASA

1) EASA, when requested by a MS



The EU legal framework





The EU legal framework

- The **Parliament** and the **Council**
 - ✦ define the **Scope of Powers** transferred from the Member States to the Community
 - ✦ adopt the **Essential Requirements** specifying the objectives to be met
- The **Commission**
 - ✦ adopts **standards** for implementing the essential requirements
- The **Agency**
 - ✦ adopts **non binding standards** for implementing the essential requirements



2. Differences with the JAA system



Differences with the JAA system

- As EASA **implementing rules** are binding in their entirety (not minimum standards nor recommended practices), they shall be **less prescriptive** to provide for flexibility (**performance based**).
- To provide for uniformity, **Acceptable Means of Compliance** have to be issued on how to comply with the implementing rules.
- As a consequence, some rule material included in Sections 1 of JARs was 'downgraded' to AMC.



Differences with the JAA system

- Because the **scope** of the EASA system extends well beyond that of the JAA (ex: JAR-OPS only applies to CAT, EASA rules shall cover all aircraft and types of activities); and
- Because **drafting principles** of Community law require that a requirement applicable to various persons/organisations be set in a single text

It is not possible to have one rule per type of activity or aircraft



Differences with the JAA system

- The Agency proposals also contain **differences** in the **drafting style** resulting from the application of EU principles.
- Community legislative acts shall be drafted **clearly, simply** and **precisely**. The drafting of a legislative act must be:
 - ★ clear, easy to understand and unambiguous;
 - ★ simple, concise, containing no unnecessary elements;
 - ★ precise, leaving no uncertainty in the mind of the reader



Differences with the JAA system

- Because of the nature of the EC, Member States **may no more**:
 - ★ **deviate from common rules** - except in the case of art. 14 of the Basic Regulation
 - ★ **impose additional requirements** - to ensure a level playing field and no discrimination
 - ★ **conclude international arrangements with third countries** - transfer of competence produces effects also for international competence



3. OPS.001 and MDM.032 RM groups



OPS.001 and MDM.032 RM Groups

- **Composition of drafting groups:**
 - ★ **Experts from trade associations (commercial and non-commercial operators, pilots, cabin crew);**
 - ★ **Aircraft manufacturers;**
 - ★ **National Aviation Authorities.**



OPS.001 and MDM.032 RM Groups

➤ OPS.001 drafting group:

- ★ started its work in August 2006

- ★ created 4 subgroups:

 - Subgroup commercial air transport

 - Subgroup aerial work

 - Subgroup non-commercial operations with complex motor-powered aircraft

 - Subgroup Authority requirements and SMS

- ★ subgroups delivered their work to the OPS.001 core group and the Agency during summer 2007



OPS.001 and MDM.032 RM Groups

- **MDM.032 drafting group:**
 - ★ **tasked to propose a concept for better regulation of general aviation**
 - ★ **drafted elements of non-commercial operations with complex motor-powered aircraft**
 - ★ **started its work in March 2006**
 - ★ **delivered its work to the OPS.001 core group and the Agency during summer 2007**



4. The OPS NPA schedule



The OPS NPA Schedule

**NPA
Publication
28 Nov 2008**

**3 month
Comment
Review
until
28 May 2009**

**EASA
Opinion
after
28 Jul 2009**

Comitology

**3 month
Public
Consultation
until
28 Feb 2009**

**2 month
CRD
publication
until
28 Jul 2009**

**EASA
Decision
after
adoption
EC Reg.
(Spring
2010?)**



**Thank you
for your attention**