

Analysis of the lessons learnt from the
implementation of Commission
Regulation (EU) No 452/2014 related
to air operations of third-country
operators (and of the associated soft
law and EASA Management Board
Decision)

June 2021

Executive Summary

In 2019 EASA carried out an internal analysis of the lessons learnt from the implementation of Commission Regulation (EU) No 452/2014¹ related to air operations of third-country operators ('TCO Regulation') as well as of the related Acceptable Means of Compliance (AMC) and Guidance Material (GM)² and the associated EASA Management Board (MB) Decision³.

The objective of this internal analysis was to first review the effectiveness and efficiency level with regard to the implementation of the TCO rules and of the related AMC & GM and EASA internal procedures, and then to propose improvements in order to foster the risk-based approach in the processing and assessment of the compliance of third-country operators (TCOs) and hence improve the efficiency of EASA as the authority being responsible for the implementation of the TCO Regulation. The coherence of the TCO rules with Regulation (EC) No 2111/2005⁴ on the establishment of a Community list of air carriers subject to an operating ban within the Community ('EU Air Safety List Regulation') is not subject to a comprehensive assessment in this report assessment, because it considers the results of the ex post evaluation of the EU Air Safety List Regulation.

Most of the Member States (MSs) showed a positive attitude towards EASA and the third-country operator authorisation (TCOA) process. They consider that the process has proven itself to be more relevant than the previous national processes and that it has achieved a significant EU added value. Communication between EASA and MSs is mentioned as being efficient, helpful and positive.

Operators perceive the rules and the procedures in the TCO Regulation as being relevant and effective in general. Most of the legal requirements and processes were positively assessed for their effectiveness, easiness to understand, clarity and adequacy.

As regards EASA, the evaluation concluded that the efficiency of some processes could be improved and hence a more efficient use of the EASA workforce may be achieved. Currently, certain provisions of the Regulation contribute to inefficiencies and undue administrative burden (e.g. TCOA not being automatically revoked when the suspension period has elapsed, invalid applications for a one-off notification flight, etc.). A revision of several provisions in the Regulation would provide for important and significant efficiency gains for EASA and more safety-related usage of its resources in the future. More flexible enforcement measures are desirable to give EASA more graduated and proportionate tools when dealing with foreign operators with poor safety performance. The evaluation revealed a need for improvement of the current negative decision process, as some parts of it are not effectively implemented.

¹ Commission Regulation (EU) No 452/2014 of 29 April 2014 laying down technical requirements and administrative procedures related to air operations of third country operators pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 133, 6.5.2014, p. 12) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014R0452&qid=1615805735874>).

² Decision 2014/023/R of the Executive Director of the Agency of 6 May 2014 adopting Acceptable Means of Compliance and Guidance Material to Part TCO – Third country operators - of Commission Regulation (EU) No 452/2014.

³ EASA Management Board Decision 01-2014 of 11 March 2014 concerning the general principles related to the authorisation procedures to be applied by the Agency for issuing authorisations for third country operators ("TCO Authorisation Procedure")

⁴ Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (OJ L 344, 27.12.2005, p. 15) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32005R2111&qid=1615806411567>).

Certain alleviations are currently granted to operators in the Business Aviation segment in order to ensure that the burden stemming from the TCO Regulation is commensurate with the risk related to the size, scope, and exposure of their operation. Some provisions in the Regulation are not sufficiently clear and create confusion amongst operators. Other provisions on important aspects are not covered by the current TCO Regulation.

The evaluation recommends the update of the TCO Regulation by:

- promoting an even more risk-based approach in the processing and assessment of the compliance of TCOs and hence improving the efficiency of EASA as the authority that is responsible for the implementation of the Regulation; and
- addressing the existing inconsistencies and clarifying unclear rules.

The proposed follow-up work of the evaluation is to initiate regular updates of the Regulation and of the related AMC and GM.

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1. Introduction

1.1 Objective of the evaluation

Commission Regulation (EU) No 452/2014 ('TCO Regulation') was adopted in 2014. When the Regulation was drafted, the practical consequences could only be anticipated as they could not be tested in practice. During the last 6 years, EASA gained practical experience in authorising more than 650 TCOs and processing more than 1 000 applications. Based on this 'hands-on' experience, it became apparent that some changes would be necessary to better and more efficiently assess the operators and process their authorisation.

The objective of this report is to provide evidence on the effectiveness and efficiency level of the implementation of the TCO rules, to identify the reasons (e.g. legal provisions, gaps, and missing definitions) which hinder efficiency and to analyse and propose improvements in order to increase regulatory efficiency by fostering the risk-based approach⁵. These points are presented as a list of changes to the TCO Regulation. The coherence of the TCO rules with the EU Air Safety List Regulation is not subject to a comprehensive assessment in this report, because it considers the results of the ex post evaluation of the EU Air Safety List Regulation⁶.

The evaluation is organised as a forward-looking assessment of the degree to which the TCO rules are fit for purpose⁷, e.g. what could be improved to implement the Regulation more effectively and efficiently.

1.2 Background of the TCO Regulation

Article 82 of Regulation (EU) 2018/1139⁸ (referred hereafter as the Basic Regulation) tasked EASA with the establishment of a single European system to assess TCOs and their safety performance. With the entry into force of the TCO Regulation, the various national authorisation processes of each MS were replaced and a 'one-stop shop' was created at European level, allowing operators which are holders of an EU TCOA to operate in any EASA MS.

The TCO Regulation lays down technical requirements and administrative procedures related to air operations of TCOs pursuant to Basic Regulation.

In order for foreign operators to be issued with an authorisation, they have to declare and, when requested, demonstrate to be compliant with these 'technical requirements'. An authorisation is needed when the operator has the intention to perform commercial air transport (CAT) flight operations into, within or out of the EU territories. This territory consists of the EU MSs, the European Economic Area (Norway, Liechtenstein and Iceland), Switzerland and several other overseas territories in which the Treaty applies, such as Guadeloupe, French Guiana, Martinique, Réunion, Saint-Martin, and Mayotte.

⁵ TCO Regulation requirements for the operators commensurate with the risk related to the size and scope of their operation.

⁶ Ex post evaluation on the EU Air Safety List Regulation <https://op.europa.eu/en/publication-detail/-/publication/17ff74cf-7076-11e9-9f05-01aa75ed71a1>.

⁷ EU Better Regulation framework https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how_en.

⁸ Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91.

However, an authorisation is only needed when an operator has the intention to land in the mentioned territory, not for overflights.

The authorisation is a prerequisite for foreign operators to apply for an operating permit (which is provided by the MSs).

The recently amended EASA Fees & Charges Regulation that entered into force in January 2020 introduces cost recovery limited to a minority of difficult cases that require further assessment by means of full-day technical consultation meetings.

A mature risk model ensures that the vast majority of operators (80 %-85 %) receive a straight-forward desktop process. Approximately 15 % of the operators with degraded safety performance undergo an extended desktop review. The remaining 5 % of operators in the highest risk category are subject to a face-to-face meeting or on-site audit as part of the initial authorisation and during periodic file reviews under continuous monitoring. Hence, for the vast majority of reliable operators (approx. 95 %), TCOA remains free of charge.

1.3 Methodology

The evaluation suggests a particular methodology for data collection and analysis. The process started with the identification of issues, based on EASA experience gained in implementing the TCO Regulation (Chapter 3). These issues were described in the surveys as statements, while asking the stakeholders to indicate their degree of confirmation or rejection and to substantiate their statements. Consequently, the issues that were supported by the stakeholders are presented as conclusions of the evaluation and used as the basis for the suggested changes.

The following methodology was used for data collection:

1. Data collection from an online survey, communicated to the focal points of all **EASA MSs**

In April 2019, EASA launched a survey to its established network of TCO focal points who are representing their MSs in TCO-related matters. The methodology of this survey was to provide statements to the focal points and to assess their level of agreement. These statements were made using improvement proposals previously identified by the EASA TCO team. The survey ran until the beginning of May 2019. A total of 19 NAAs⁹ (61 %) replied; constituting a relevant sample size.

2. Data collection from an online survey, communicated to a randomly selected number of **foreign operators**

In April 2019, EASA launched a survey to a randomly selected number of TCOs (252 in total) that were directly affected by the TCO Regulation. The purpose of this survey was to evaluate whether the current processes needed any improvement and whether the operators had any additional remarks on the TCO Regulation as currently implemented, which could then be considered for potential changes. Out of 252 TCOs, 78 replied with 5 operators replying twice, which thus makes for 73 eligible responses (29 %), which represents a statistically relevant sample size.

Appendix I provides the response rates per state and per type of operation.

⁹ Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Netherlands, Norway, Romania, Slovak Republic, Slovenia, Switzerland

Figure 1 presents the distribution of the TCOs that responded to the survey per State of the operator.

Figure 2 presents the distribution of the respondents between IATA Operational Safety Audit (IOSA)-registered and non-IOSA-registered.

Figure 3 shows the type of operation.

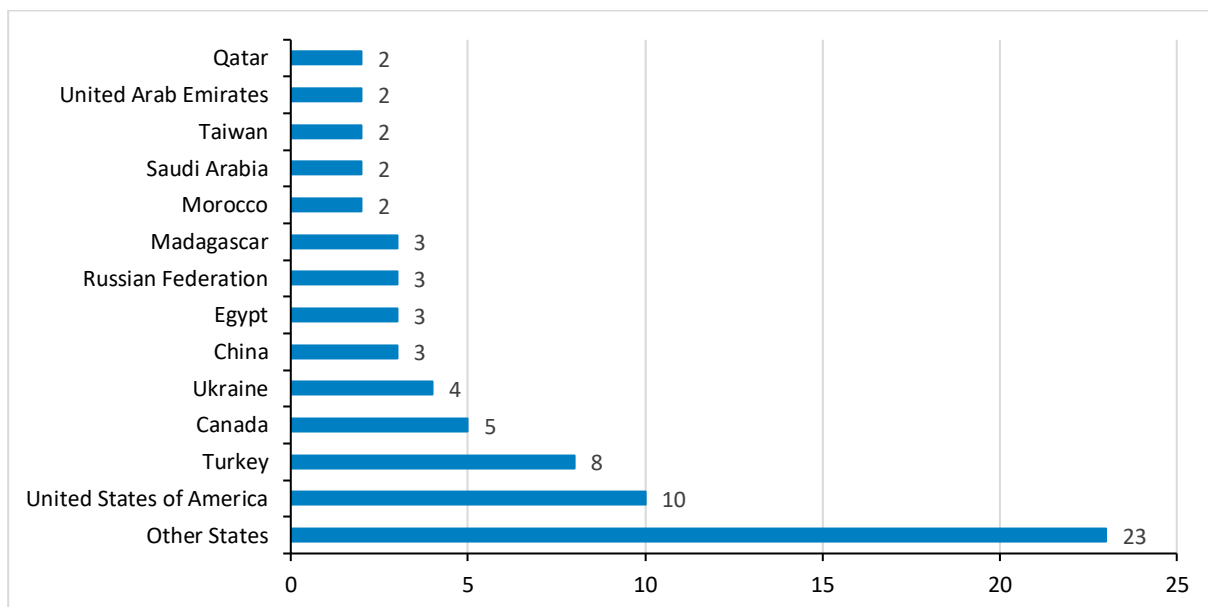


Figure 1: Distribution of TCOs that responded per State of the operator

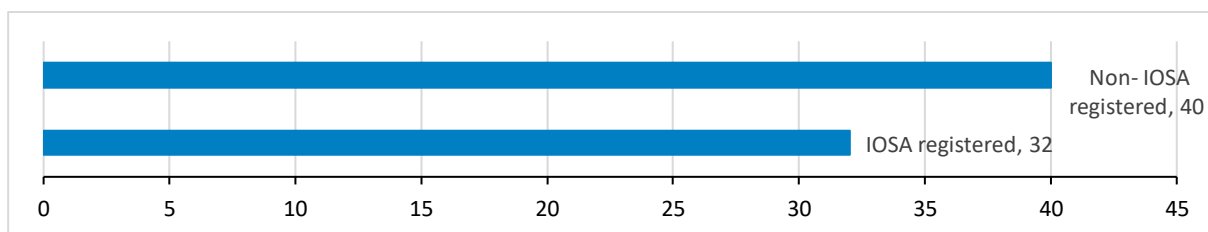


Figure 2: Distribution of TCOs that responded per IOSA status

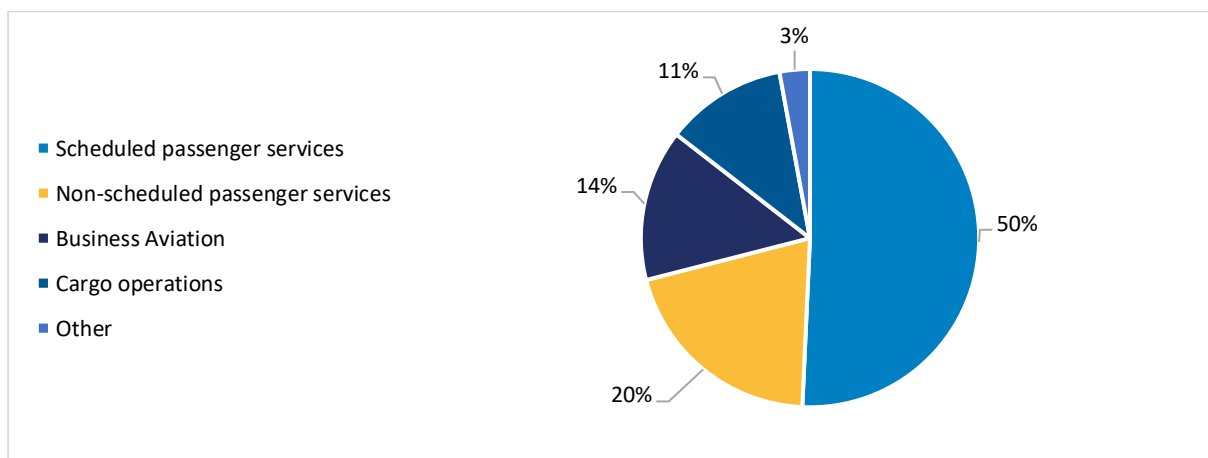


Figure 3: Distribution of TCOs that responded per type of operation

3. Data collection from interviews and online survey with **EASA TCO staff**

All 14 employees of the Air Operators Oversight section in EASA were first interviewed individually (regardless of their position and years in the section) to gather their opinions on the current processes related to the TCO Regulation. This feedback was then used to develop a survey which was again sent to all section staff. The purpose of this survey was to bring to light the different opinions within the team on various aspects of the Regulation, in order to achieve consensus where possible on the proposed changes to the regulatory material.

This data collection was performed from April to May 2019.

4. Data collection from **desktop reviews** of the internal processes and the relevant regulations

In parallel to the assessment of the stakeholders, an EASA-internal review was performed of the current TCO Regulation. Several improvement potentials had been identified and were already collected and recorded in a systematic manner over time during day-to-day activities. These will be taken into account when developing recommendations as a result of the evaluation.

2. Achievements

Europe at its best: The TCO system successfully applies the EU principles of subsidiarity and proportionality, in that it caters for safer EU skies with action more effectively and efficiently taken at EU level than by MSs. It aligns with and fosters the aviation safety objectives of the Juncker Commission's *Aviation Strategy for Europe (2015)* and improves the EU's visibility and importance in aviation safety matters globally. Additionally, the 'TCO Alert' system developed in close cooperation with EUROCONTROL provides systematic alarms to the MSs concerned and to TCOs when a non-TCO authorised aircraft is planned to be operated commercially in the EU.

Effective: While the TCO system helps deter unreliable and unsafe operators from EU skies, including those certified in the so-called potential *flag of convenience* States (States with easy access to air operator certificates and/or weak oversight), it also entails provisions for one-off notification flights for humanitarian purposes, notably air ambulance and disaster relief flights. Results of the TCO programme help detect systemic weaknesses in the safety oversight capability of States, enabling EASA to provide qualified input to the EU Air Safety List mechanism.

Efficient: The TCO system provides TCOs with a one-stop shop for a single safety authorisation valid in 32 EASA MSs. For the vast majority, TCOA remains free of charge.

Truly risk-based: In applying a comprehensive, objective, data-informed risk model that continuously monitors the safety performance of each authorised operator, the TCO system is proportionate to and commensurate with the individual risk profile and EU exposure of TCOs.

Graduated: The TCO system is graduated in that it mitigates risks by taking enforcement measures swiftly, flexibly and in proportion to the risk EU citizens are exposed to by foreign operators. The enforcement measures toolbox ranges from technical limitations spelled out at aircraft level or at organisation level, suspension or revocation of the authorisation, to ultimately calling on the European Commission for invoking the EU Air Safety List mechanism in cases where multiple TCO assessments of operators of a single State indicate systemic oversight deficiencies at State level when EASA has exhausted its means.

Level playing field: The TCO system fosters the effective and timely implementation of already applicable and international standards, while providing a level playing field to foreign operators by applying a *no less–no more* approach compared to requirements applicable to EU operators.

Wide acceptance: The EU approach to surveillance of foreign operators enjoys broad acceptance – by EASA MSs, the European Commission, ICAO Member States, IATA, and leading civil aviation authorities alike. The EU TCO programme has never been seriously questioned as regards its necessity as well as its integrity or conduct. Until 1 August 2020, not a single appeal was pursued against an EASA TCO decision.

Benchmark programme: Within 6 six years from concept to full implementation, the EU TCO programme enjoys global recognition and has become a benchmark programme for fulfilling international obligations on the surveillance of foreign operators. This is also expressed by ICAO's strong interest in partnering with EASA in their *Foreign Operators Approval Tool* (FOAT) project.

Agenda-setter: Thanks to the acquired maturity and stability of the processes, the EASA's TCO programme results are more and more taken into consideration during the European Commission's Air Safety List preparatory meetings and Air Safety Committee (ASC) plenary sessions. The most recent State cases addressed by the ASC (including Moldova, Belarus, Armenia and the Dominican Republic) were originally triggered by weak TCOs' results. EASA's role in the Air Safety Committee meeting has evolved from an observer to an active contributor.

Global footprint: The TCO programme is a strong contributor to EASA's global visibility as a leading aviation authority, as evidenced by an increasing number of Confidential Safety Reports addressed to EASA as competent authority (CA) for EU TCOAs. EASA is so perceived as the last actor being able to assist and help when the responsible CA is unresponsive to, or ineffective in addressing, the alleged non-compliances.

3. Identified issues

As stated before, the TCO Regulation and the related soft law have been in force for more than 6 years and several topics have been already identified by EASA staff. The main issues concerned not clearly described or missing processes or situations, and impracticable rules/provisions.

The following list provides an overview of the issues:

(a) The 'TCO business aircraft' concept

As per the outcome of a comprehensive study performed by EASA¹⁰, although Business Aviation operators currently account for 43 % of the TCO population, they only generate a very low exposure in terms of the number of flights and passengers carried (at a rate of 1 %-3 %). Focusing on this population of operators is neither proportionate nor efficient in regard to relatively good safety performance and limited impact.

Every application requires comparable administrative effort in the range of collectively approx. 0.5 man-day, regardless of the size of operator and type of operation. Furthermore, small operators often have limited capacity to manage the authorisation process and are subject to frequent fleet and staff changes. Additionally, often such operators are perceived as 'intensive care patients' requiring additional attention and time from EASA staff. This in combination causes

¹⁰ 'TCO Low-risk Target Group Identification Report', 2018.

disproportionate efforts for the EASA team in correlation to the traffic exposure. Experience in the daily work shows that tasks related to the Business Aviation sector are heavily overrepresented, despite the low exposure to the European citizen. This comes at the cost of a lack of resources to closer monitor operators that have a large fleet of aircraft providing scheduled air services for the travelling public in high frequencies while showing a degraded safety performance.

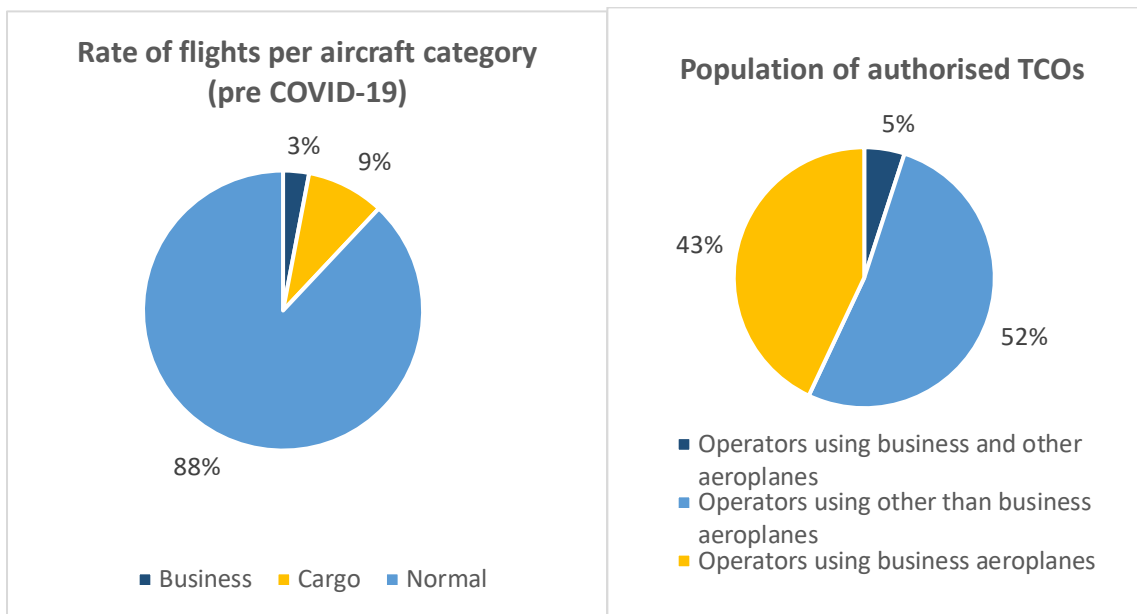


Figure 4: Comparison between rate of flights and the population of authorised TCOs¹¹

In recognising this disproportionality, the approach to the Business Aviation segment should be reconsidered in view of a more risk-based one. The MSs and the EASA TCO section were given the opportunity to provide their opinion on this issue.

(b) Acceptance of mitigating measures

The concept for accepting mitigating measures to establish compliance with applicable ICAO standards has proven to be unrealistic and too complicated. No foreign operator has ever attempted to make use of this provision and to demonstrate an equivalent level of safety, when being non-compliant with a standard. A change to this process could be considered to make the rules easier to understand for both the operator and EASA. All three stakeholder groups had the opportunity to provide their opinion on this issue.

(c) Initial evaluation time frame

The current time frame of 30 days for initial applications has proven to be too short, due to slow operator responses and the necessary administrative work. Despite being on track, the key performance indicators (KPIs) for 2019 indicate that exactly 80 % of the cases were completed within that time frame. This result could only be achieved thanks to the EASA staff being proactive and ensuring the timely submission of the necessary data. This time consumed on this activity could be spent on other activities or simply spared. In addition, such KPIs only measure the 'simple' desktop cases and not the more complex ones.

¹¹ Based on numbers from 27 August 2018.

Either the time frame of 30 days should be changed or the description should be adapted (e.g. 30 days following the submission of all requested technical documentation and supporting documents). The MSs and the EASA TCO section were given the opportunity to provide their opinion on this issue.

(d) Additional enforcement measures

The TCO process does not include any enforcement measures other than limiting, suspending and revoking an authorisation.

It becomes apparent in operational practice that these measures are not graduated enough, as they impede EASA from reacting more proactively and proportionately to identify non-compliances of foreign operators. The MSs and the EASA TCO section were given the opportunity to provide their opinion on this issue.

(e) One-off notification flights

There have been several cases where the operator could not demonstrate an urgent operational need for a one-off notification flight, because the rule was not clear enough on which flights are eligible for a one-off notification.

Therefore, the description of the one-off notification flights should be changed to better define the exact scope of eligible flights under this provision. All three stakeholder groups (e.g. NAAs from EASA MS, foreign operators and EASA TCO staff) were given opportunity to provide an opinion on this issue.

Additionally, the COVID19 crisis revealed that some of the existing one-off provisions were not adapted (e.g. maximum duration of 6 weeks could be replaced with a maximum number of flights or rotations). There could also be an option for an extension of the time frame for justified reasons.

(f) Revocations, suspensions and audits

Four issues have been identified with regard to the negative decision processes:

- (1) According to ART.235, EASA shall revoke a suspended TCOA after a certain period. However, a derogation has been put into place to avoid revocations on administrative grounds in order to avoid the administrative burden. The process to revoke an authorisation should therefore be streamlined.
- (2) There is no 'cool down' period after an operator's authorisation has been revoked, which means that the operator can re-apply for a new authorisation immediately after a revocation. A certain period of time should be established to relieve EASA from the obligation to re-assess the same operator right after a revocation, when there is no likelihood that this process will lead to positive results in the near future.
- (3) As stated in the Regulation, EASA shall conduct an audit when it is considering lifting a suspension. However, pure administrative reasons may have triggered the suspension, which would not require an audit. The provision should be amended so that EASA may decide at its technical discretion if an on-site audit is necessary based on the safety or the administrative aspects leading to the suspension decision.

- (4) A provision for an automatic revocation after a suspension period has unsuccessfully elapsed would significantly decrease the administrative workload of the section. This could be implemented in the revision.

(g) Safety Directives

The relatively new instrument of EASA Safety Directives is not yet explicitly mentioned as one of the elements that a foreign operator has to comply with under the TCOA. This should be clarified in an amended TCO Regulation.

(h) Applications of non-compliant and unresponsive operators

EASA has frequent issues with non-compliant and unresponsive applicants. The following problems keep occurring with the application process:

1. An operator applies for a TCOA and then becomes unresponsive during the technical assessment. A workaround presently in place is either to simply discontinue processing the file (operator status 'inactive'), or to issue a level 1 finding which will lead to a rejection. This second option results in a big administrative burden. The first option should be embedded in the Regulation.
2. An operator keeps re-applying after its TCOA has been suspended/rejected/revoked, without making any changes which leads to further negative decisions by EASA. As for revocation above, a 'cool down' period should be established after an operator's application has been refused, which means that the operator cannot re-apply immediately after a refusal.

These two cases should be addressed more effectively. The MSs and the EASA TCO section were both asked for their opinion on this matter.

(i) Alternate aerodromes

There is currently no reference to the planning and potential use of alternate diversion aerodromes located in EU territories by foreign operators that are not in the possession of a TCOA. Normally, operators without a TCOA may still file for an alternate aerodrome within the territory of the European Union. However, there is no provision on this in the TCO Regulation. This regulatory gap causes some confusion to both the operators and the MSs, as there is no clear reference for the use of these aerodromes. The MSs were given the opportunity to voice their opinion on this issue.

(j) Findings

Article 12(3) of [EASA Management Board Decision 01-2014 Adopting the TCO Procedure](#) states that in cases when several level 2 findings indicate systemic-non-compliances, the Agency shall establish and maintain a process to decide about the escalation of level 2 findings to level 1 findings. The implementation of this article gives EASA more means to address safety deficiencies at organisational level. An amended TCO Regulation should clarify this issue. All three types of stakeholders had the opportunity to provide their opinion on this matter.

(k) Leasing agreements

There is some confusion on the operators' side on the applicability of the TCO Regulation in certain leasing arrangements, so additional guidance should be provided on this topic. The TCOs had the opportunity to give their opinion on the needs for clarification with respect to leasing agreements.

(I) EU Safety List

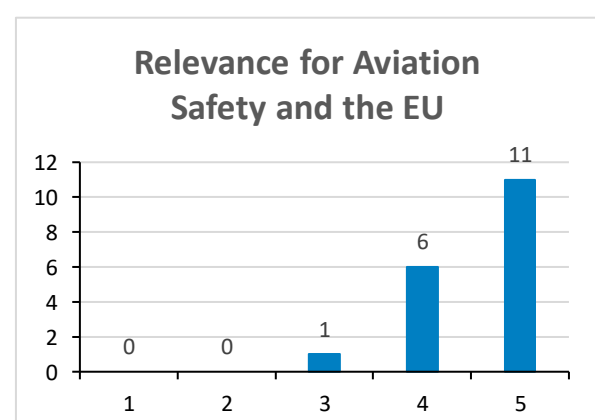
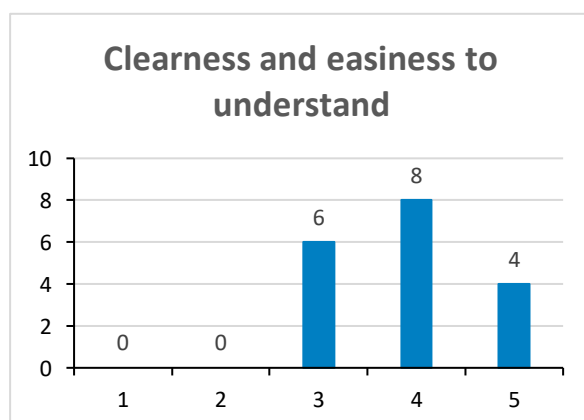
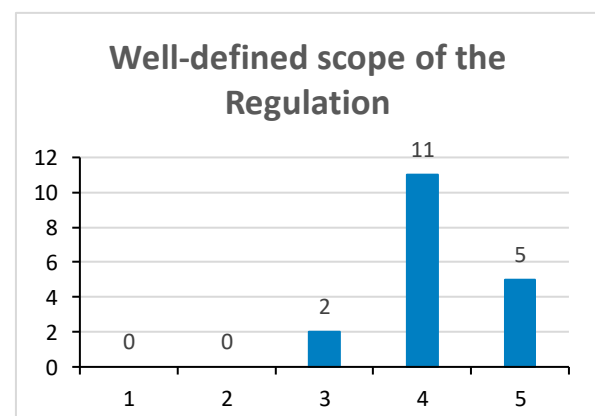
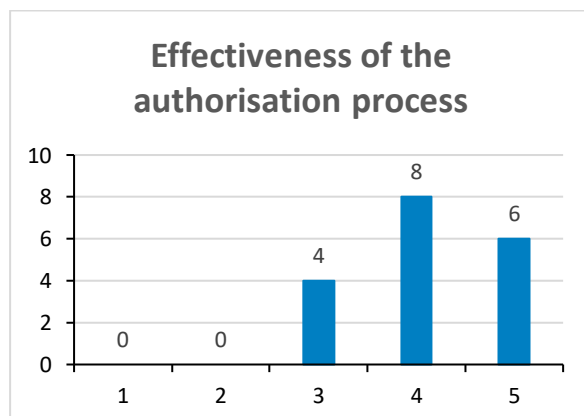
The level of consistency between the TCO Regulation and the EU Safety List mechanism, pursuant to Regulation (EC) No 2111/2005¹², is an important subject as both regulations complement each other. In this regard, all three stakeholder groups were asked if they see a need to improve the coherence between the two Regulations, which could be achieved through an amended TCO Regulation.

Survey assessment

All surveys were organised to collect evidence on the issues identified in Chapter 3. The respondents (MSs, industry, and EASA) were invited to agree/disagree with the issues and provide argumentation. Hence, the information was used to corroborate the identified issues and to prove their criticality.

3.1 Analysis of the results from the MSs

The MSs share the opinion that the TCO Regulation is very relevant to the EU aviation safety needs and the scope of the Regulation fits the needs of the stakeholders. The authorisation process is deemed effective. The easiness to understand and clearness of the Regulation is estimated at medium level. Overall, most of the MSs are satisfied with the current process and see the EU added value of the TCO Regulation in comparison to the previous national safety authorisation processes of foreign air operators. The Continuous Monitoring Programme (CMP) is also praised for its proactive approach towards safety. Communication is mentioned as being efficient, helpful and positive.



¹² Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (OJ L 344, 27.12.2005, p. 15).

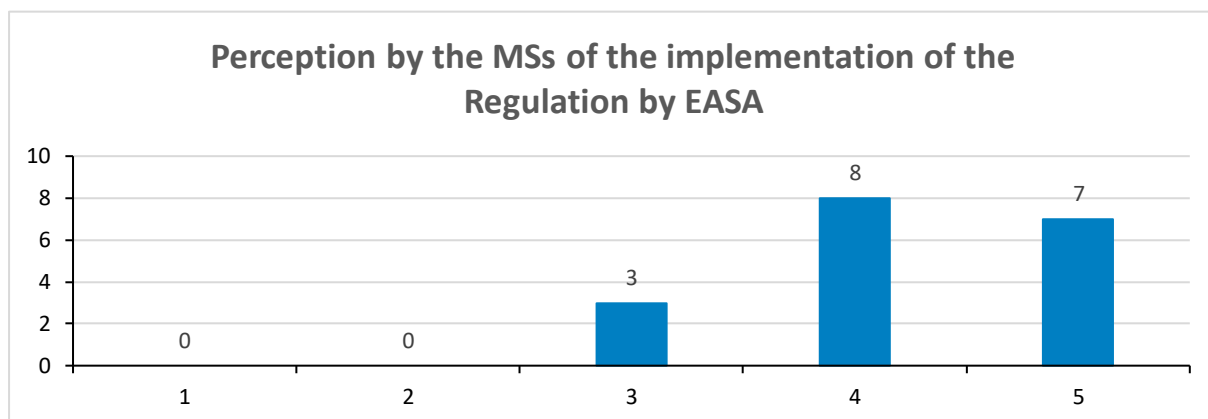


Figure 5: General overview of the perception of the TCO Regulation by Member States (1 is the worst / 5 is the best)

As regards the identified issues (Chapter 3), the majority of the MS respondents have similar views which makes the results quite consistent in the overall analysis.

- The majority of the MSs agree that the rules for Business Aviation operators should either not be amended or only amended to a mild extent. An increase of the time frame for periodic reviews and a simplification in the process to add new aircraft are considered to be proportionate alleviations as they would decrease the administrative workload on both sides without decreasing the level of safety.
- If certain aircraft were to be exempted from holding a TCOA, the MSs agreed that it should only apply for aircraft with a maximum take-off mass of 5 700 kg.
- Most of the MSs are not in favour of EASA accepting differences to standards that have not been notified to ICAO. The MSs also slightly disagreed with the proposal that EASA should be given more flexibility in the process to accept mitigating measures in case of notified differences.
- The majority of the MSs agreed on the implementation of a so-called parking period for non-compliant operators. This period should be either 6 months or dependent on the case.
- According to the MSs, a cool down period after a revocation should be implemented. This period would last for 6 months.
- Most of the MSs are in favour of giving EASA more time to evaluate initial applications. Some mention that the 30 days could remain in place but with the addition that all documents are provided before the start of this period. Others would like to see an increase to 60 days. This period could be implemented together with the previously mentioned ‘parking period’. One MS mentioned that an operator should be rejected on administrative grounds after a certain deadline has passed.
- The MSs agreed that a wider portfolio of enforcement measures should be implemented so that EASA would have some sort of ‘intervention ladder’. The MSs in favour of new measures mostly chose fines and public warning letters as the best options.
- The MSs agreed that the criteria for one-off notification flights should be updated.

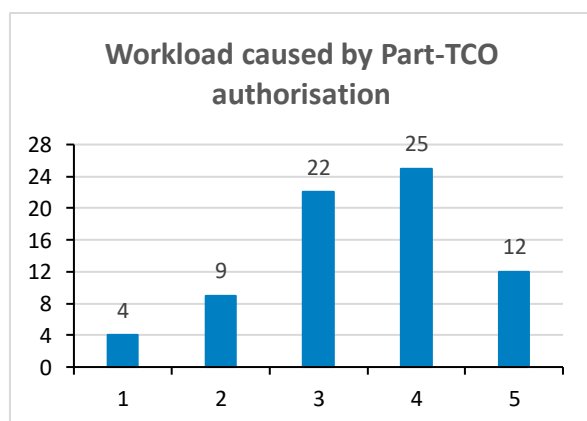
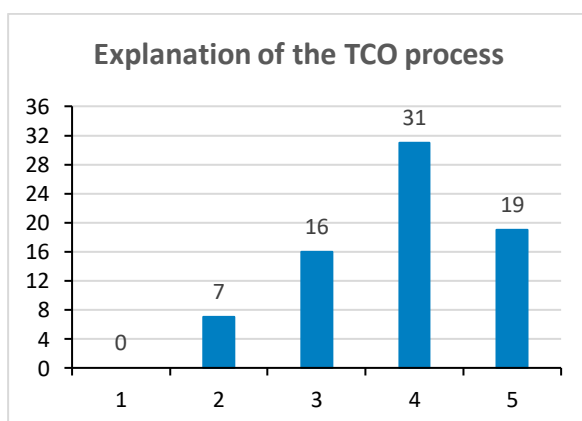
- The differentiation between level 1 and level 2 findings has been well-defined, according to the MSs. They also agreed on the fact that level 2 findings should be escalated when a systemic non-compliance was discovered.
- Half of the MSs found it acceptable that operators without a TCOA could still use an aerodrome in EU territory as an alternate airport. The other half did not find this acceptable. They mentioned that they should at least report to EASA any diversions with clear proof of reasoning.
- The coherence between the Safety List and the TCO Regulation could be improved, according to the MSs. The status of ‘Annex B’ operators should also be clarified.
- Safety Directives should be mentioned in the criteria for limiting/suspending a TCOA.
- A clarification is needed on the use of wet-lease aircraft by operators whose TCOA has been suspended/revoked.

A detailed analysis of the answers on the survey is provided in Appendix II to the current report.

3.2 Analysis of the results from the TCOs

As was the case for MSs, the TCOs shared the understanding that the TCO Regulation is very relevant to their needs. It sets up clear and proper conditions for issuing, maintaining, amending, limiting, suspending or revoking their authorisations. The explanation and easiness of the TCO process is very plausible and rated as well at quite a high rate (more than 60 % is in the upper scale (4/5)).

Despite the positive feedback, the workload caused by the TCO Regulation is considered to be a burden by some operators. These operators were mostly large operators with a high number of aircraft in their fleet.



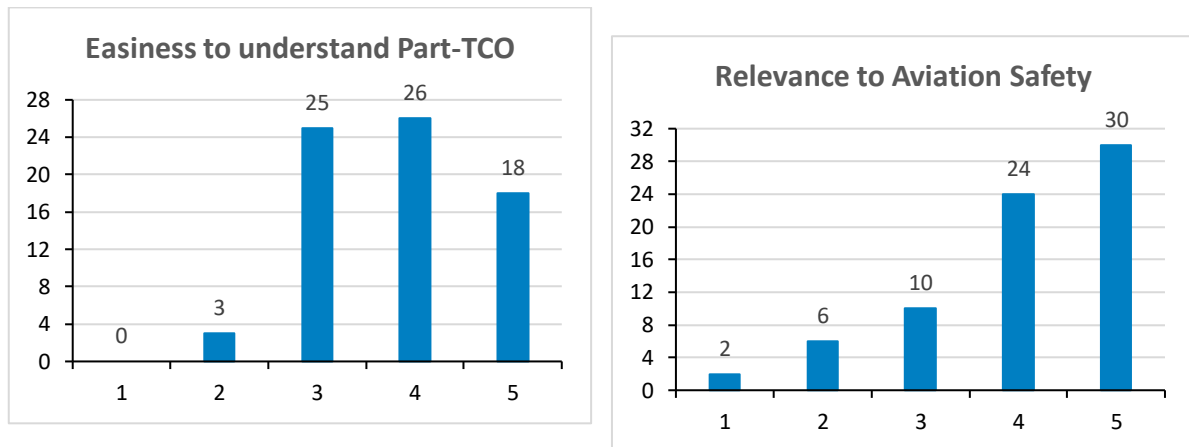


Figure 6: General overview of the perception of the TCO Regulation by operators

The most common issues discussed by the operators relate to the use of the TCO Web-Interface. Very few comments relate to the provisions in the TCO Regulation. As the initial authorisation process, the continuous monitoring activity (CMA) process and the process of changing the specifications have all been positively described by the operators, there is no need to overhaul the whole process. Some general comments can, however, be used to further optimise the TCO Regulation.

A detailed analysis of the answers on the survey is provided in Appendix III to the current report.

3.3 Analysis of the results from the survey to EASA TCO Section staff members

EASA TCO staff members provided several interesting opinions on the TCO Regulation and in particular on the identified issues (Chapter 3):

- The assessment of ‘TCO business aircraft’ should remain as it is now, with the addition of a corresponding article in the TCO Regulation. This article should clarify which aircraft are eligible for this concept and which alleviations are granted.
- The majority of the staff members want to keep the provision of accepting mitigating measures from operators, either with or without a notification to ICAO. A little less than half of the staff members want to delete the whole provision as it is never used.
- The evaluation time frame of an initial application should start when all documents have been received and should remain a period of 30 days.
- Most of the staff members are not in favour of a public warning letter as it could damage the reputation of the operator and have a financial impact on their operations.
- Most staff members are in favour of the implementation of ‘freezes’ as an additional enforcement measure.
- The majority of the staff members are in favour of adding Fees & Charges to the TCO Regulation, because this will give EASA more means to tackle repetitive and uninterested operators and trigger more responsiveness from difficult and unresponsive operators.
- A new description of the one-off notification flights should be provided in the TCO Regulation to better illustrate which flights are and which are not qualified for a one-off notification flight.

- As stated in the regulation, an additional level 1 finding should be issued for a systemic non-compliance. The majority of the staff members also agreed to change the corrective action plan (CAP) process.
- EASA should have the discretionary power to choose between an on-site audit and a desktop review when considering lifting a suspension.
- A cool down period should be established for operators after a revocation. This period should be 12 months.
- After the suspension period, an automatic revocation should follow to alleviate administrative workload and cut red tape. The suspension period should also remain in place.
- Specifications to a TCOA should only be issued when an operator is subject to limitations.
- Operators with operations manuals in a language other than English should at least provide an English translation of selected parts of their documents upon request from EASA where deemed necessary for the assessment.
- The references to 'calendar days' should be changed to 'days' in the TCO Regulation.
- A list of all authorisation decisions should not be made available to the public.
- Some staff members agreed to implement the 'inactive' status in the regulation and use it for unresponsive operators, whereas others would rather delete this status and either issue a level 1 finding or reject the application.
- Most staff members would agree on the differentiation between safety and administrative negative decisions, as this will lead to an easier process for the decisions on administrative grounds. The other staff members would argue that a differentiation should not be made as the reasons for unresponsiveness cannot be established by EASA.
- Most employees see the Safety List mechanism as a very effective tool at State level and consider the EASA TCOA as the more effective tool when dealing with individual operators. Better coherence could be envisaged to provide for more effective task sharing between the two instruments.

4. Conclusions

It is fair to say that the TCO Regulation and the soft law have been positively assessed by all three stakeholder groups. The following conclusions are drawn from these three surveys.

The 'TCO business aircraft' concept

The majority of the MSs would agree that the rules for Business Aviation operators should not be altered or only to a mild extent. The MSs explain that it is true that the risk of multiple casualties is lower but the TCO process has become a last line of defence to have safety-compliant operators flying into the European Union to safeguard their citizens. An increase of the time frames for periodic reviews and a simplification in the process to add new aircraft are considered to be proportionate alleviations as they would decrease the administrative workload on both sides and not decrease the level of safety. If certain aircraft are to be exempted from holding a TCOA, only the aircraft with a maximum take-off mass of 5 700 kg or less should be exempted.

The majority of the staff members is in favour of keeping the current way of assessing the Business Aviation segment. Only a minority would agree on a complete deletion of these operators from the scope of the TCO Regulation. About 60 % of the staff members were also not in favour of a simplified initial authorisation.

Both the MSs and the EASA TCO staff are more in favour of keeping the Business Aviation assessment as it is now with some proportionate alleviations (increase of the periodic review time frame and simplified changing process). The development of a new category ('TCO Light') for aircraft up to a MTOM of 5 700 kg could be considered.

Acceptance of mitigating measures

Most of the MSs are not in favour of accepting mitigating measures put in place by operators in case of a non-compliance with an ICAO standard, when the State has not notified a difference to that standard. The MSs also slightly disagreed with the proposal that EASA should be given more flexibility in the process to accept mitigating measures when there are differences to ICAO standards.

The majority of the staff members want to keep the provision, either with or without a notification by the State. A little less than half of the staff members want to delete the whole provision as it is never used anyway.

74 % of the operators that responded to the survey agreed that EASA should have the discretionary power to grant exemptions in case of non-compliance with an ICAO standard. It should however be fair, transparent and described in detail. Other operators argued that there are sufficient AMC and GM available and that further assessments may become redundant. It was mentioned that the differences should first be recorded and published in the electronic filing of differences (EFOD) system by ICAO because otherwise operators would be caught in the middle between ICAO and EASA.

The MSs would not be in favour of giving EASA more flexibility in accepting non-compliances. However, most of the TCOs would give EASA the discretionary power to grant these exemptions. The staff members consider the provision to be necessary but are divided in relation to if the difference should be notified to EASA.

Note: During the COVID-19 crisis, EASA granted several exemptions for the transport of cargo in the passenger cabin, provided that the operator was given prior permission from its competent authority. It

became evident that the respective articles in the TCO Regulation were not suitable for EASA to adequately address the crisis situation.

Initial evaluation time frame

Both the MSs and the EASA TCO staff agreed that modifications have to be put in place with respect to the processing time for the evaluation of an initial application for TCOA not requiring further assessment. Either the 30 days have to start when all requested documents have been received or the time frame needs to be increased, for instance to 60 days.

Additional enforcement measures

63 % of the MSs agreed that a wider portfolio of enforcement measures should be implemented. MSs were most in favour of public warning letter and fines.

The employees had the following to say on additional enforcement measures:

- Most of the employees were not in favour of a public warning letter as it could damage the reputation of the operator and have a financial impact. A letter between EASA, the operator and the involved CA was however mentioned.
- The implementation of ‘operational freezes’ (e.g. no additional aircraft or type), as an enforcement measure was more in favour by most of the staff members.
- 86 % of the employees were in favour of making TCOAs subject to ‘Fees & Charges’ for the following reasons:
 - Deter operators from applying for a TCOA just for the sake of having it
 - Trigger more responsiveness
 - Deter repetitive applications
 - More financial resources will become available for improvements in the interest of the stakeholders

Note: In the meantime, fees and charges have been introduced for technical consultation meetings and on-site audits.

The implementation of enforcement measures is generally accepted by both the MSs and the EASA TCO staff. However, it has to be decided which and how these enforcement measures will be used. The measure of an operational ‘freeze’ is envisaged by both the EASA TCO staff and the MSs so that more graduated action can be taken. The public warning letter is more controversial as most of the interviewed EASA staff are not in favour of this instrument. They would prefer an internal letter between the involved parties or a list with all the authorisation decisions. Fees & Charges should be included within the TCO process. The majority of the staff members agree and MSs are in favour of fines.

Another option is a so-called on-file process, where the operator is informed officially of being until further notice subject to higher scrutiny and focus due to shortcomings in the safety performance.

One-off notification flights

All three stakeholders agreed on a change in the description of the one-off notification flights. It should better reflect that these flights are only to be used for humanitarian relief missions or ambulance flights.

Experience gained during the COVID-19 crisis shows that some flexibility should be envisaged. The initial duration of 6 weeks should be extendable for justified reasons. It should also be possible to define the one-off notification flight privileges by a number of flights and not only by a time frame. Furthermore, the starting point of the given timeframe (6 weeks for the time being) should be the date of the first flight, not necessarily the day of the notification. It is also of advantage both for EASA and the MS CA not to receive the request on the day prior to the intended operations.

In a crisis situation, it should be possible to waive the requirement for the operator to apply for a standard TCOA within 10 days.

Finally, whenever 'days' are mentioned in the Regulation, the meaning should be aligned and clearly defined to reflect either 'calendar days' or 'working days'.

Safety Directives

The MSs agreed that Safety Directives should be mentioned as one of the elements that are mandatory to comply with for flights conducted under a TCOA.

Alternate aerodromes

There was an almost 50/50 division on the question whether operators should be able to file for an alternate aerodrome within the European Union without holding a TCOA. However, in the comments, most operators found it acceptable. Some States mentioned that an operator should report to EASA why it diverted to the EU, notably in case of emergency in-flight. It should be made clear that alternate aerodromes should not be used for embarking and/or disembarking passengers. Mails were received from other operators, asking for more clarity on emergency landings as well.

There is no evidence that the selection of alternate aerodromes created significant issues since the entry into force of the TCO Regulation. In view of the fact that there is no clear majority for a change, it is proposed not to amend the Regulation in this respect.

Findings

Most of the operators agreed that the process of closing a finding has been well-explained in the TCO Regulation.

The operators and the MSs state that a clarification on the descriptions of level 1 and level 2 findings is not needed.

93 % of the EASA TCO staff agreed that level 1 findings should be issued when several level 2 findings indicate a systemic non-compliance (as stated in Article 12 (3) of the MB Decision). 83 % of the MSs also agree with this statement.

One process worth discussing is the CAP acceptance. The majority of the EASA TCO staff agreed that an operator should only have two opportunities to deliver an acceptable CAP. If EASA is not satisfied after the second time, enforcement measures should be taken. However, EASA already has such a system in place which can be implemented after an unacceptable CAP. This process should be formalised in the amended TCO rule.

An amendment should also be introduced to clarify that during the initial assessment, the TCOA shall not be granted when the findings are still open, regardless of their level.

Leasing agreements

51 % of the TCOs had no opinion on the explanation of leasing agreements in the TCO Regulation, but the operators who did, agreed that dry- and wet-lease agreements had been sufficiently explained. However, some observations were made that a lot of questions in the FAQ were revolving around lease agreements and emails were received from operators that they were confused about the consequences of leasing aircraft. The MSs considered that a clarification was needed on the use of wet-lease aircraft by operators whose TCOA has been suspended/revoked. Guidance material with respect to the applicability of the TCO Regulation should be added to address the various scenarios.

EU Air Safety List

The majority of the MSs would agree that the coherence between these two regulations works well, however it could be further improved. The required type of assessment for operators listed in 'Annex B' to the Safety List Regulation is not clearly specified in the TCO Regulation.

Revocations, suspensions and audits

Most of the operators found the negative decision processes very clear and reasonable and mentioned that it is a necessity to have these enforcement measures in place for non-compliant operators.

Both the operators and the staff members agreed that 'long-term suspensions' should not be used and that the revocation measure should be used accordingly.

The majority of the staff members were in favour of giving EASA more discretionary power to decide on whether it should perform an on-site audit or conduct a desktop review. Performing audits based only on high exposure and proximity is considered to be either superfluous (not in line with equal treatment) or not needed (in accordance with the risk-based approach). An audit on the invitation of the operator is considered not to contradict the 'Conflict of Interest' rules.

According to the majority of the staff members, an operator should be revoked automatically after expiration of the suspension period to avoid the administrative workload that is paired with this additional negative decision process. The EASA TCO staff also agree that the time limitation of the suspension period should not be deleted.

Most of the staff members would agree on a differentiation between safety and administrative decisions as this will lead to an easier process for the decisions on administrative grounds. The other staff members would argue that a differentiation should not be made as the reasons for unresponsiveness cannot be established.

The majority of the EASA TCO staff agree on the establishment of a cool down period of 12 months after a revocation. 94 % of the MSs also agree on this cool down period. However, they would be more in favour of a 6-month period after a revocation or a dependent time frame based on the reasons of the revocation.

When the Regulation refers to audits, it should be up to EASA to determine that format of the audit (on-site, consultation meeting at EASA or remote audit via video-conference).

'Parking' an initial application and the use of the 'inactive' status

Essentially, the 'parking' period and the 'inactive' status are identical. The 'inactive' status has however been introduced after the implementation of the TCO Regulation and currently it has no legal reference. Some staff members are in favour of enshrining the 'inactive' status in the Regulation and using it for

unresponsive operators, whereas others would rather delete this status and either issue a level 1 finding or reject the application.

88 % of the MSs would like to see the ‘parking’ ability to be implemented in the TCO Regulation. This period should then be either 6 months or dependent on the operator and its capability to make the necessary corrections for re-establishing a successful application. Another option would be to set a deadline for each application. If the deadline is not achieved by the operator, the application should be rejected on administrative grounds. This should be possible, without raising a finding, with a simplified administrative registered email using Ares for instance.

Other minor conclusions

- 71 % of the EASA TCO staff members agreed that specifications in paper form should only be issued when a limitation is in place.
- 64 % of the EASA TCO staff agreed that ART.105 and TCO.105 (the use of alternative means of compliance (AltMoC) to establish compliance with the Basic Regulation and Part-TCO) are irrelevant to the TCO Regulation.
- The majority of the staff members disagreed with the deletion of ART.210 (a) (4) (EASA shall not issue an authorisation to operators from States with major deficiencies in their oversight capability).
- Currently, there is only a list with authorised operators available to the public, whereas Article 13 (2) of the Management Board specifies that all authorisation decisions are to be published. 57 % of the staff members disagreed with the publication of such a list with all the authorisation decisions. Experience has proven that consultants and lawyers were using the public list of ‘negative’ cases as a source of revenue to fish for new customers. Furthermore, the background of the decisions is often not clear to stakeholders (e.g. an operator withdraws the application, following many non-compliance findings in order to avoid a refusal).
- 64 % of the EASA TCO staff suggested to use calendar days instead of working days throughout the Regulation. For instance, in the one-off notification flight provisions, both calendar and working days notions are used leading to confusions with external stakeholders.
- The majority of the staff members agreed that operators should provide selected parts of their manuals in English upon EASA’s request when necessary for the assessment.
- There is a 50/50 division on the implementation of additional key performance indicators (KPIs).

Other regulatory gaps

Over the course of evaluating the TCO Regulation, several other items were identified which need to be addressed. This list includes the following observations:

Topics	Discussion
One-off notifications for revoked and suspended authorisations	A provision should be introduced that would allow EASA to reject the request for a one-off notification flight of operators whose application has either been refused or the authorisation is suspended or revoked.
3-month extension period	According to ART.235 (b), suspension periods may be extended for an additional 3 months. To give an operator more time to evaluate its non-compliances and, if needed, assess its audit results, the extension period should be increased from 3 to 6 months to provide the TCO with sufficient time to address all non-conformities before EASA performs the required audit pursuant to ART.235 (d).
New findings during an assessment performed when considering lifting a suspension	It may happen that during an audit, or any other form of assessment performed as part of the process to lift a suspension, new findings are established. There are currently no provisions in place to address this situation.
Deletion of transition period	An initial transition period was introduced in the TCO Regulation to ensure an uninterrupted continuation of CAT to and from the European Union. This transition period ended after 32 months so all references are now irrelevant and should be deleted.
Continued validity	There are currently two issues with the 'Continued validity' provision (TCO.320). The current practice is to render the authorisation invalid when the operator no longer holds any aircraft under the TCOA. There is no reference to this in the TCO Regulation. The other issue relates to the requirement to perform at least one flight every 24 calendar months. This has proven to be impossible to verify (e.g. because Eurocontrol does not provide information for operators without ICAO code and for operations serving EU overseas territories). Furthermore, it is unclear what should be done in this case.
Guidance material on changes needing prior approval	The Guidance Material on TCO.315 needs to be amended as there is need of clarification. The current text reads as if an operator has to receive an approval by EASA of the items mentioned in this list (e.g. cessation of operations, change of legal name, etc.). It is not entirely clear with changes have to be notified for information or which actually need a prior approval. Point (f) also suggests that every addition to the fleet has to be notified. However, only aircraft which are to be added under the TCOA need an approval.
Scope of the TCO Regulation	There is currently no reference to which types of operation are excluded from the TCO Regulation (e.g. GA, agricultural, aerial work). There should also be guidance on State aircraft and non-commercial flights like ferry flights.

Return of the original copy of the TCOA when surrendered or revoked	It has been proven to be very difficult to obtain the original copy of the TCOA when it has been surrendered. Several causes were identified like bankruptcy and total loss of contact, loss of interest from the TCO. Therefore, it is suggested to remove this requirement from the Regulation.
Level 2 findings during initial assessment	During the transition period, operators could receive a TCOA even though they still had level 2 findings open. After the transition period, this is no longer the case as no TCOA can be granted when there are open findings, regardless of the level. This is not clearly addressed in the TCO Regulation.
Specific guidance on what to provide for one-off notification flights	There is no reference in the TCO Regulation on the type of documents an operator has to submit as part of an application to perform a one-off notification flight. The documents listed in the 'one-off application' form should be added in the Regulation.
Updating parts of CMA and TCO Web-Interface	The descriptions of the CMA and the TCO Web-Interface have become outdated and should therefore be updated.
References to the new Basic Regulation	The current TCO Regulation refers to Regulation (EC) No 216/2008. This regulation was however repealed by Regulation (EU) 2018/1139. This means that the references could be updated.
Specifications to an authorisation	The specifications to an authorisation have become obsolete as all the information on this document can also be found in the TCO Web-Interface (both at the level of fleet and individual aircraft and at the organisational level). It can therefore be considered to remove the specifications in its entirety.
Controlled level 2 findings	According to the TCO Regulation, EASA would be able to lift a suspension when level 2 findings are controlled. There should be a review of whether this is to be kept or removed. Additionally, the process for newly identified findings should be embedded.
Reject, refuse or terminate	Uniform terminology should be used when referring to the rejection of an initial application to clarify this process for all three stakeholders, as there are currently three words used for this (reject, refuse and terminate).
New definitions	A definition on 'third country' is missing.
Noise certificates	Following requests from MSs, EASA has provided the possibility (optional) to TCOs to submit, through the TCO Web-Interface, individual aircraft noise certificates. In order to be aligned with Regulation (EU) No 598/2014 and to have the possibility to empower this requirement, it is suggested to add in the TCO Regulation a reference to Regulation (EU) No 598/2014 and indicate that the noise certificate and related information are an integral part of the data to be submitted in the TCO process.

5. Recommendations

The following list of recommendations is based on the result of the stakeholder surveys and the mentioned conclusions. The recommendations are aimed at improving the functioning of the TCO system and processes and its efficiency. This could be achieved by changing some processes, defined in the TCO Regulation, while making them more cost (resource)-efficient, by enhancing the risk-based approach in the TCO authorisation process. The overall level of efficiency is expected to be improved in EASA by reducing the workload by 0.5 to 1 FTE per year. That efficiency gain would allow better usage of the resources in the future. This may help to compensate for the increase of the TCO population by approximately 10 % in case EASA becomes the competent authority responsible for to issuing TCOAs to operators certified in the United Kingdom.

The conclusions led to the need to clarify inconsistencies in the TCO Regulation and related soft law. In addition, it is recommended to introduce some additions in order to better clarify the rules and streamline their implementation. Moreover, some irrelevant provisions which proved not to fit the purpose are proposed to be deleted.

Consequently, the recommendations are divided into four categories:

- New elements that are to be introduced in the Regulation
- Changes to current processes
- Clarifying several items by revising the related descriptions
- Deletion of certain irrelevant provisions

5.1 New elements that are to be introduced in the Regulation

Addition of a 'TCO business aircraft' provision	
Recommendation	A new provision should be created to explain when an aircraft is eligible for a 'TCO business aircraft' status and what type of alleviations can be granted (extension of the evaluation time frame and easier change process).
Rationale	This provision is needed to better clarify the 'TCO business aircraft' concept and give it a legal background.
Assessment of potential impact	<p>An increase of the time frame for periodic reviews and a simplification in the process to add new aircraft are considered to be proportionate alleviations as they would decrease the administrative workload for the operators and for EASA.</p> <p>Efficiency gain for EASA staff and reduction of the workload.</p> <p>The proposal would result in the team being able to allocate more resources to operators whose performance may pose more safety risks. EASA would still be able to take enforcement measures on Business Aviation operators with degraded safety performance.</p>
Implementation	The alleviations can be implemented as an additional article in Part-ART, with the addition of a corresponding MB Decision article on the eligibility criteria to receive the status of 'TCO business aircraft'.

Implementation of additional enforcement measures

Recommendation	The introduction of an 'on notice' procedure, as well as restrictions on the network and fleet size should both become available to the EASA TCO staff. Allowing EASA to issue fines would give the Agency an even better opportunity to tackle unresponsive and non-compliant operators accordingly (e.g. repetitive applications, trigger responsiveness, etc.).
Rationale	Additional enforcement measures would allow EASA to react more gradually on identified safety deficiencies.
Assessment of potential impact	The proposal would contribute to fostering the level of safety. Operators would be compelled to become compliant with applicable standards and to improve their overall safety performance, even without the imminent threat of a suspension. This would not have any negative economic effect on the operators and EASA, apart from cost for operators in relation to the implementation of corrective action where required.
Implementation	These measures can be implemented in a new article in the MB Decision.

Establishment of new findings during the consideration of lifting a suspension

Recommendation	A new provision should be created when new findings are established during an assessment (on-site audit or other) when considering lifting a suspension. Dependent on the level of the findings, the operator should have a certain time frame to propose a CAP. When the CAP is accepted, it should be at the discretion of EASA whether to lift the suspension in case there are only level 2 findings or to require implementation of the CAP first. In the case that the CAP is not acceptable then the suspension cannot be lifted which leads to revocation of the TCOA.
Rationale	There are currently no rules for this process which means that both the operator and EASA have no guidelines to adhere to. More clarity will be provided when developing such guidelines.
Assessment of potential impact	No impact as this will be a formal affirmation of the current processes already in place. The provision is an enabler for more flexibility compared to the current text of the Regulation.
Implementation	An additional article in the MB Decision will suffice.

Implementation of a cool down period after the revocation of an authorisation

Recommendation	A cool down period of either 6 or 12 months should be introduced for operators whose authorisation has been revoked.
Rationale	With the implementation of a cool down period, an operator cannot straight away apply for a new authorisation.
Assessment of potential impact	This would give the operator some time to go over its findings and reasons for the revocation and increase the possibility of a successful application when it

	reapplies. No impact on the safety and on the resources and workload for operators, positive impact on EASA workload to avoid processing a new authorisation when there is clear recent evidence that the operator does not comply with the TCO requirements.
Implementation	An additional article in the MB Decision will suffice.

Addition of Safety Directives to limit or suspend an authorisation

Recommendation	Safety Directives should be added to the TCO Regulation as one of the elements that are mandatory to comply with.
Rationale	With the addition of SDs to the Regulation, EASA would be able to act quickly and accordingly to imperative safety deficiencies.
Assessment of potential impact	The proposal contributes to enhancing the level of safety. No economic impact on the operators and EASA resource, because EASA anyway enforces the SDs. The addition to the Regulation would only formalise this approach.
Implementation	The SDs can be added in TCO.200 (a) of Part-TCO.

Permission to perform one-off notification flights for operators whose authorisation has been suspended and revoked

Recommendation	A provision should be added that operators whose authorisation has been suspended and revoked and operators whose initial authorisation was refused on safety grounds cannot apply for a one-off notification flight.
Rationale	This change will limit possibility of an operator to operate to the European Union before following a negative decision from EASA.
Assessment of potential impact	The proposal contributes to enhancing the level of safety. There is a small positive effect on the EASA resources. The provision can have negative impact for the operator, when planned operations cannot be performed due to degraded safety performance in the TCO authorisation process.
Implementation	An additional point to TCO.305 (a) of Part-TCO.

Invalidation of an authorisation when no aircraft are registered

Recommendation	An authorisation should be rendered invalid when there are no aircraft registered on this authorisation.
Rationale	This provision has already been implemented in the practices of the EASA TCO staff. It would therefore need a legal background.
Assessment of potential impact	No impact on the operator, because the operator anyway has no aircraft that could be used for operations to the EU. No impact on EASA.
Implementation	An additional point to TCO.320 (a) of Part-TCO.

Translation of foreign manuals to English

Recommendation	Operators, with a primary operational language other than English, should provide parts of their documents translated to English upon request from EASA.
Rationale	This change would benefit the EASA TCO staff resources, as several documents are provided in other languages and it would create more efficiency as translations will not be necessary.
Assessment of potential impact	Efficiency gain for EASA staff and reduction of the workload. Certain indirect cost for the operator as informal translation will need to be done.
Implementation	This should be implemented in the soft law to TCO.300 of Part-TCO.

New definitions

Recommendation	A definition on 'third country' should be added to the list of definitions.
Rationale	More clarity will be provided as it will explain which countries do not need a TCOA.
Assessment of potential impact	No impact. Only clarification.
Implementation	An additional point to Article 2 <i>Definitions</i> of the TCO Regulation.

The 'inactive' status

Recommendation	The inactive status should be used for operators that have become unresponsive and uncooperative in the initial authorisation process.
Rationale	The 'inactive' status will relieve EASA from having to send letters to operators that will not respond anyway. This status has thus proven useful and it warrants safety as non-compliant operators will not be able to fly to the EU. A legal background is however missing.
Assessment of potential impact	Efficiency gain for EASA staff and reduction of the workload. There is no negative impact on the operator, because the operator is anyway not actively pursuing the TCOA process.
Implementation	An article in the MB Decision should suffice.

5.2 Changes to current processes

Automatic revocation after the suspension period

Recommendation	A TCO authorisation should be revoked automatically after the suspension period is over. This can be communicated to the operator by mentioning this in the suspension letter.
Rationale	This change is needed as the current process involves a lot of undue administrative work. With the current process, EASA needs to send four different letters to the operator until revocation.
Assessment of potential impact	Efficiency gain for EASA staff and reduction of the workload. There can be a negative effect for the operator, when it has to observe a cool down period prior to being able to re-apply after a revocation.
Implementation	This change should be implemented in ART.235 of Part-ART.

Granting EASA discretionary power to decide on either an on-site audit or a desktop exercise

Recommendation	ART.235 (d) of Part-ART should be amended to provide EASA with the option to choose between an on-site audit and a desktop exercise or a remote audit as an assessment when considering lifting a suspension.
Rationale	This change is needed as it currently bounds EASA to always perform an on-site audit, even when this is not deemed necessary (due to an administrative suspension).
Assessment of potential impact	Efficiency gain for EASA staff and reduction of the workload. There can also be positive effect for the operator when fees for an on-site audit can be reduced or travel cost can be saved in case of a remote audit.
Implementation	This change should be implemented in ART.235 (d) of Part-ART. The EASA MB Decision should list criteria for the selection of the appropriate methodology.

Increasing the extension period for the suspension of an authorisation

Recommendation	The extension period for the suspension of an authorisation should be increased from 3 to 6 months.
Rationale	By increasing this period, the operator will have more time to address its safety deficiencies and address its findings after an audit, if any. It would also give EASA more flexibility to schedule the necessary assessment when considering lifting the suspension.
Assessment of potential impact	Efficiency gain for EASA staff and reduction of the workload. The proposal contributes to enhancing the level of safety. There is a positive effect for the operator, having more time to address non-compliances before a revocation.
Implementation	There should be an amendment in ART.235 (b).

5.3 Clarifying several items by revising the related descriptions

Changing the references to Regulation (EC) No 216/2008	
Recommendation	The references to Regulation (EC) No 216/2008 should be changed to references to Regulation (EU) 2018/1139.
Rationale	Update of the references to the new Basic Regulation.
Assessment of potential impact	No impact. Only clarification.
Implementation	The TCO Regulation and the EASA MB Decision have several references, so these should all be changed.

Scope of the TCO Regulation	
Recommendation	The current scope should be adapted to also list the activities for which a TCOA is not required.
Rationale	An amended scope can give more clarity to the operators regarding when they do and when they do not have to apply.
Assessment of potential impact	Marginal gain for EASA TCO staff due to the reduction of the number of questions and queries related to ambiguous situations. Only clarification.
Implementation	Additional GM to TCO.100 of Part-TCO can be developed.

Level 2 findings during an initial assessment	
Recommendation	The Regulation should mention that an initial authorisation can only be awarded when all findings, regardless of their level, are closed.
Rationale	It should be known to all parties that level 2 findings shall be closed in order to receive the authorisation, which is already the case in practice but not clearly specified in the Regulation.
Assessment of potential impact	No impact. This will formalise a practice that is anyway used on the process level in order to provide for more legal certainty.
Implementation	This should be mentioned in ART.210 and ART.230 of Part-ART and in TCO.300 of Part-TCO.

Update of the description of initial evaluation time frames

Recommendation	The description of ART.200 (b) of Part-ART should be amended to make clear that the 30-day assessment will only start when all requested documents have been provided. At the same time TCO.300 (b), which sets out how long before the start of the operation an operator shall apply, must be revised.
Rationale	This change will be relevant for the KPIs of the EASA TCO staff as one of these indicators is based on these 30 days.
Assessment of potential impact	Reduction in TCO staff workload related to the extensive communication with applicant in order to achieve the KPI with unresponsive or slow operators. There can be negative impact on the operator, when it is delaying the submission of documents and timelines therefore do not start to count, resulting in later issuance of the TCOA.
Implementation	The change should be made in TCO.300 (b) and ART.200 (b).

Update of the descriptions of the CMA and TCO Web-Interface

Recommendation	The descriptions of both the CMA and the TCO Web-Interface should be amended to better reflect the current use of these two items.
Rationale	Both descriptions are not up to date and should thus be amended to reflect their current state.
Assessment of potential impact	No impact on EASA, positive impact on the operator being better able to understand the process and related tools.
Implementation	For the CMA, ART.220 should be amended. For the TCO Web-Interface, Article 15 of the MB Decision should be updated.

Guidance Material on changes requiring prior approval

Recommendation	GM1 to TCO.315 of Part-TCO (regarding changes to the TCOA) should be split into two different paragraphs of GM; one for changes requiring prior approval and one for changes which only have to be notified and do not require an approval. Point (f) should also be modified to mention that only changes pertaining to aircraft which are to be added under the TCOA should be notified.
Rationale	Confusion will be avoided by splitting this GM in two, because it now looks as if several items (e.g. cessation of operations) need a prior approval by EASA when they do not actually require such an approval. to avoid misinterpretation, the GM should be modified.
Assessment of potential impact	No impact on EASA, positive impact on the operator being better able to understand the requirements in the change process
Implementation	GM1 to TCO.315 should be split into two different paragraphs.

Description on lease agreements	
Recommendation	Additional GM should be provided on the use of lease agreements to explain when a lessee/lessor needs a TCOA for the used aircraft.
Rationale	This additional GM would relieve the EASA TCO staff from questions regarding lease agreements by clarifying the rules for these agreements.
Assessment of potential impact	Marginal gain for EASA TCO staff due to the reduction of the amount of questions and queries related to an ambiguous situation. Positive effect on operators being better able to understand the requirements in leasing and code-share scenarios.
Implementation	Additional GM can be added to TCO.300 of Part-TCO.

Eligibility of operations to apply for a one-off notification flight	
Recommendation	The description of what type of flights are eligible to apply for one-off notification flights does not clearly address the objective of this alleviation. The description in the regulation has to be changed to explicitly allow only humanitarian and ambulance flights to apply.
Rationale	There should be a clear description of the eligibility of these flights to make it clear to operators that these flights are only to be used for ambulance and humanitarian need. This will reduce the number of invalid applications.
Assessment of potential impact	Efficiency gain for EASA staff and reduction of the workload. There is no negative effect for the operator as this provision will only provide more legal certainty to the current practice.
Implementation	This should be clarified in TCO.305 of Part-TCO.

Requested documents when applying for a one-off notification flight	
Recommendation	A list should be added to the Regulation which will give an overview of what documents have to be provided when applying for a one-off notification flight.
Rationale	This will give the applicant a clear overview of what to provide during the application so that the application is processed quicker.
Assessment of potential impact	No impact. More clarity for the operator.
Implementation	Additional GM to TCO.305 of Part-TCO can be implemented.

Use of either 'working days' or 'calendar days'	
Recommendation	All references to 'working days' should be changed to 'days'.
Rationale	This change will ensure consistency of the TCO Regulation with the Basic Regulation.
Assessment of potential impact	No impact. Only clarification.
Implementation	TCO.305 of Part-TCO and ART.110 of Part-ART refer to 'working days'.

Rejection terminology	
Recommendation	One common terminology should be used in the Regulation to mention a rejection, as there are currently three different words for this: refuse, reject and terminate.
Rationale	This change will avoid future confusion as it could now be interpreted as if these three words mean something different.
Assessment of potential impact	No impact. Only clarification.
Implementation	Both the Regulation and the MB Decision refer to these three words. These can all be changed to one.

5.4 Deletion of certain irrelevant processes

Deletion of references to the transition period	
Recommendation	The references to the transition period, which ended in 2016, should be deleted.
Rationale	The transition period is over so these references are not needed any more.
Assessment of potential impact	No impact as the transition period is no longer relevant.
Implementation	Both Article 6 and Article 12 (2) of the MB Decision and Article 4 (2) (3) and (4) of the TCO Regulation contain references which should be deleted.

Deleting the process of accepting mitigating measures	
Recommendation	The article on the acceptance of mitigating measures should be deleted as it has proven to be too complicated and lengthy for the operators.
Rationale	The process has never been used by any operator. The daily routine has proven that this process is too cumbersome and does not allow EASA too swiftly react to extraordinary situations (e.g. COVID 19, mandatory equipment not available

	in the market). Therefore, it is proposed to delete the existing process from the Regulation. The established mechanism for flexibility provisions laid down in the Basic Regulation is available to resolve these issues. A process for coordination with the MSs could be introduced when applying the flexibility provisions.
Assessment of potential impact	There would be no impact on the operator as this provision has never been used by any operator. A simpler approach by making use of flexibility provisions would open new possibilities for operators.
Implementation	Both TCO.110 of Part-TCO and ART.110 of Part-ART can be deleted. The related AMC and GM and MB Decision articles can also be removed.

Deletion of the criteria to fly to the EU within a 24-month time frame

Recommendation	The provision that an operator should fly to the European Union once in any 24-month period should be deleted.
Rationale	Checking an operator whether it has flown to the EU in the past 24 months has proven to be unworkable, because the data available from Eurocontrol does not always capture correctly the operator having performed the flights (e.g. in case of leasing) and data for French overseas territories is not available at all.
Assessment of potential impact	The implementation of such a provision (even if possible) would require a massive workload to follow this up.
Implementation	TCO.320 (6) of Part-TCO should be changed into a 'may' provision. This would allow EASA to render the TCOA invalid if this is desired.

Deletion of the return of the authorisation after revocation/surrender

Recommendation	The provision that an authorisation should be returned to EASA after a revocation or surrender can be removed.
Rationale	This process does not add any value to safety and is not adhered to by most operators. It is therefore redundant.
Assessment of potential impact	The gain for EASA TCO staff is important as it is often necessary to chase the operators with revoked and the surrendered TCOAs. Less burden for the operator.
Implementation	TCO.320 (b) of Part-TCO can be removed from the Regulation. We should aim to an electronic TCOA and fully paperless TCO processes.

Deletion of the specifications to an authorisation	
Recommendation	The specifications to an authorisation should be deleted as all information on this document can be found in the TCO Web-Interface as well.
Rationale	These specifications have become obsolete and only generate more workload as they need to be signed and sent. They are not needed anymore as the information can also be found in the Web-Interface.
Assessment of potential impact	Efficiency gain for EASA staff and reduction of the workload. This is also more efficient for operators as the TCO Web-Interface will be the single source for all information.
Implementation	Several articles, in particular TCO.310 of Part-TCO, can be amended to reflect the deletion of the specifications.

6. Next steps

The proposed follow-up work of the evaluation is initiating a regular update of the TCO Regulation and the related soft law and (AMC and GM) and the EASA MB Decision. The recommendations will be subject to further discussion in the context to of the follow-up work of the rulemaking task, subject to agreement with the EASA management, the European Commission and other relevant stakeholders.

7. Appendices

7.1 Appendix I — Response rate

In total, 252 TCOs received the survey. 78 responses were received (with 5 operators responding twice). The 'total TCO population' in the following graphs refers to the 252 TCOs that received the survey.

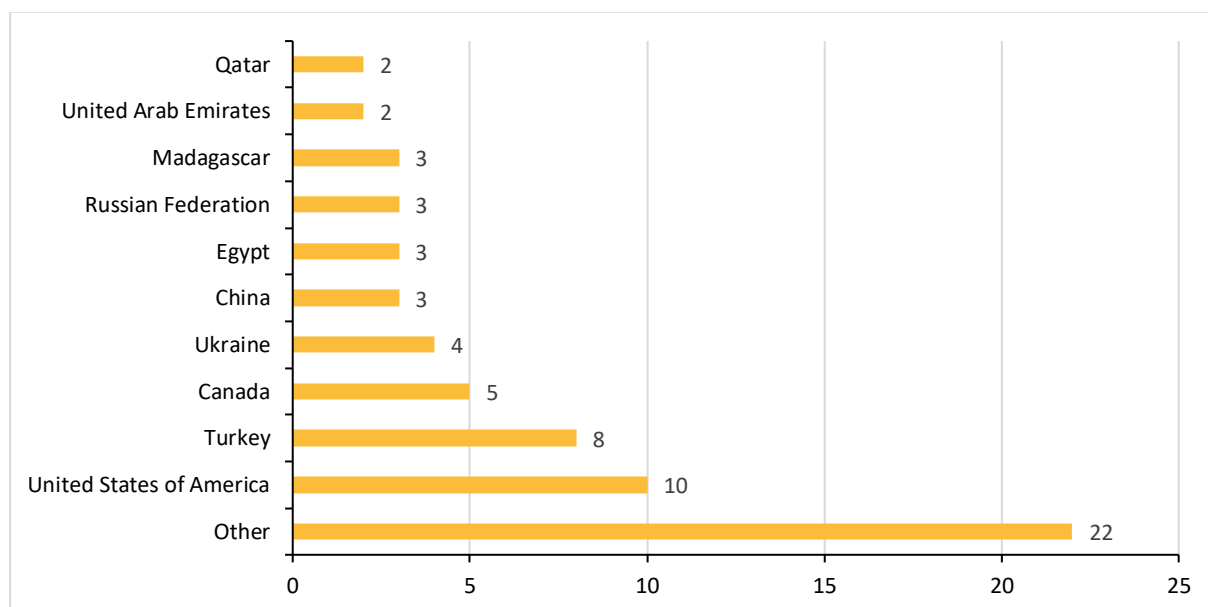


Figure 7: Distribution of TCOs that responded per State

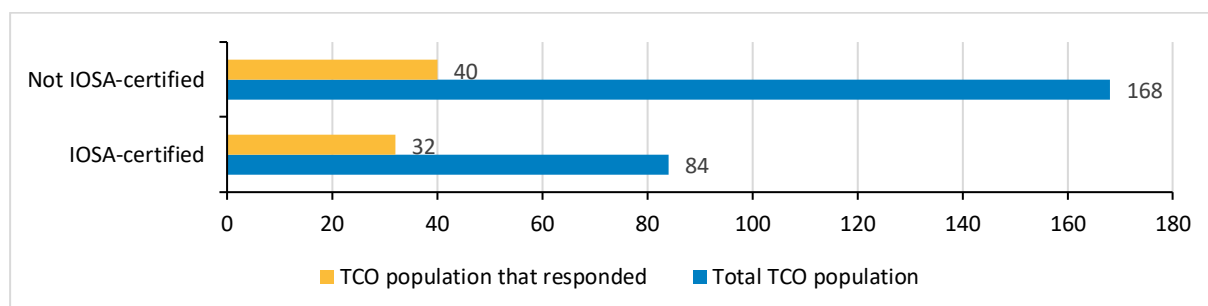


Figure 8: Distribution of TCOs that responded per their IOSA status

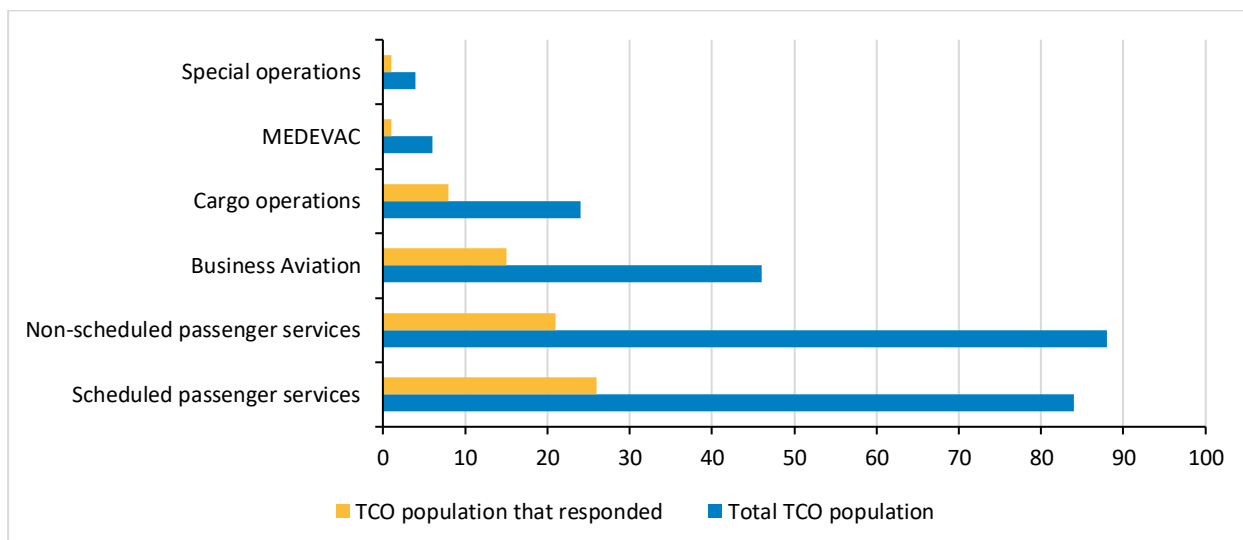


Figure 9: Distribution of TCOs that responded per their type of operation

7.2 Appendix II — Detailed analysis of the answers on the survey to the MSs

The MS survey presented several statements with which the MSs were invited to agree/disagree. These statements reflected the issues identified in Chapter 3.

TCO business aircraft

Statement 1. Regulation No 452/2014 should contain more alleviations for the Business Aviation segment.

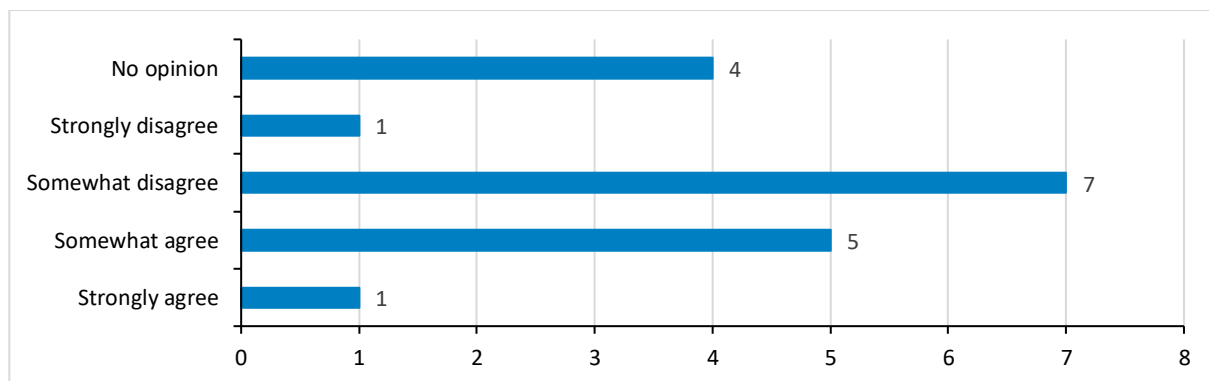


Figure 10: Alleviation for the Business Aviation segment

The majority of the MSs would agree that the rules for Business Aviation operators should either not be altered or only to a mild extent. The MSs explain that it is true that the risk of multiple casualties is lower but the TCO process has become a first line of defence to have safety-compliant operators flying into the European Union.

Those MSs that agree were invited to provide their opinion on the possible alleviations.

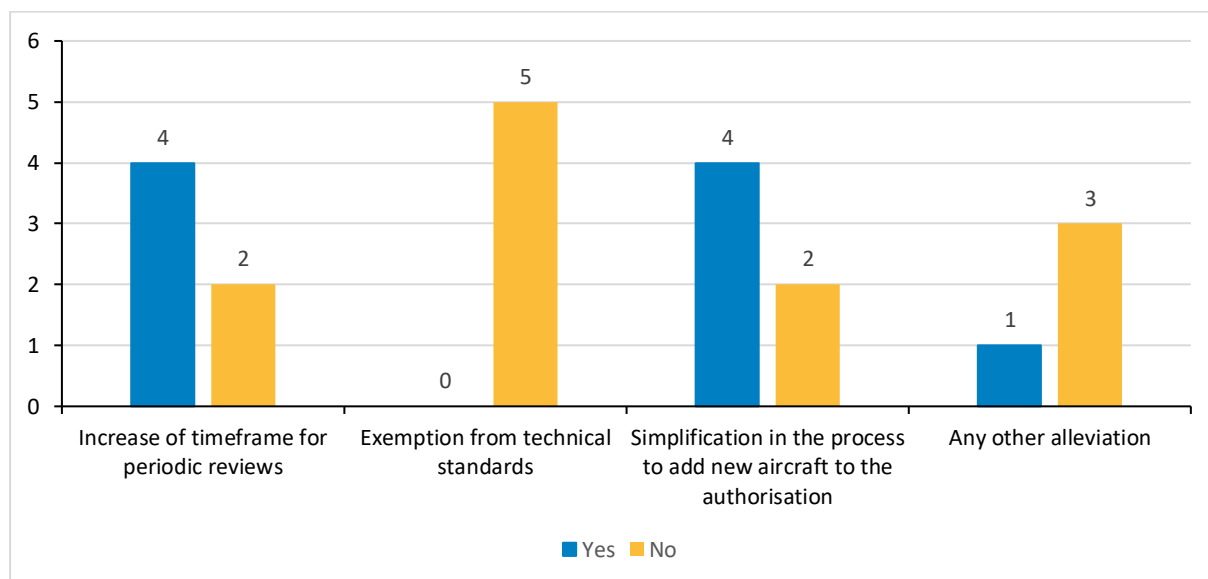
Question 1. Which alleviation would you recommend to be added to Regulation No 452/2014?


Figure 11: Types of alleviations for the Business Aviation segment

An increase of the time frame for periodic reviews and a simplification in the process to add new aircraft are considered to be proportionate alleviations as they would decrease the administrative workload on both sides and not decrease the level of safety.

Statement 2. To receive the status of a ‘TCO business aircraft’, an aircraft should meet several criteria. Certain aircraft used for Business Aviation should be exempted entirely.

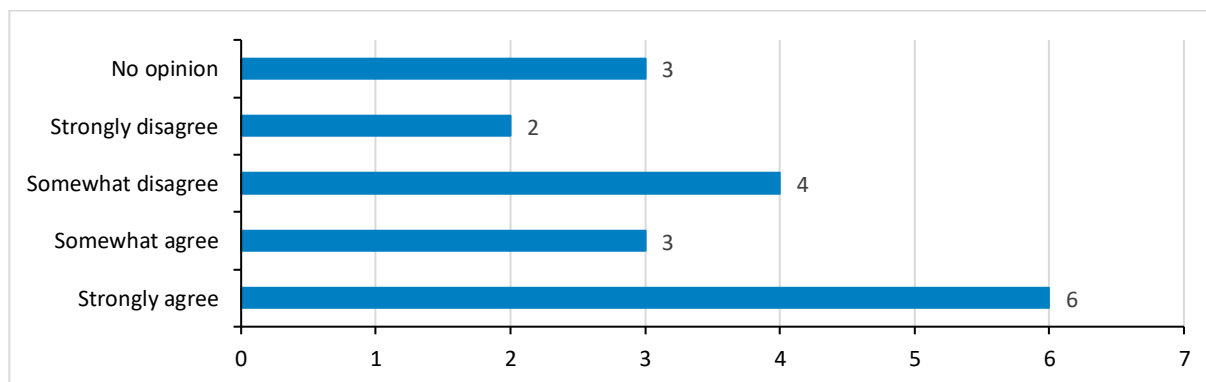


Figure 12: Exemption of certain aircraft

50 % of the MSs agreed that certain aircraft should be exempted entirely from holding a TCOA. Other MSs either disagreed (34 %) or had no opinion on this matter (16%). The MSs that did agree to exempt certain aircraft from holding a TCOA agreed that only the aircraft below a take-off mass of 5 700 kg should be exempted..

Question 2. Below which take-off mass would an exemption be granted?

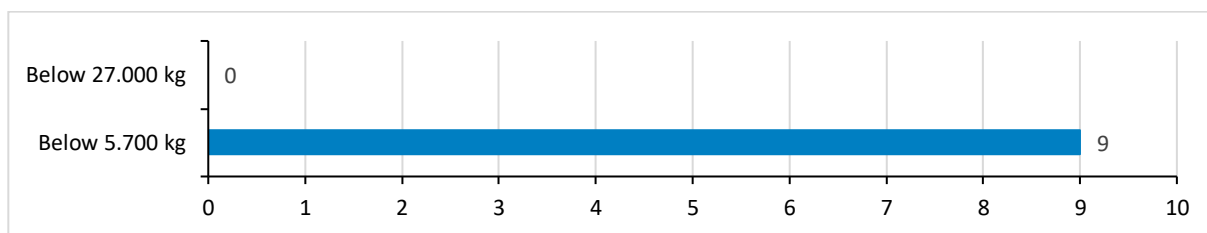


Figure 13: Exemption of certain aircraft based on their take-off mass

Mitigating measures

Statement 3. Regulation No 452/2014 should give EASA more flexibility in the process of accepting differences from the ICAO standards.

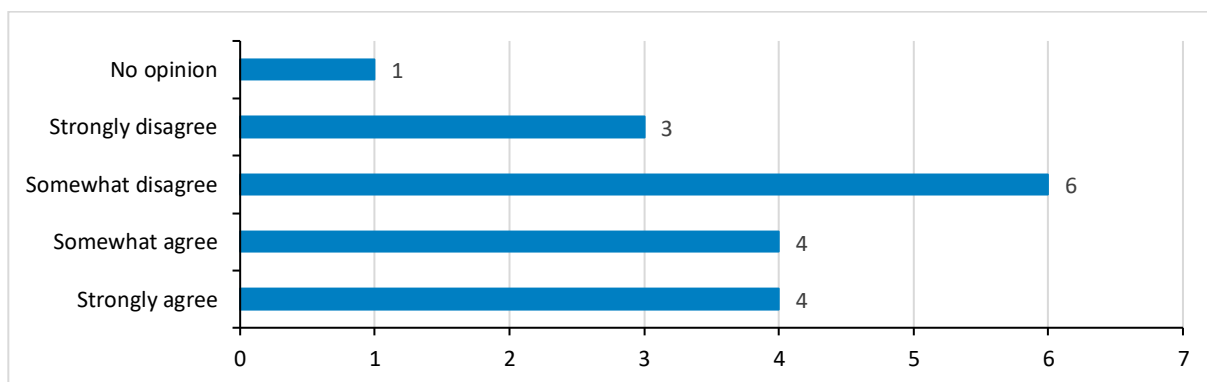


Figure 14: Accepting differences from the ICAO standards

50 % of the MSs are not in favour of granting EASA more flexibility in the process of accepting differences from the ICAO standards.

Statement 4. EASA should be able to accept certain deviations from an ICAO standard, even if the difference was not notified to ICAO by the State of the Operator.

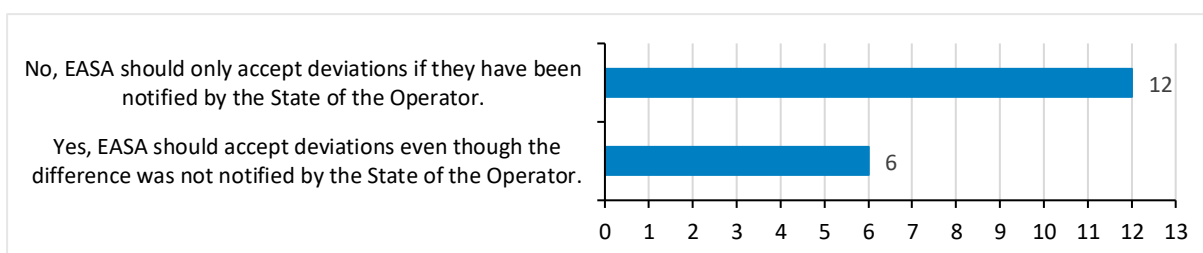


Figure 15: Filed differences to the ICAO standards

Most of the MSs are not in favour of the acceptance of non-notified differences, as 66 % disagreed with this statement. The States that did agree with the statement commented that the deviation should only be accepted if it is not safety-relevant.

'Parking' an application

Statement 5. Regulation No 452/2014 should give EASA the ability to 'park' applications from non-compliant and non-cooperative operators for a certain period of time in order to more efficiently manage its resources.

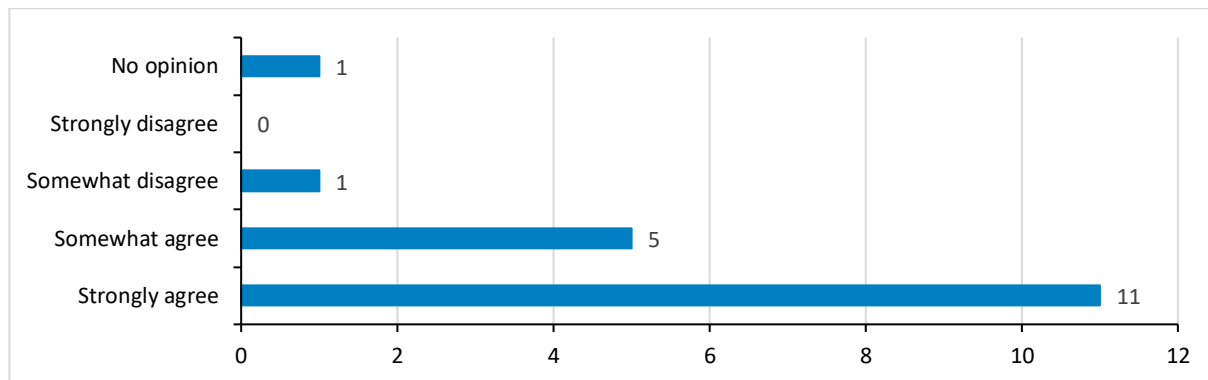


Figure 16: 'Parking' non-compliant operators

88 % of the MSs agree on the 'parking' ability to lower the administrative workload. It should be made clear that the non-compliance with the requirements set out in the TCO Regulation will not be accepted and that the application shall be put on hold. The MSs that agree on the 'parking' for non-compliant operators were requested to provide their opinion on the length of the 'parking' period.

Question 3. What should the length of this 'parking' period be?

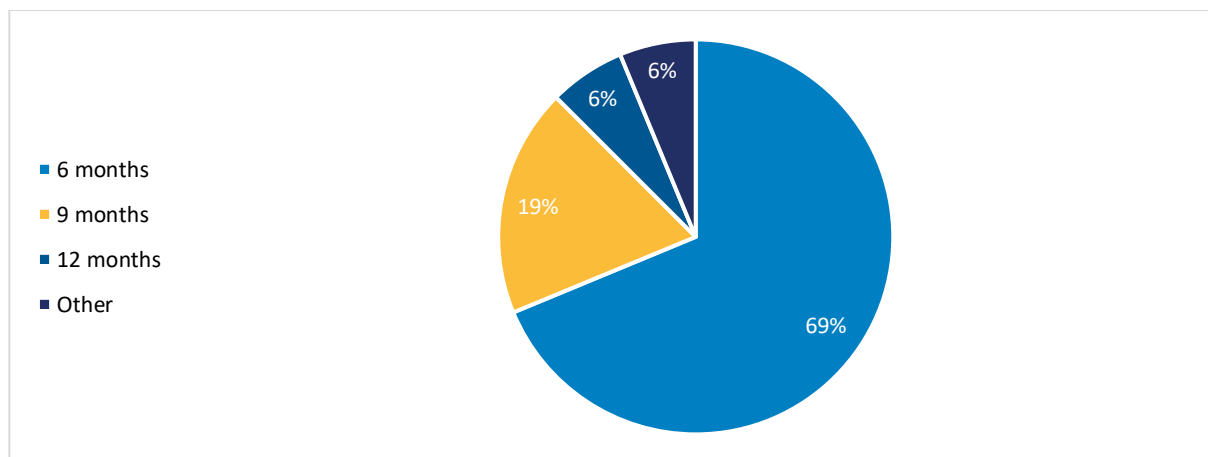


Figure 17: Length of the 'parking' period

69 % of the MSs are in favour of a 6-month 'parking' period. One State mentioned however that the duration of the parking period should be dependent on the case. It should be based on an assessment whether the applicant would be able to make the necessary corrections such that when the process resumes the change of a positive outcome would be much higher.

Revocations

Statement 6. EASA should have the ability to 'park' re-applications of operators whose authorisation has been revoked for a certain period of time in order to more efficiently manage its resources.

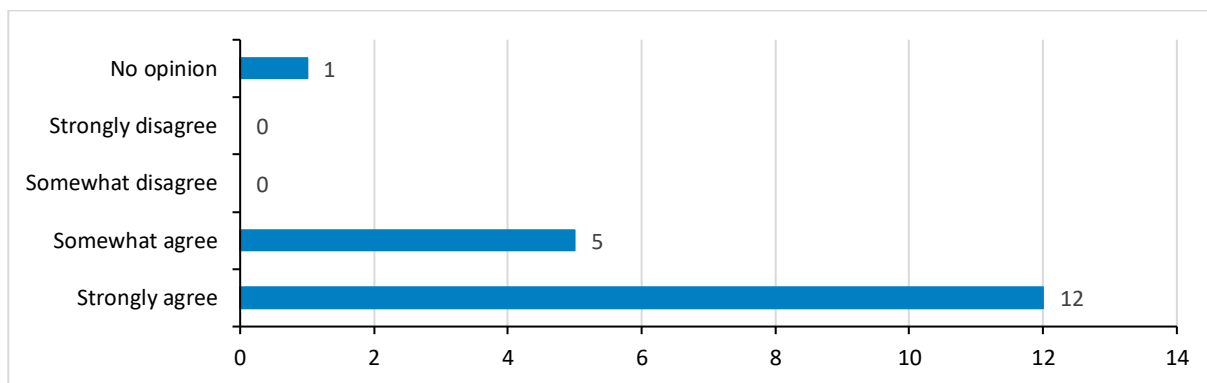


Figure 18: Cool down period for operators whose TCOA has been revoked

94 % agreed that such a cool down period should be implemented in the TCO Regulation. As regards the length of the ‘parking’ period, 53% of the MSs are in favour of a 6-month cool down period after a revocation. A definite time frame should however be dependent on the reasons leading to the revocation. The minimum should always be 6 months.

Question 4. What should the length of this ‘parking’ period be?

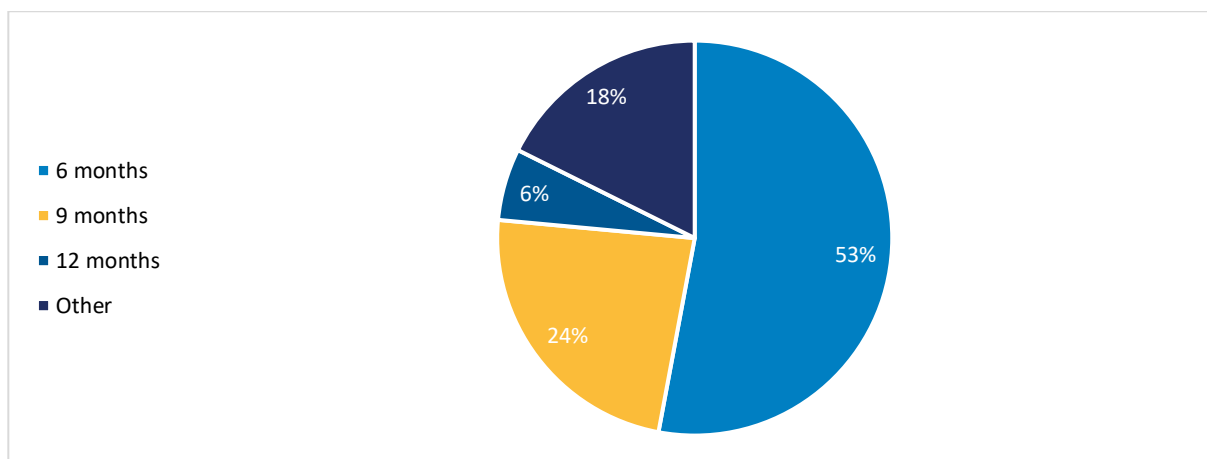


Figure 19: Length of the cool down period

Evaluation time frame

Statement 7. Regulation No 452/2014 should give EASA more time to evaluate initial applications.

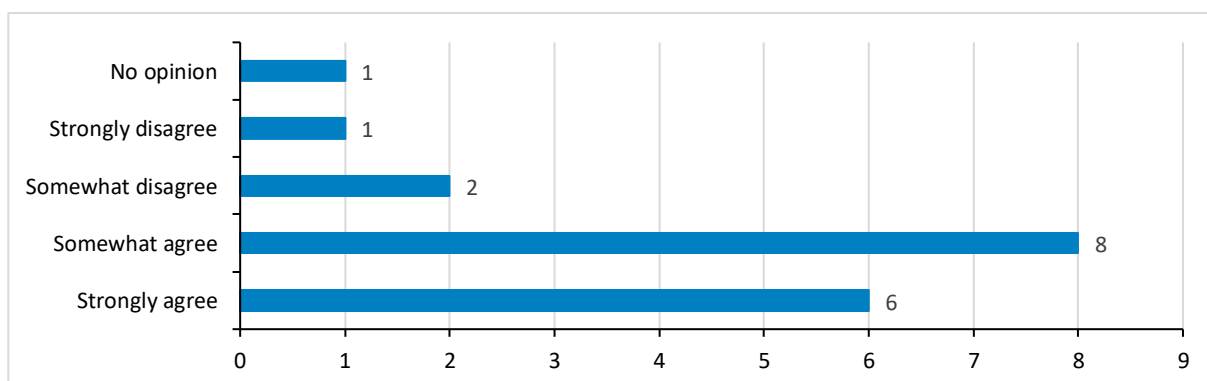


Figure 20: Time to evaluate initial applications

78 % of the MSs are in favour of giving EASA more time to evaluate initial applications.

Question 5. In your opinion, how many days before the intended start of the operation to the EU should a foreign operator be required to file an application for a TCOA?

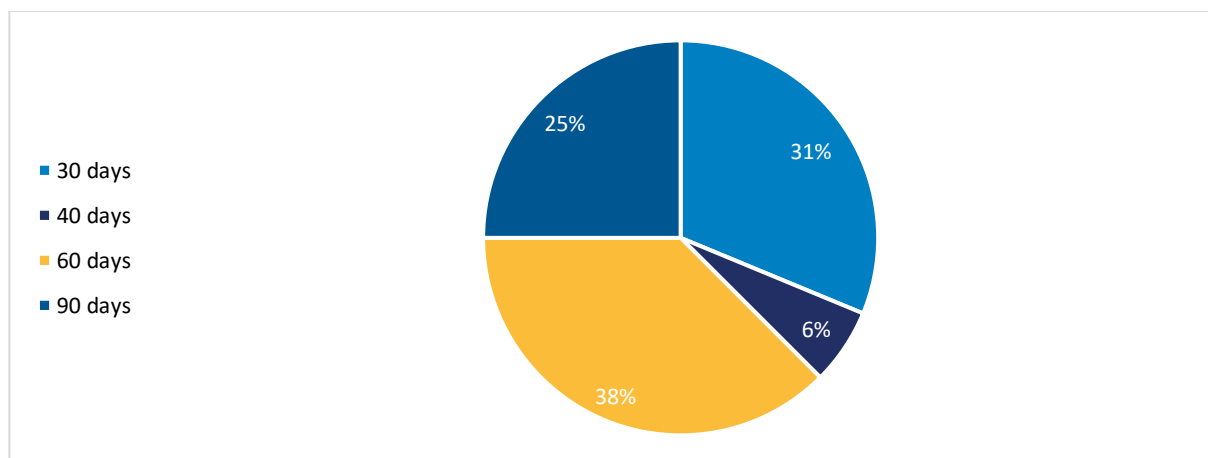


Figure 21: Time to evaluate initial applications

Most of the MSs would either agree to keep the 30 day-assessment or change it to an assessment of 60 days.

Question 6. Apart from the time criteria to evaluate the initial application, do you recommend another measurement of the EASA service level?

- Some mention that the 30 days should only commence after receipt of all the required documents.
- If no documents are submitted to assess the application, the operator should be rejected on administrative grounds. It is the responsibility of the operator to obtain the TCOA so it should have the obligation to provide all relevant information to EASA so an assessment can be done. If the applicant fails to do so before a set deadline, the application should be rejected.

Enforcement measures

Statement 8. Regulation No 452/2014 should include a wider range of enforcement measures.

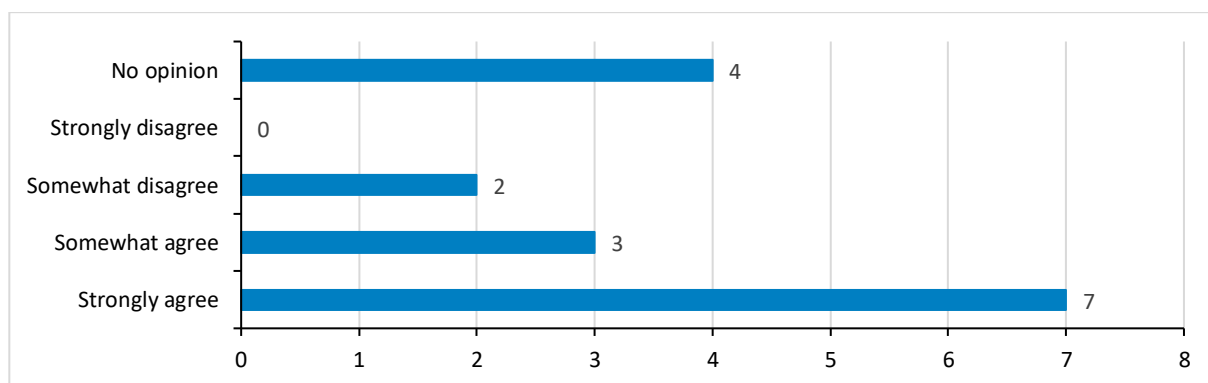


Figure 22: Implementation of enforcement measures

63 % of the MSs agreed that more enforcement measures should be implemented. One State mentioned that an intervention ladder should be applied by EASA with measures that would range from the existing ones to the proposed ones. The Pyramid of Braithwaite (intervention method with more stringent

enforcement measures in each stage of the pyramid) was mentioned as an intervention method that could be used.

As regards the type/kind of the enforcement measure, most of the MSs that replied were in favour of either a warning letter or a fine.

Question 7. What sort of enforcement measures should be included?

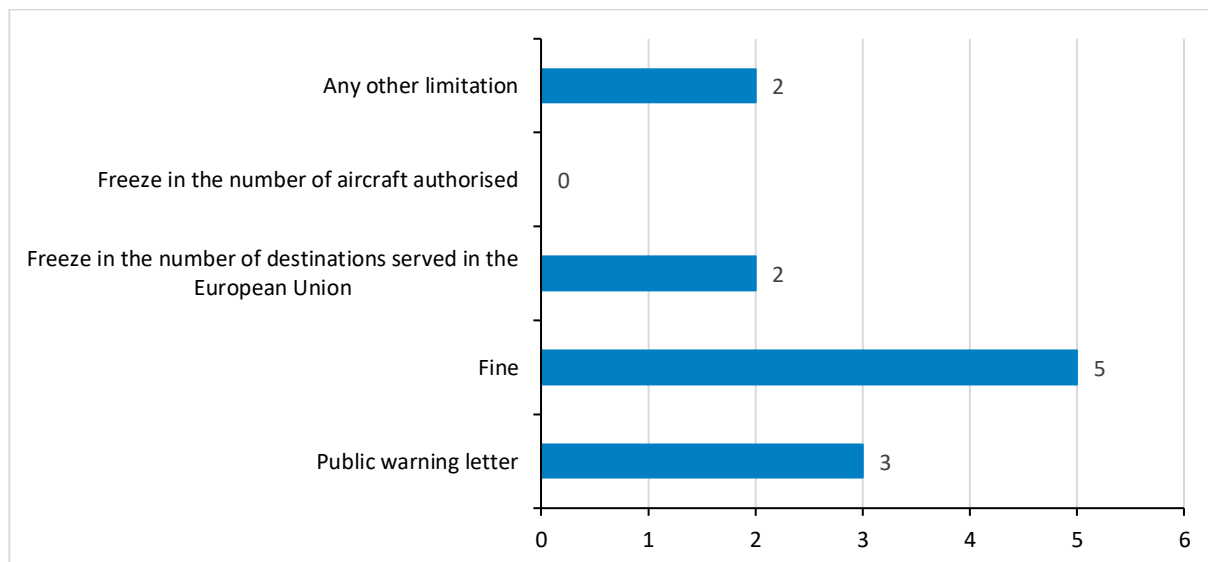


Figure 23: Different kinds of enforcement measures

One-off notification flights

Statement 9. Regulation No 452/2014 should be revised to provide more clarity on the description of one-off notification flights, restricting one-off notification flights to those that are performed for humanitarian reasons (e.g. disaster relief, MEDEVAC).

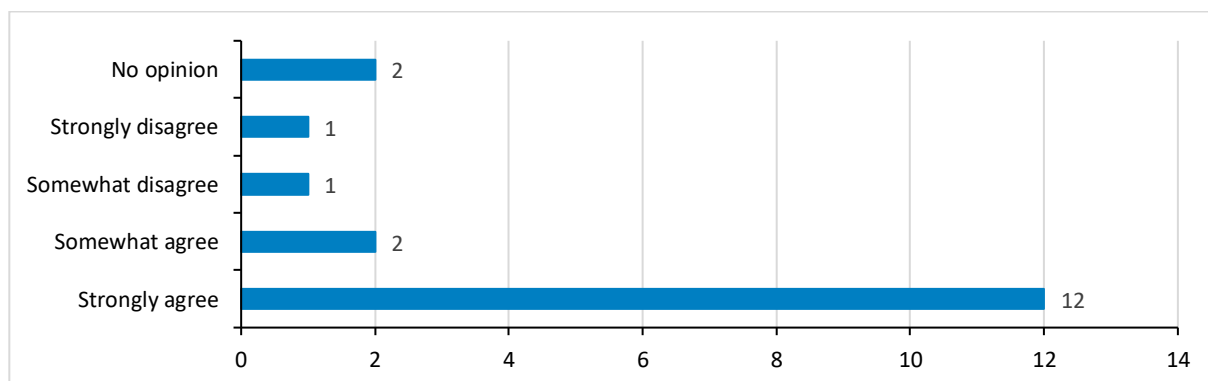


Figure 24: Definition of one-off notification flights

78 % of the operators would agree on a further clarification of the one-off notification flights.

Findings

Statement 10. The differentiation between a level 1 and a level 2 finding has been well-defined in ART.230.

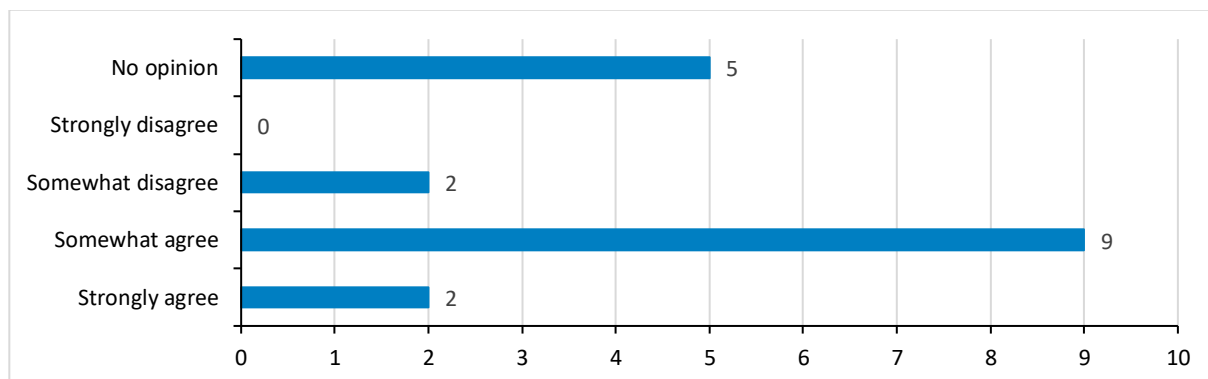


Figure 25: Differentiation between level 1 and level 2 findings

Most of the MSs agree on the need to have a better differentiation between level 1 and level 2 findings. It should be noted that circa 30 % of the respondents do not have an opinion on this differentiation.

Statement 11. Regulation No 452/2014 should include conditions for escalating level 2 findings to a level 1 finding when these findings indicate a systemic non-compliance.

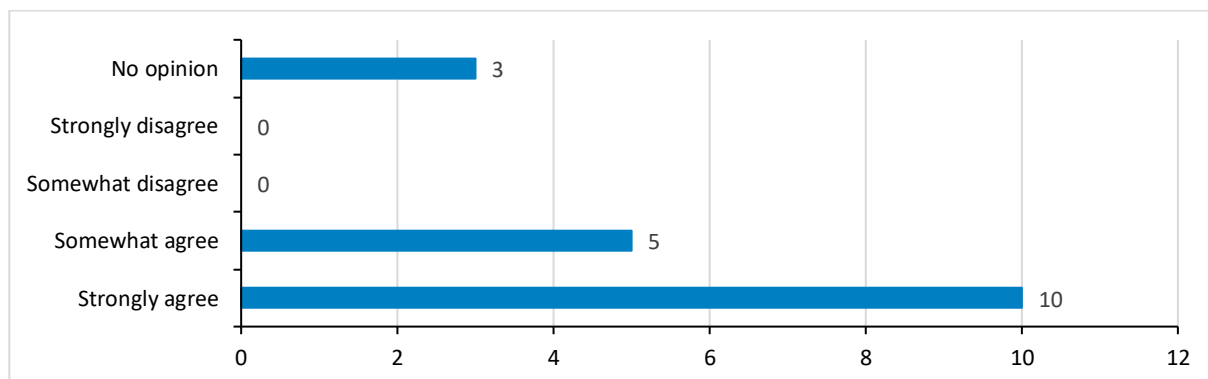


Figure 26: Escalation of level 2 findings

83 % of the MSs agree on this statement, whereas the other 17 % do not have an opinion on this matter.

Alternate aerodromes

Statement 12. A TCO can currently plan for an alternate airport located in the territory of the European Union. Do you consider this to be acceptable?

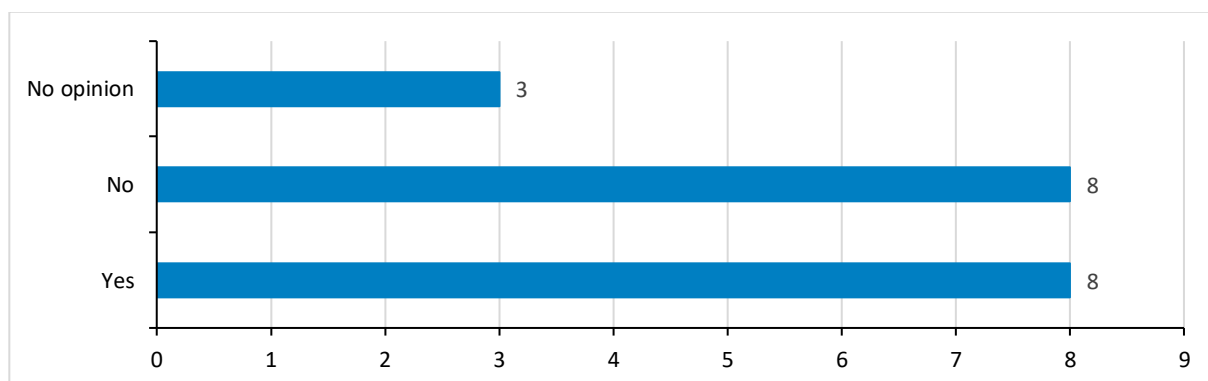


Figure 27: Alternate aerodromes without a TCOA

There is a 50/50 division on this matter. In the comments, most operators think that the possibility should remain for operators that do not hold a TCOA to make an emergency landing within the territory of the European Union. However, some States mention that the operator should report to EASA any diversion made to the European Union and with clear proof of reasons to avoid or minimise the possibilities of intended misuse. It should be made clear in the TCO Regulation that alternate airports should not be used to embark and/or disembark passengers.

Safety List

Statement 13. The coherence between Regulation No 452/2014 and Regulation No 2111/2005 ('EU Safety List') requires further improvement.

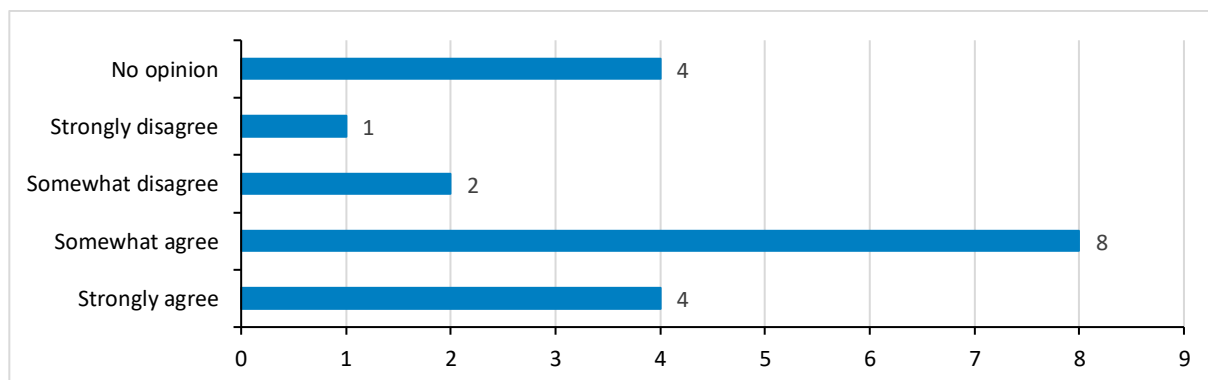


Figure 28: Coherence between the TCO Regulation and the EU Safety List

The majority of the MSs would agree that the coherence between these two regulations could be further improved. It was however not specified which the points of improvement are.

Statement 14. Regulation No 452/2014 should require further clarification on the operators that are listed on Annex B to the EU Safety List (operations with operational restrictions) and their obligation to undergo on-site audit as part of the TCOA.

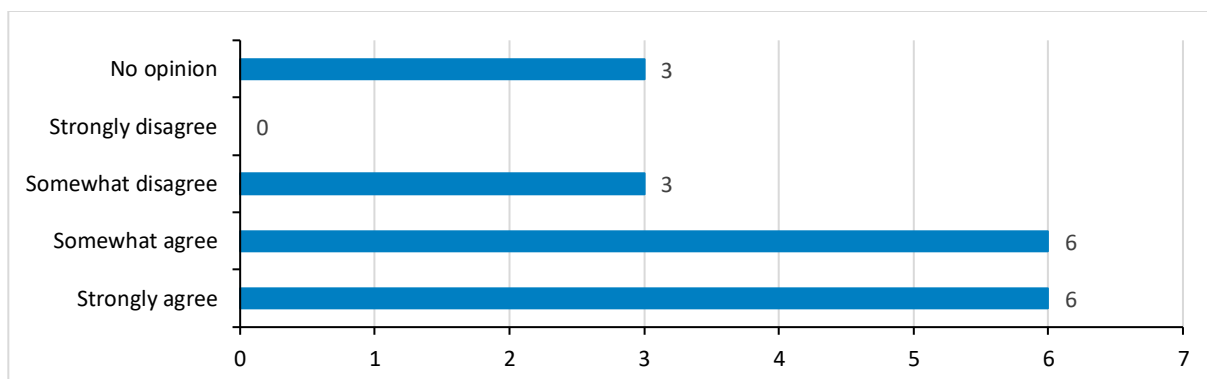


Figure 29: Clarification on 'Annex B' operators

Most of the MSs consider that the status of 'Annex B' operators could be further clarified in the TCO Regulation.

Safety Directives

Statement 15. An amended regulation should explicitly mention Safety Directives in the criteria for limiting and suspending a TCO Authorisation.

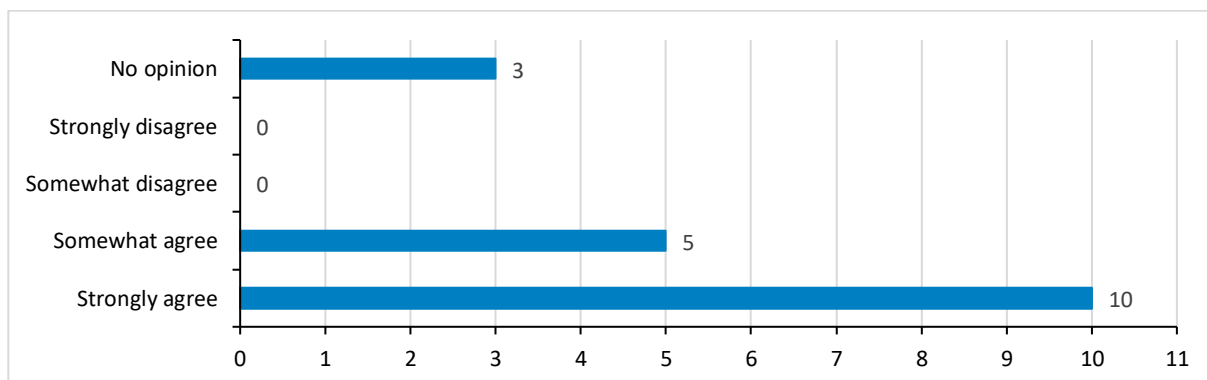


Figure 30: Implementation of Safety Directives

83 % of the MSs agree that the Safety Directives need to be mentioned in the TCO Regulation. The other 17 % do not have an opinion on this matter.

General comments on the Regulation No 452/2014

Question 22. What elements of Part-TCO do you consider irrelevant/superfluous and can be deleted?

No responses were received to this question.

Question 23. Are there any elements which are currently missing from Part-TCO or that should be more clarified?

Two comments were made on this question:

- ART.230 can become clearer.
- In case of a suspension/revocation, an operator can still perform flights with wet-leased aircraft. This should be clarified.

Question 24. Do you have any other comments or remarks regarding Part-TCO and its associated documents and procedures?

One comment was made that EASA should become responsible for managing the insurance certificates.

7.3 Appendix III — Detailed analysis of the answers on the survey to the TCOs

The TCO survey presented several statements with which the TCOs were invited to agree/disagree. These statements reflected the issues identified in Chapter 3.

Initial authorisation process

Question 1. Has the initial authorisation process been clearly explained in Part-TCO? Score from 1 (very unclear) to 5 (very clear)

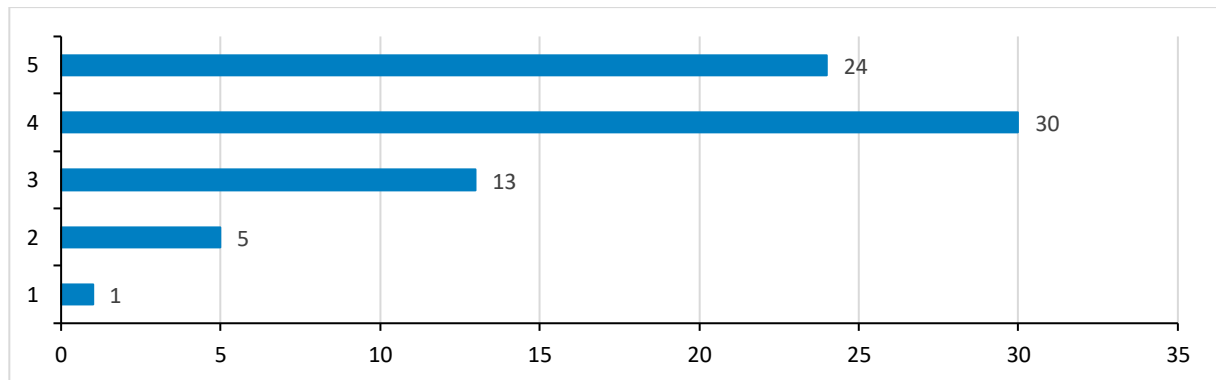


Figure 31: Clarity on the initial authorisation process

- The majority of the respondents (74 %) find the initial authorisation process either clear or very clear.
- The general consensus amongst the responses is that the initial authorisation process has been documented in an understandable way and is clear to most operators. Some operators indicate that they needed some time to get used to the process but were helped during their initial contact. Other operators complain that the TCO process is duplicate to their already performed assessment by their own CA. However, most comments are positive and no specific needs were mentioned.

Question 2. Is the initial authorisation process adequate (fair and proportionate) for your scope and size of operation? Score from 1 (very inadequate) to 5 (very adequate)

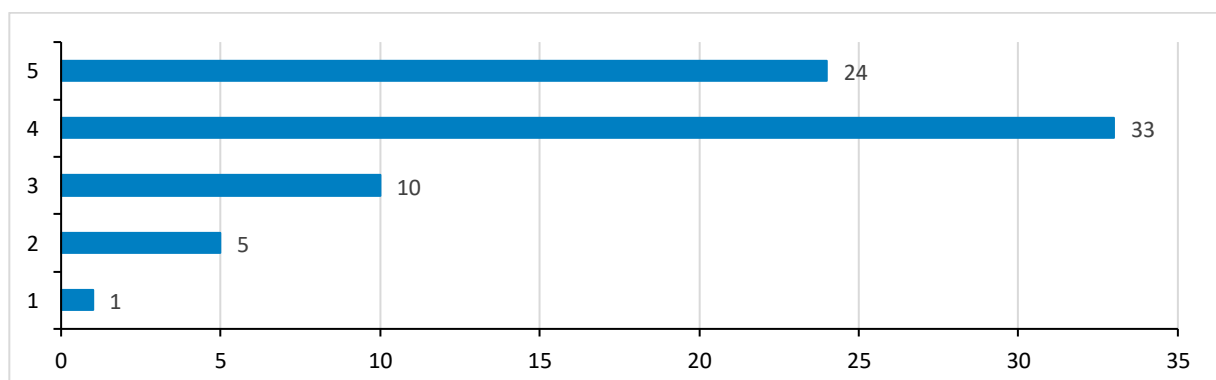


Figure 32: Adequacy of the initial authorisation process

- The process is perceived as adequate by 78 % of the respondents.
- The smaller operators with only a few aircraft are quite happy with the workload and experience the process as adequate. Bigger operators with a significant amount of aircraft consider the process tedious and time-consuming, especially the registration of the entire fleet into the TCO Web-

Interface. One operator considers the process unnecessary for well-established operators. Most of the operators however agree with the workload and find the process very straightforward. No specific needs were mentioned.

Question 3. As stated in ART.200 (c), EASA uses safety information available for the State and the operator (e.g. industry standards, ramp check performance, USOAP, accident records, etc.) as input for the assessment. Should any of these criteria be kept or should more be added?

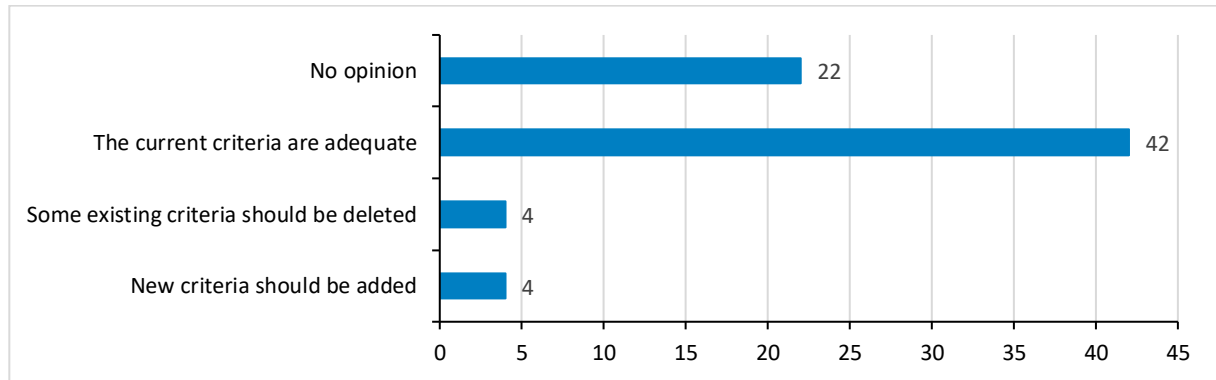


Figure 33: Addition of new assessment criteria

- 58 % of the respondents consider the current criteria adequate.
- Only a few comments were made on this question. One operator considers every criterion relevant to properly assess the safety of both the State of the operator and the operator itself. One other operator argues that the 'Accident Records' should be deleted as an assessment criterion.

Continuous monitoring activity (CMA) process

Question 4. Has the CMA process been clearly explained in Part-TCO? Score from 1 (very unclear) to 5 (very clear)

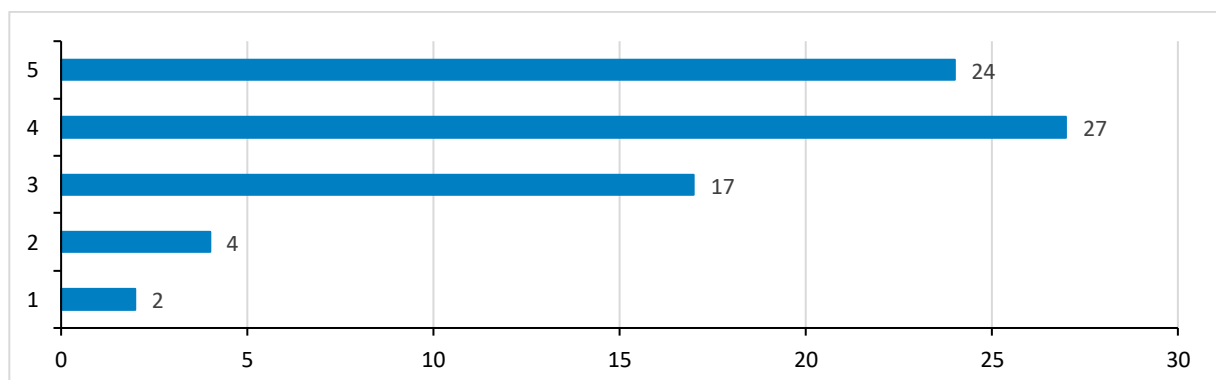


Figure 34: Clarity of the CMA process

The majority of the operators (68 %) consider the CMA process to be well-documented and clearly explained in the TCO Regulation. It is to be considered a standard process in respect to findings and CAP processes. No specific comments of improvement were made.

Question 5. Is the CMA process adequate (fair and proportionate) for your type of operation? Score from 1 (very inadequate) to 5 (very adequate)

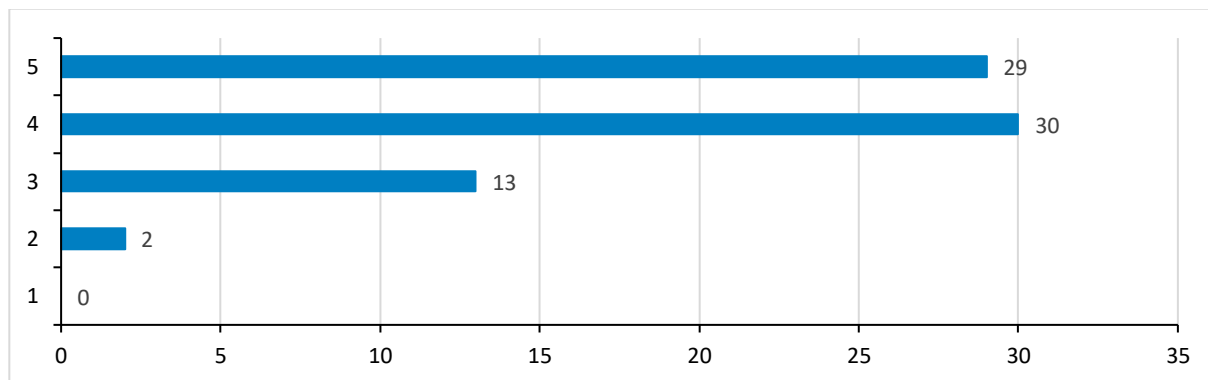


Figure 35 Adequacy of the CMA process

- 80 % of the respondents agree on the fact that the CMA process is adequate.
- All responses were very positive on the adequacy of the CMA. It is considered to be continuous, constant, fair, engaging and not too frequent. It covers all areas of the operation.

Question 6. The workload caused by the CMA since you have been authorised is (score 1 (highly unacceptable) to 5 (very acceptable)):

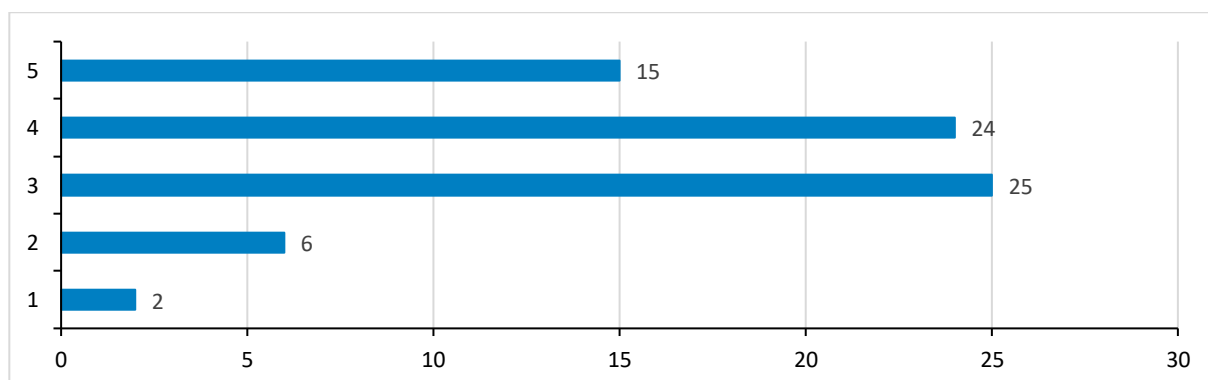


Figure 36: Workload caused by the CMA process

- 46 % of the operators responded with a '3' (medium level of acceptability) or lower.
- Most operators admit that it has certainly increased their workload but the requirements are considered not to be onerous. The performed assessment is mostly in line with industry standards and, once authorised, does not require a lot of work afterwards. Some operators argue that the CMA duplicates their workload already performed by their NAA. No specific needs were mentioned.

On-site audits

Question 7. If EASA requires a face-to-face meeting as part of the initial authorisation or the CMA, would you prefer:

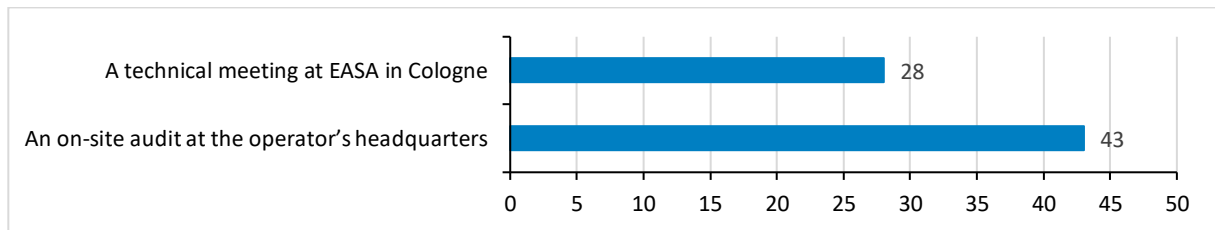


Figure 37: On-site audits versus technical meetings in Cologne

Around 60 % of the TCOs are in favour of an on-site audit, mostly because they would have all their documents at their headquarters and they would not have to travel. However, several operators mentioned that they would be fine with both ways. Other operators wrote that technical meetings in Cologne were also very helpful, as they are more to the point and are relevant to the actual findings.

TCO Web-Interface

Question 8. How satisfied are you with the TCO Web-Interface software application in general (score 1 (unsatisfied) to 5 (very satisfied))?

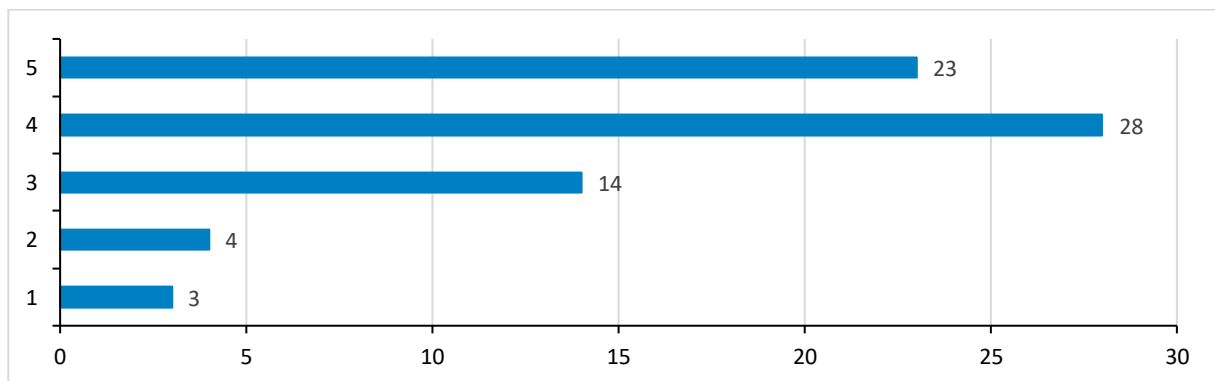


Figure 38: Satisfaction with the TCO Web-Interface

Question 9. Are there additional features, documents or functionalities you would like to see in the TCO Web-Interface software application?

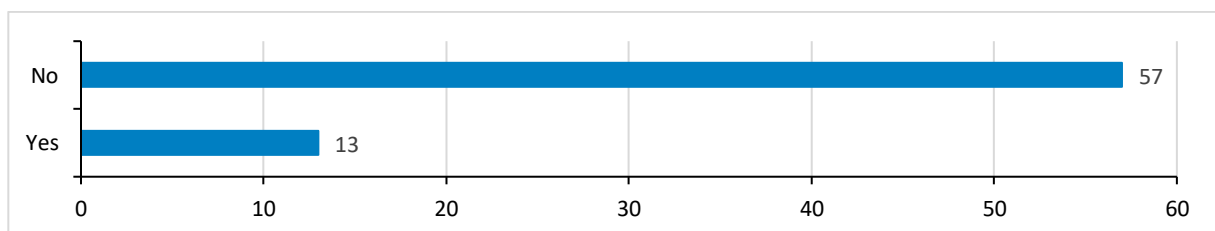


Figure 39: Additional features to the TCO Web-Interface

A list of all responses to these two questions has been provided to the responsible person for internal evaluation.

Changes to the COA

Question 10. How satisfied are you with the process of changing the specifications of your authorisation (score 1 (unsatisfied) to score 5 (very satisfied))?

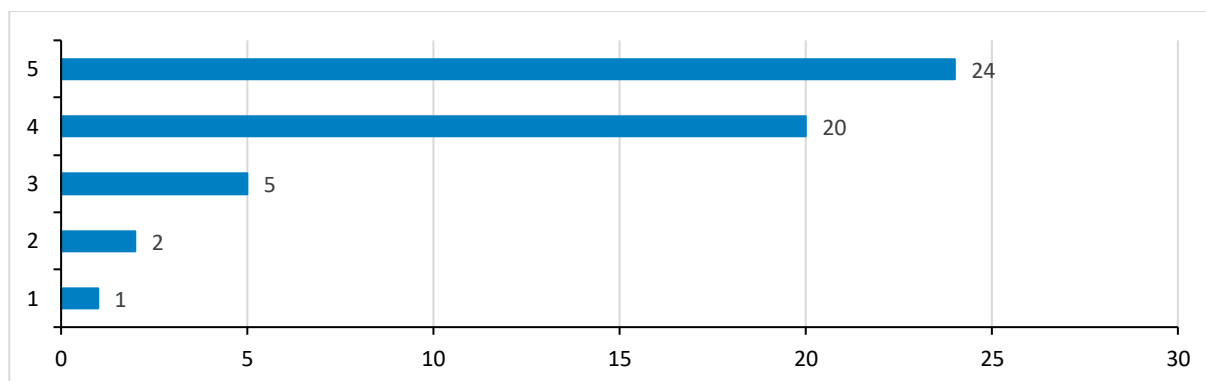


Figure 40: Process of changing the TCOA specifications

- The majority of the operators (84 %) are either satisfied or very satisfied with this process.
- The reactions to this question are very positive. The process was found easy, smooth, professional and quick. Only one comment was made that it was hard for an operator to track its changes within the TCO Web-Interface.

Question 11. Do you think the process to add a new type of aircraft is clear (score 1 (very unclear) to 5 (very clear))?

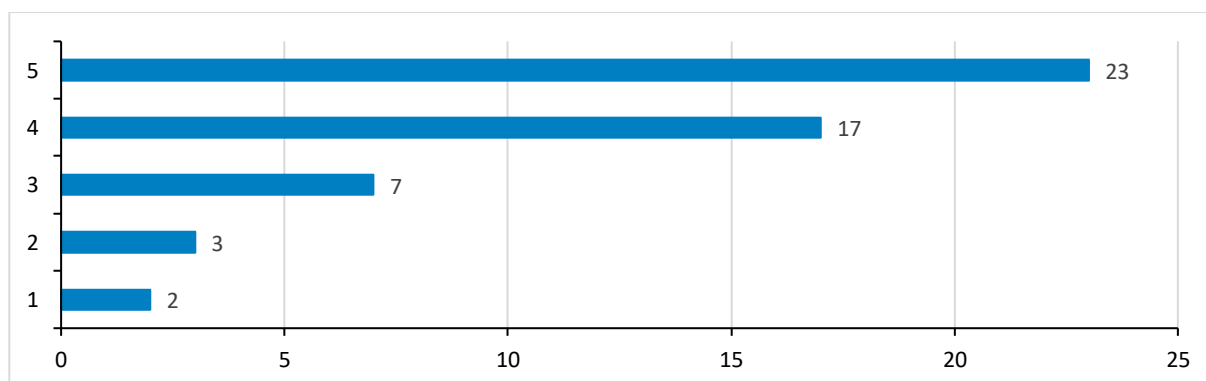


Figure 41: Clarity of adding a new type of aircraft

- The majority of the operators (77 %) consider the process either clear or very clear.
- Operators answered with mixed responses. Most of the answers were quite positive, but several operators mentioned that help was needed at first to understand the process. Some requested a user's manual.

Question 11a. Do you think the process to add a new type of aircraft is efficient (score from 1 (very inefficient) to 5 (very efficient))?

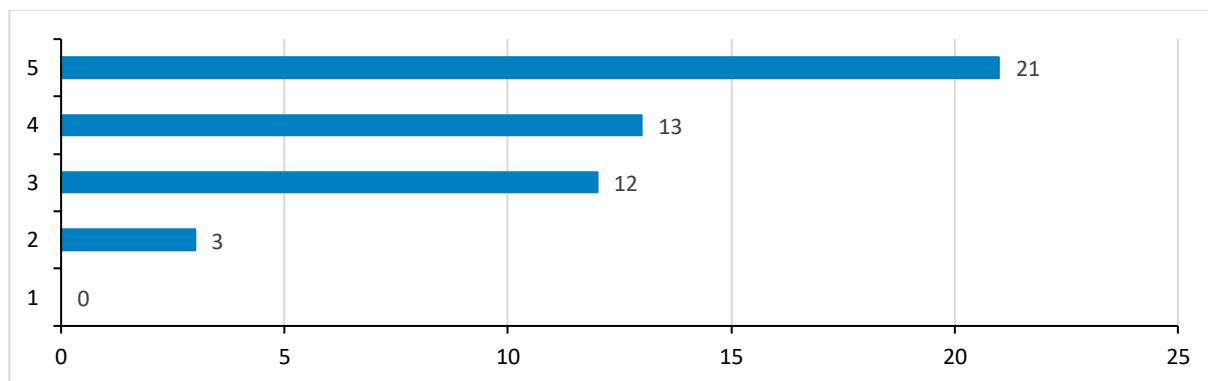


Figure 42: Efficiency of the process for adding a new type of aircraft

- The majority of the operators (70 %) consider the process either efficient or very efficient.
- Most operators were satisfied with the process and the timelines as they are mostly in line with industry standards. There was however one noteworthy comment, which stated that operators should have the ability to already submit a new fleet in advance of its arrival with a preliminary approval and add the CofA and the OPS SPECs when they have been received at aircraft delivery. This comment was mentioned because the 30-day approvals could have a financial impact on the operator, as they want to start flying right away.

Question 12. Do you think the process to add additional aircraft to an already authorised fleet is clear (score 1 (very unclear) to 5 (very clear))?

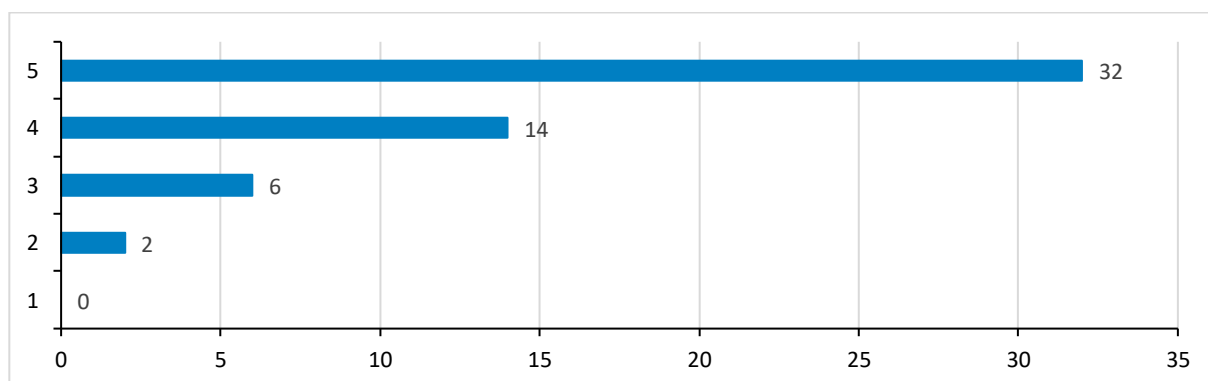


Figure 43: Clarity of the process for adding an aircraft to an authorised fleet

- The majority of the operators (85 %) consider the process either clear or very clear.
- The reactions to this question are very positive. The process is considered easy, well-explained and very clear. No noteworthy comments were made.

Question 12a. Do you think the process to add additional aircraft to an already authorised fleet is efficient (score 1 (very inefficient) to 5 (very efficient))?

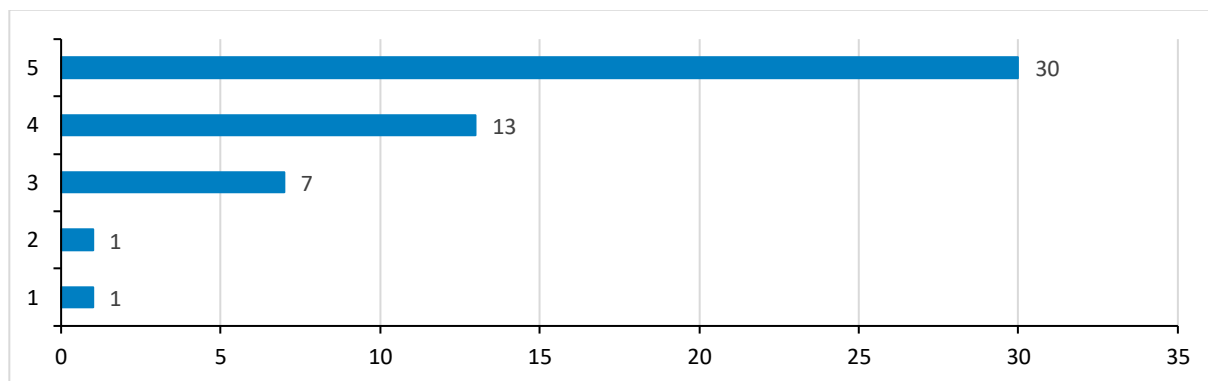


Figure 44: Efficiency of the process for adding an aircraft to an authorised fleet

- The majority of the operators (83 %) consider the process either efficient or very efficient.
- The reactions to this question are very positive. The process was found very clear and efficient. No specific comments were made.

EU Safety List

Question 13. In your opinion, is the coherence between the TCO Regulation and the Safety List Regulation (EC) 2111/2005 clearly defined (score from 1 (very unclear) to 5 (very clear))?

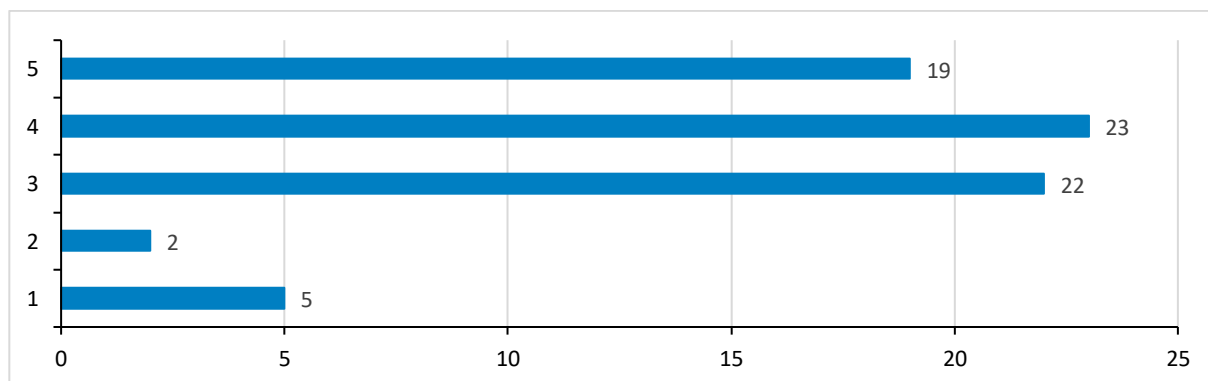


Figure 45: Coherence between the TCO Regulation and the EU Safety List

- Most operators (63 %) either responded with a '3' or a '4'.
- The relation between the Safety List and the TCO Regulation is assessed satisfactory. It improves aviation safety and is well-documented.

Findings

Question 14. The differentiation between a level 1 and a level 2 finding has been well-defined in ART.230.

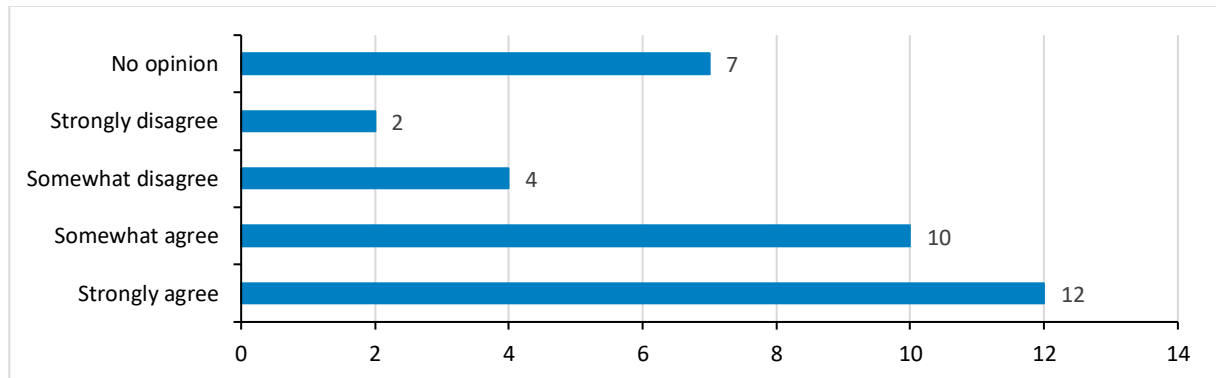


Figure 46: The differentiation between a level 1 and a level 2 finding

- Most operators (63 %) agreed that the differentiation has been well-defined.
- No specific comments were made on this question.

Question 15. Has the process for closing a finding been clearly explained in Part-TCO (score from 1 (very unclear) to 5 (very clear))?

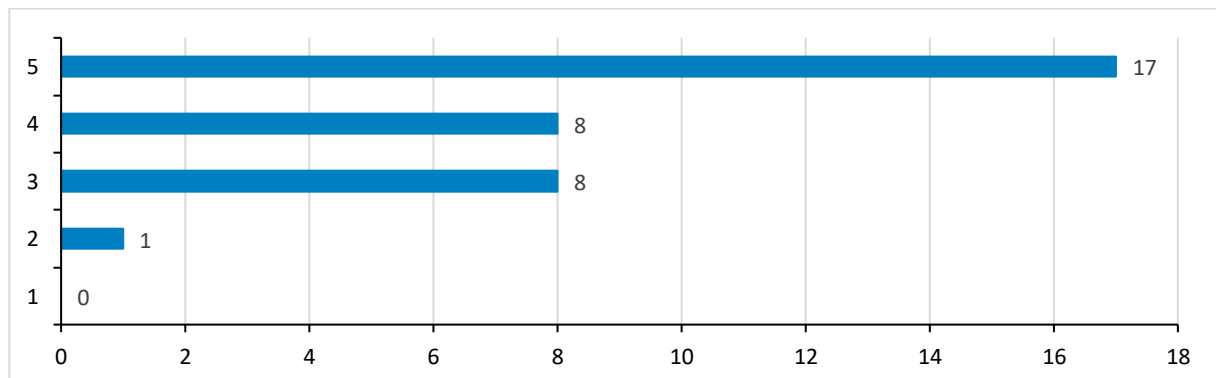


Figure 47: The process for closing a finding

- 50 % of the operators agreed on the fact that the process is very clear.
- The process was considered well-explained and similar to the process of their competent National Aviation Authorities.

Lease agreements

Question 16. The applicability of Part-TCO in the context of dry- and wet-lease agreements has been sufficiently explained in the regulation and associated guidance material.

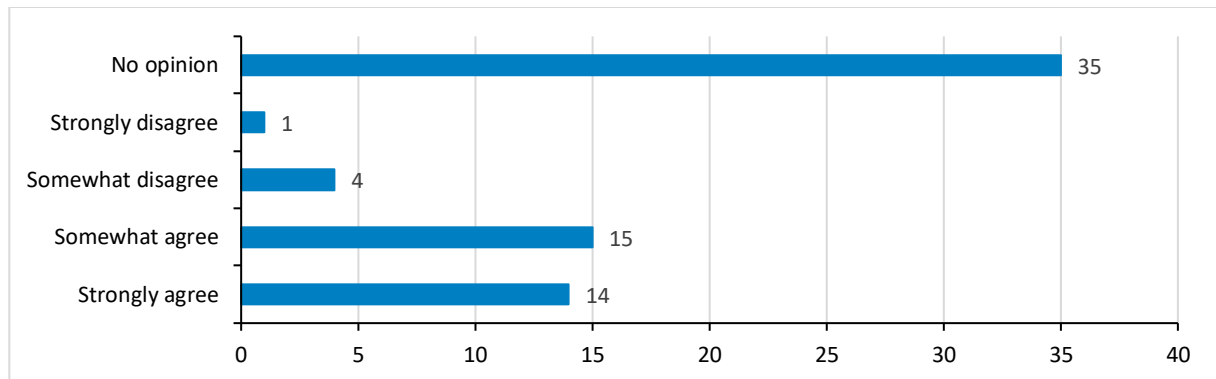


Figure 48: Description of lease agreements

- Most operators did not have an opinion (51 %) on this matter, but the operators who did, agreed that dry- and wet-lease agreements have been sufficiently explained in the TCO Regulation.
- No comments were made on this question.

ICAO mitigating measures

Question 17. Have you ever made use of TCO.110 to propose a mitigating measure for a non-compliance with a technical standard for which your State has filed a difference to ICAO or do you ever intend to use it in the future?

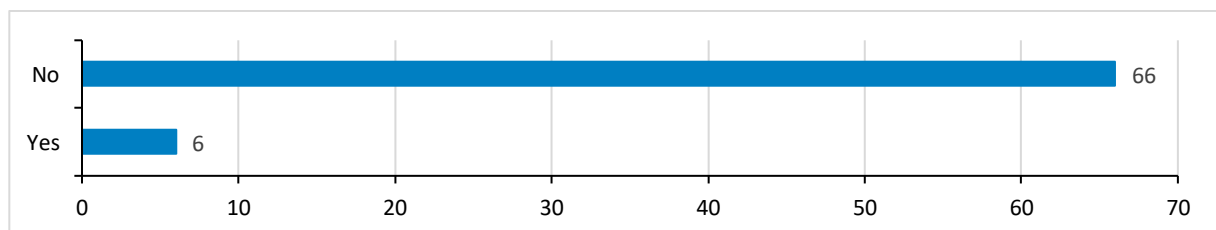


Figure 49: Use of the provision for proposing mitigating measures

Question 18. In your opinion, should EASA have the discretionary power to grant exemptions with regard to compliance with certain technical standards set by ICAO?

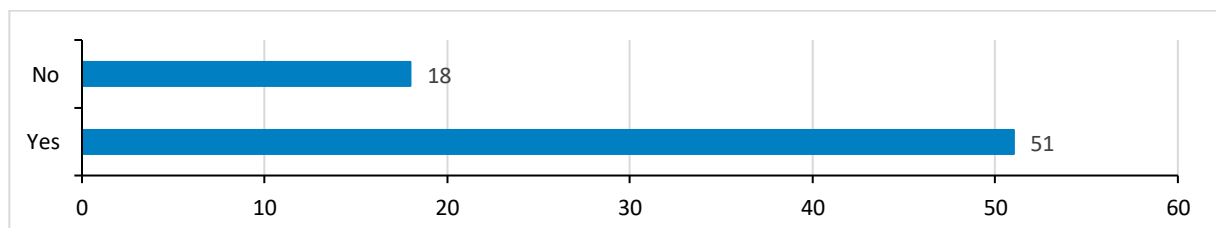


Figure 50: EASA granting exemptions from complying with ICAO standards

74 % of the operators that responded agreed that EASA should have the discretionary power to grant these exemptions. It should however be fair, transparent and described in detail. Other operators argued

that the current assessment is sufficient and that further assessments may become redundant. It was mentioned that the differences should be accepted by ICAO first, because otherwise operators would be caught in the middle between ICAO and EASA.

One-off notification flights

Question 19. According to TCO.305, an operator is allowed to apply for a one-off notification flight under certain conditions. Should more clarity be provided on the description of these type of flights?

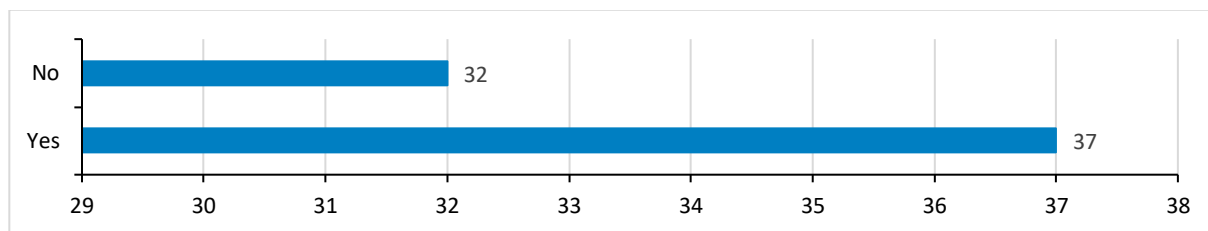


Figure 51: Description of one-off notification flights

The answers are divided almost equally between 'yes' and 'no'. In the comments it was observed that the intent of this provision was described as clear; however, it appeared that operators do not know that this provision is not to be used for commercial needs without a humanitarian purpose for the flight.

Suspensions and revocations

Question 20. What is your opinion on the process for suspending and revoking a TCOA?

Most of the operators found that the Regulation established a very clear and reasonable approach to enforcement, which is a necessity in order to guarantee aviation safety. Some operators mentioned that they found the process too quick and hasty (because suspension decisions were taken on administrative grounds in the absence of actual safety issues). No specific changes to the processes were requested.

Question 21. What is your opinion on the process for lifting the suspension of a TCOA?

Most operators agree on this process as they found it reasonable, well-defined, impartial and acceptable. Comments were made that no suspension should last forever and that, when the suspensions has been lifted, an operator should become subject to additional requirements to sustain its TCOA. No other changes were requested.

General comments on the TCO Regulation

Question 22. What elements of Part-TCO do you consider irrelevant/superfluous and can be deleted?

Only three comments were made in this section which were applicable to the TCO Regulation whereas the rest were more related to the TCO Web-Interface:

- Section III — Authorisation is superfluous for ICAO MSs. The operator's State conducts all the necessary oversight.
- There are multiple areas within the TCO application where OPS SPECs are uploaded. One area for OPS SPECs is all that is necessary.
- Accident history in the basic operator data (BOD).

Question 23. Are there any elements which are currently missing from Part-TCO or that should be more clarified?

Again, more comments were made on the TCO Web-Interface than on the TCO Regulation:

- More guidance material by EASA, related to measuring the safety culture.
- Ground handling, pilot training, flight data monitoring (FDM), dry-lease agreements and cargo operations specifications.
- You can define the change management process clearly. Maybe you can create a form and the operator can fill in the form for related change. This makes a clearer process in terms of authorisation duration, questions, gaps etc. than the current process.
- A list should be made public with the reasons that an operator did not receive a TCOA in order for others to avoid these errors.

Question 24. Do you have any other comments or remarks regarding Part-TCO and its associated documents and procedures?

Most comments were very positive. Help from the EASA TCO staff was praised several times and described as professional, respectful and responsive. It was also mentioned that the TCO process productively and positively affect the operator's safety culture. Other comments included:

- The applicability and acceptance of IATA IOSA registration is a positive aspect. It would be beneficial if the TCOA were accepted more for granting permits.
- The master user change process should be simplified by not needing a signature from management.
- Other documents are requested by EASA MSs next to a TCOA such as insurance certificates and common requests.

7.4 Appendix IV — Detailed analysis of the answers on the survey to the EASA TCO staff

The EASA TCO staff survey is based on a round of interviews with all the staff members in EASA's Air Operators Oversight Section.

TCO business aircraft

Question 1. What statement would best describe your opinion on Business Aviation and its relation to the TCO Regulation?

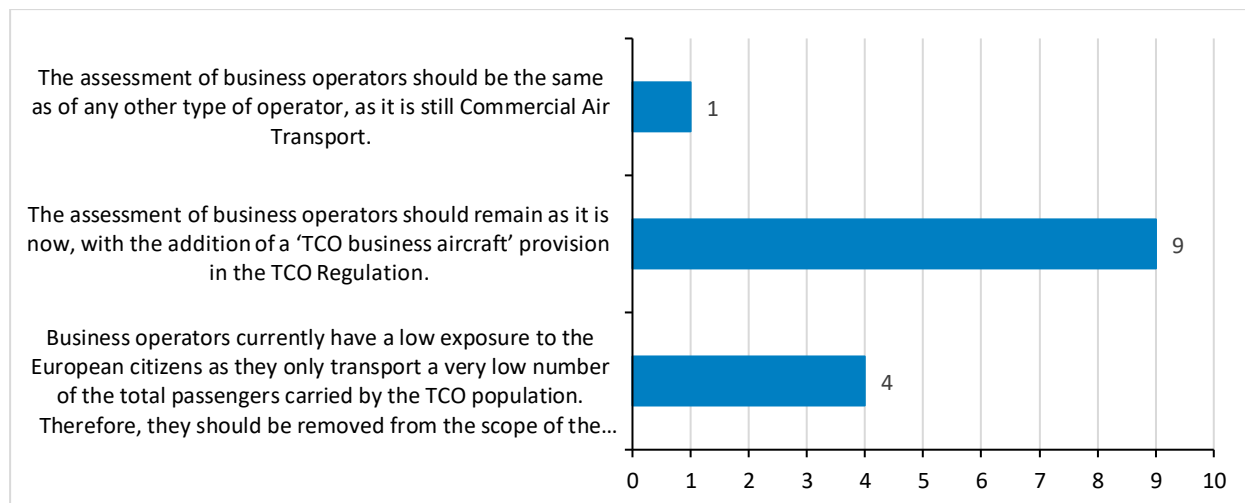


Figure 52: Alleviation of business aircraft

- The majority of the staff members are in favour of keeping the 'TCO business aircraft' concept in place. Only a few would like to see the removal of the Business Aviation in its entirety.
- To give this concept a legal framework, a provision should be added to the TCO Regulation, specifying when an operator is eligible for this concept and what type of alleviations are granted.

Question 2. Would you agree with the following statement: Business operators should receive a simplified authorisation when certain criteria are met, based on: 1) the mass, capacity and propulsion of their aircraft; 2) no aircraft on their TCOA should fall in the category of 'TCO normal'; and 3) the number of aircraft (under the TCOA) does not exceed five.

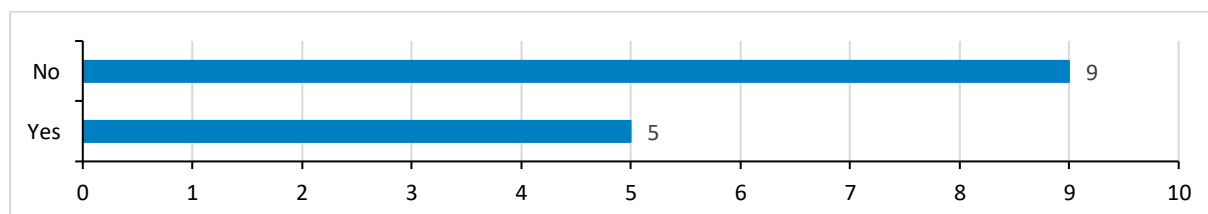


Figure 53: Simplified authorisation for certain business operators

Almost 2/3 of the EASA TCO staff are not in favour of a simplified authorisation based on the mentioned criteria.

Question 3. If 'yes' on the previous question, what would this simplified authorisation look like?

- Three noteworthy suggestions were made to simplify the process for business operators:
 - Create a simplified initial authorisation process
 - Create a declaration (instead of an authorisation)
 - Establish a new category (TCO Light) based on the air operator certificate (AOC) and OPS SPECs. No further technical assessment is conducted by EASA, but still something enforceable should be in place in case of violations of the provisions in Part-TCO.
- Several MSs do not issue an operating permit for aircraft under 5 700 kg. The 'TCO Light' could be granted for this type of aircraft.

One-off notification flights

Question 4. Would you agree with the following revised definition of the one-off notification flights? The one-off notification flights should only be used for 1) air ambulance flights which are defined as: The use of an aircraft to move sick or injured patients between healthcare facilities and/or deliver patient medical care whilst in transit to or from destinations in EU territories; and 2) non-scheduled flights that are performed in the public interest and where the urgency of the mission (humanitarian missions and disaster relief operations) justifies bypassing the regular TCO assessment process.

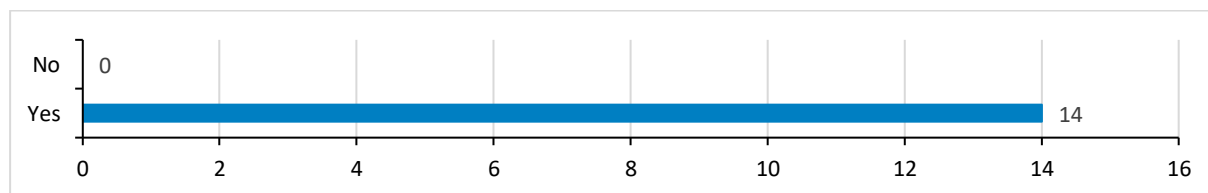


Figure 54: One-off notification flights

All EASA TCO section staff members agreed on the implementation of the new description.

Question 5. Should a distinction be made between serious (special equipment and certified medical staff required) and non-serious (where the passenger can still travel independently) ambulance flights?

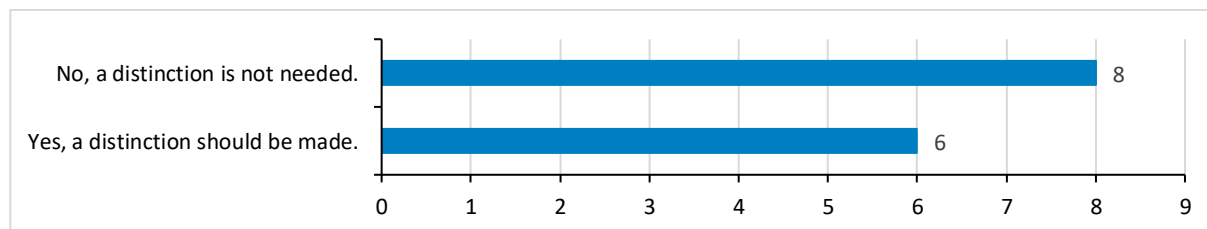


Figure 55: Distinction between ambulance flights

A small majority of the staff members think that the mentioned distinction is not needed.

Mitigating measures

Question 6. What statement would best describe your opinion on the acceptance of mitigating measures and TCO.110?

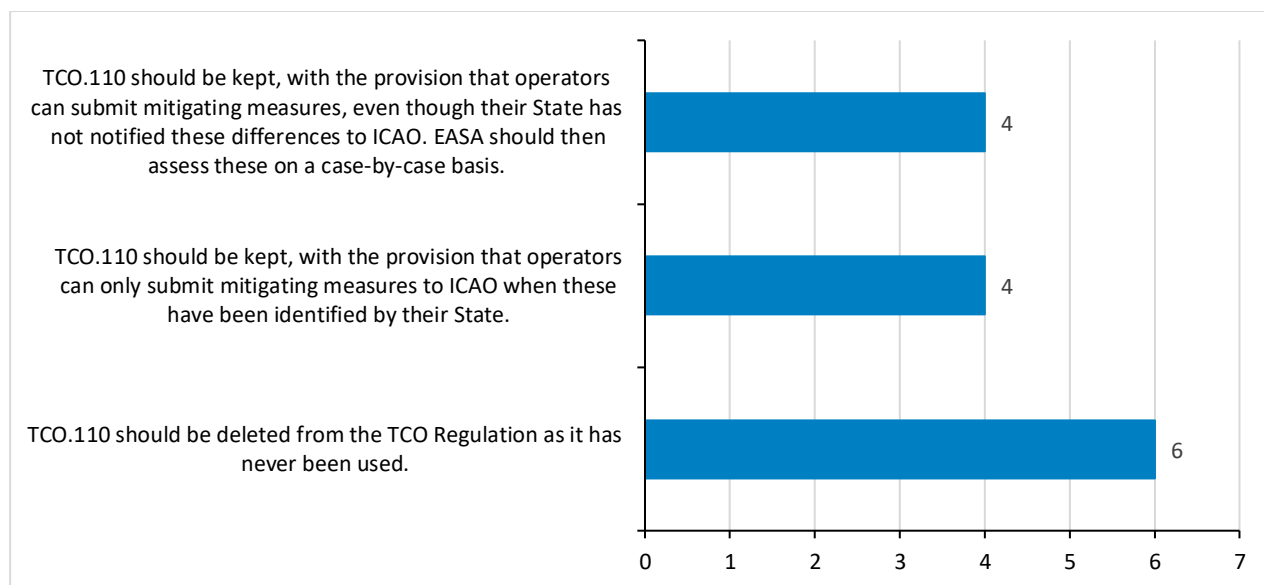


Figure 56: Accepting mitigating measures with the use of TCO.110

The majority of the staff members want to keep the provision, either with a notification by the State or without one. A little less than half of the employees want to delete the whole provision as it has never been used anyway.

Audits for lifting suspensions

Question 7. ART.235 (d) should be modified so that EASA will be granted the discretionary power to choose between an on-site audit and a desktop review when considering lifting a suspension.

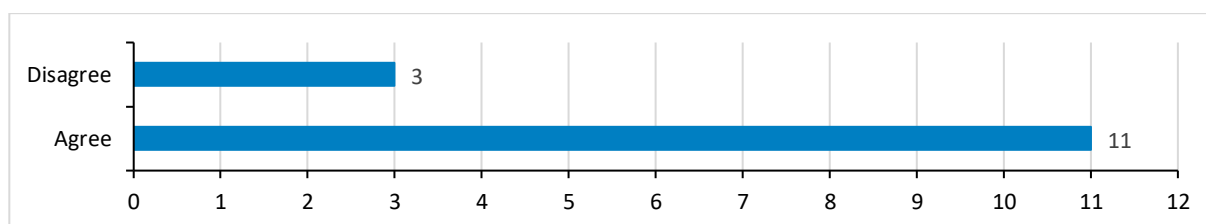


Figure 57: On-site audits versus desktop reviews

- Most of the staff members agree that EASA should have the opportunity to perform a desktop review in certain cases when considering lifting a suspension.
- ART.235 (d) can be changed into a 'may' provision.

'Inactive' status

Question 8. What statement would best describe your opinion on the 'inactive' status and the TCO Regulation? (Operators are put in the 'inactive' status when they are unresponsive, to decrease the administrative burden)

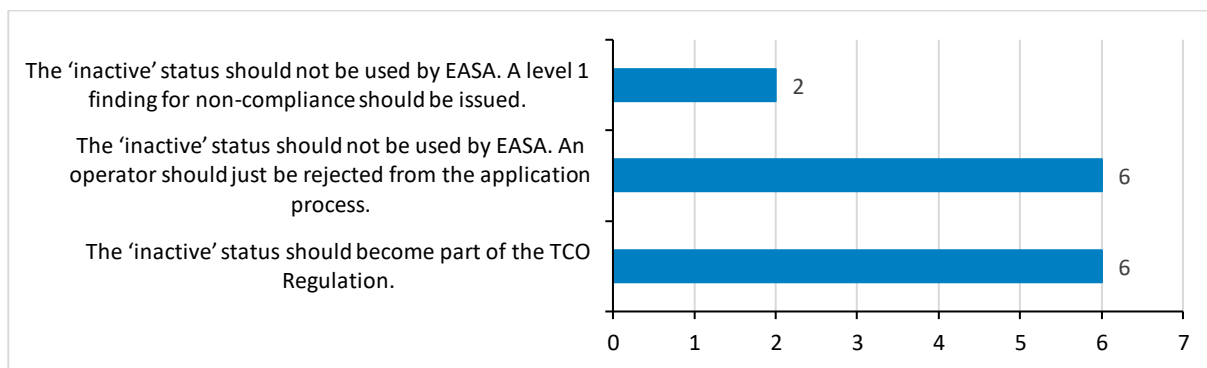


Figure 58: The use of the 'inactive' status

- A small majority is in favour of discontinuing the use of the 'inactive' status, and either reject the application or issue a level 1 finding. The other staff members would argue that the 'inactive' status is to be added to the TCO Regulation.
- Both options come with a reasoning:
 - The issuance of a level 1 finding would increase the administrative work. A finding has to be issued, a CAP has to be presented and if the operator is non-compliant, the application is rejected.
 - The addition of the 'inactive' status to the TCO Regulation could also be considered. However, criteria should be established as to when and why an operator will be placed into this status.

Revocations

Question 9. EASA will not be required to start processing a new initial application sooner than a certain time frame after an operator's TCOA has been revoked. This 'cool down' period should be:

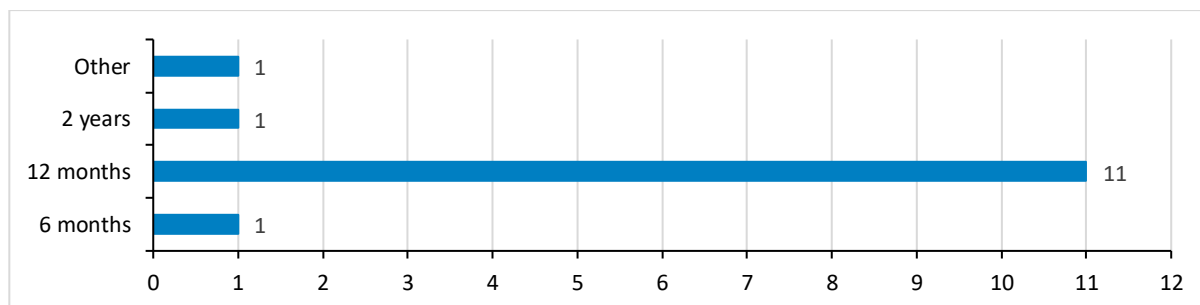


Figure 59: The length of the cool down period after revocations

- Most employees agree on a cool down period of 12 months.
- An article should be added to the MB Decision to give this cool down period some legal background (similar to Article 14 on rejections).

Question 10. Should a TCOA that is suspended be revoked automatically after the 6 months have passed?

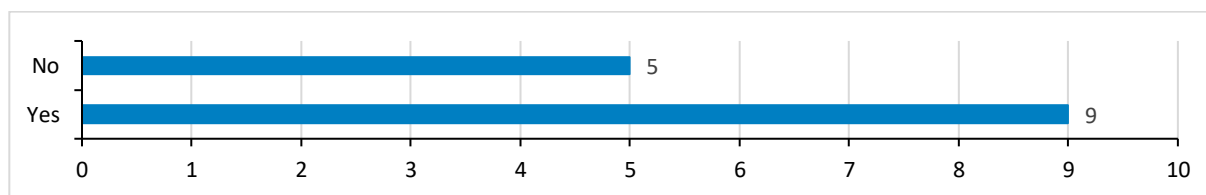


Figure 60: Automatic revocations

64 % of the staff members agree that a TCOA should be revoked automatically, mainly to avoid the additional administrative burden of sending letters. It should then be communicated to the operator in the suspension letter. The other staff members think that this should not be done automatically as some could still be working on their corrective actions, different actions might be in play (political, economic, etc.) and not every operator has the same type of attitude towards resolving the issues.

Question 11. Should a differentiation in the safety and administrative reasons be made in the negative decision process to alleviate the TCO section of additional approvals and paperwork?

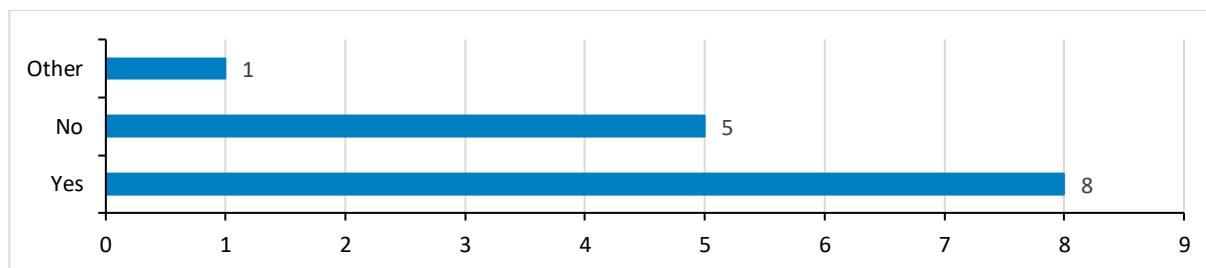


Figure 61: Differentiation between safety and administrative reasons

- Most of the staff members would agree on differentiating between safety and administrative decisions. A differentiation is needed on the process of an administrative negative decision in comparison to a safety-related decision (for a clear communication between EASA and the stakeholders). The other staff members would argue that a differentiation should not be made as the reasons for unresponsiveness cannot be established by EASA.
- If no differentiation is made in the TCO Regulation or MB, then the ED Decision on Delegation of Powers should be amended (as a differentiation is made here).

Question 12. What statement would best describe your opinion on the revocation measure and the TCO Regulation?

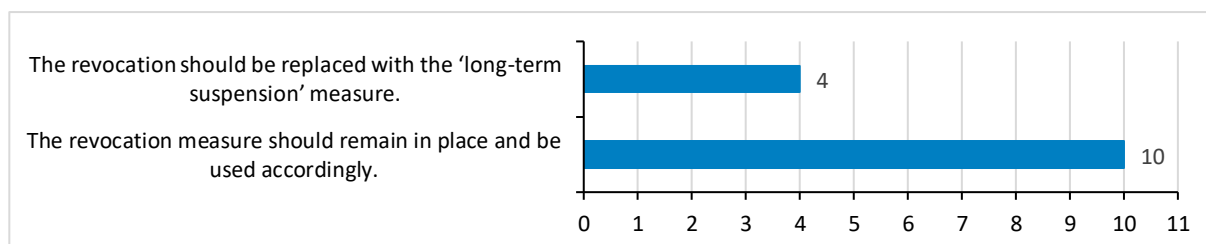


Figure 62: Revocations versus 'long-term suspensions'

Most staff members are in favour of using the revocation measure instead of using the approved derogation procedure ('long-term' suspension).

Evaluation time frame for initial applications

Question 13. Would you agree with the following statement: 'The initial assessment shall be completed within 30 days after EASA has received all the required documents'?

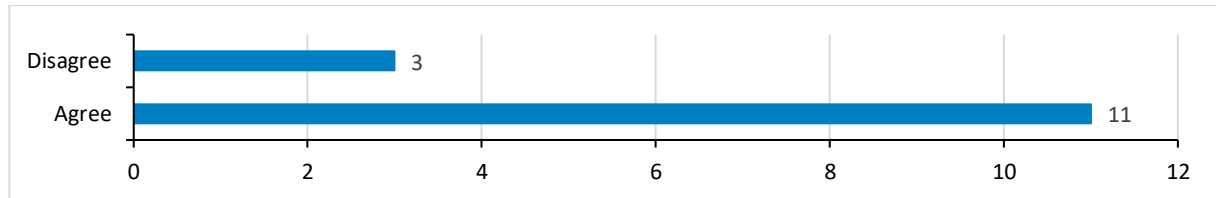


Figure 63: Start of the initial assessment period

- Most staff members would agree with the statement.
- ART.200 (b) can be amended to include this statement.

Question 14. Should more key performance indicators (KPIs) be implemented on, for example, the process for findings or the duration of the CMA?

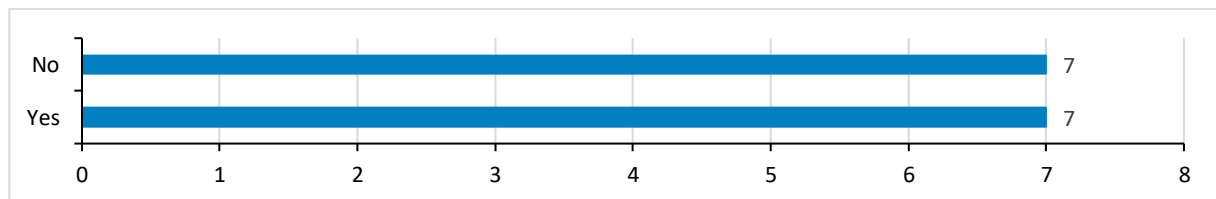


Figure 64: Implementation of KPIs

- There EASA TCO section is divided with respect to this question.
- The existing KPIs could be changed/improved to better reflect the current processes.

Enforcement measures

Question 15. Would you be in favour of a public warning letter as an enforcement measure?

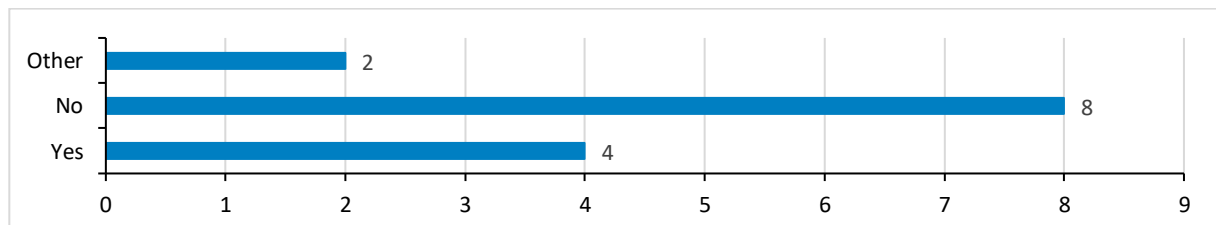


Figure 65: Implementation of public warning letters

- Public warning letters are considered to be out of the scope of EASA and that EASA should be strictly technical. It is mentioned that it could damage the reputation and have a serious financial impact on the operator (suing EASA for financial damage). Some consider the letters as a powerful and effective tool. One comment was made that EASA should issue letters but make the status of the authorisation available to the public.

- Letters could still be considered but they should be kept between EASA, the operator and the associated NAA.

Question 16. Would you be in favour of ‘freezing’ the operations (e.g. geographical restrictions, fleet restrictions, operational restrictions) of an operator as an enforcement measure?

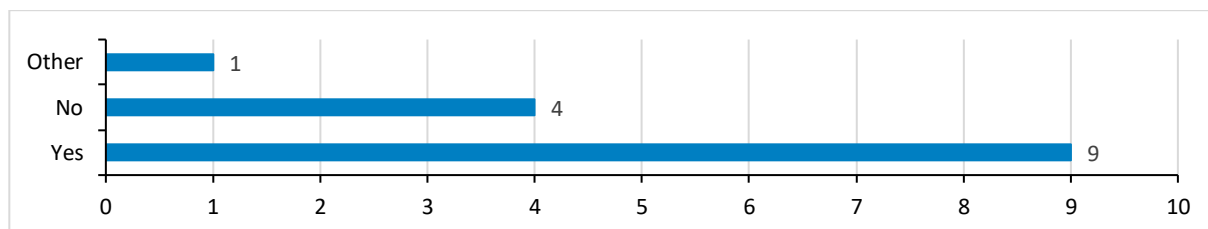


Figure 66: Implementation of operational restrictions

Most staff members would agree on such an implementation, mainly to give more flexibility to EASA. Specific ‘freezes’ could be given to certain findings (e.g. excluding aircraft from a TCOA because of missing documents or unchecked maintenance). Others, who are not in favour, mention that the current enforcement measures are already sufficient.

Question 17. Should the TCO section have Fees & Charges?

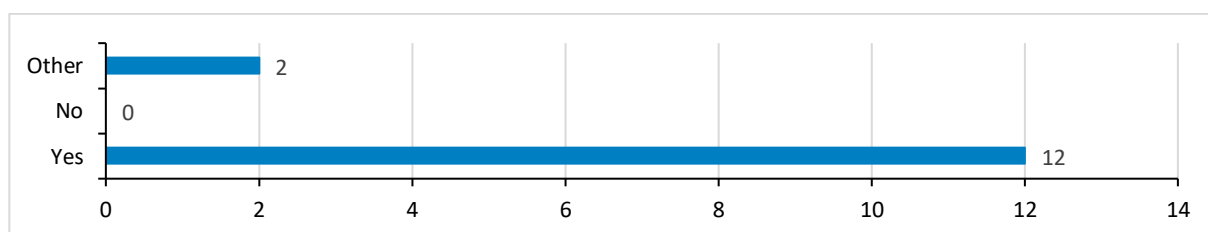


Figure 67: Implementation of Fees & Charges

86% of the EASA TCO staff is in favour of the implementation of Fees & Charges for the following reasons:

- To prevent operators from applying for the sake of having a TCOA as it consumes a lot of EASA resources.
- To trigger more responsiveness and cooperation from the operator’s side.
- To dis-incentivise and deter weak operators from repetitive applications.
- More financial resources will become available for improvements (e.g. TCO Web-Interface)

On the other hand, it can be perceived as if the TCOA process would no longer be completely impartial as there is a certain commercial interest.

Finding escalation

Question 18. Would you agree with the addition of the following statement to ART.230: ‘EASA shall issue an additional level 1 finding when several level 2 findings indicate a systemic non-compliance’?

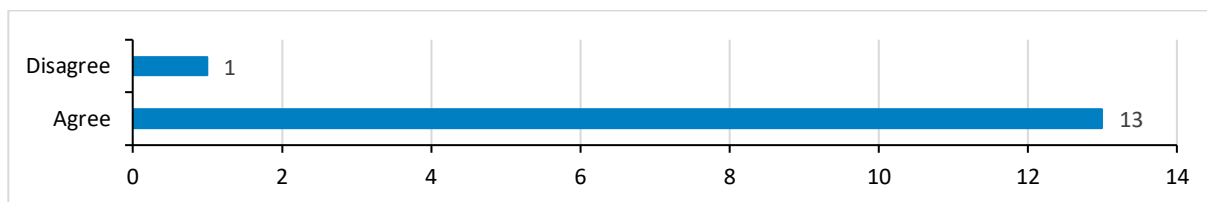


Figure 68: Issuance of an additional level 1 finding

93 % of the EASA TCO staff agree that an additional level 1 finding should be issued (as stated in Article 12 of the MB Decision).

Audits for 'Category C' operators

Question 19. Would an on-site audit on the invitation of an operator at their expenses contradict with the 'Conflict of Interest' rules?

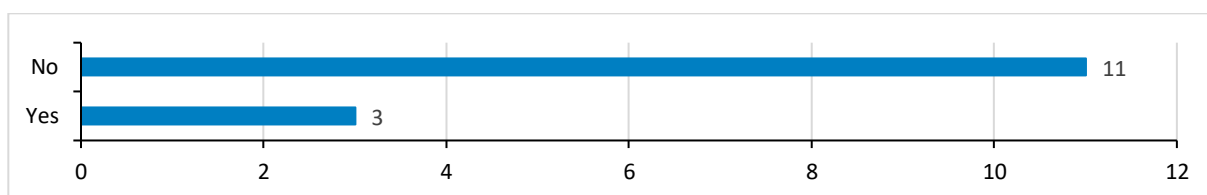


Figure 69: Conflict of Interest

79 % would agree that such an audit would not contradict with the 'Conflict of Interest' rules. It should however be mentioned somewhere in the TCO Regulation (or Fees & Charges) that the operator is responsible for the expenses.

Question 20. Should EASA perform an on-site audit as an initial assessment when an operator has a high exposure to the European Union and its citizens and is close to the territory of the EU?

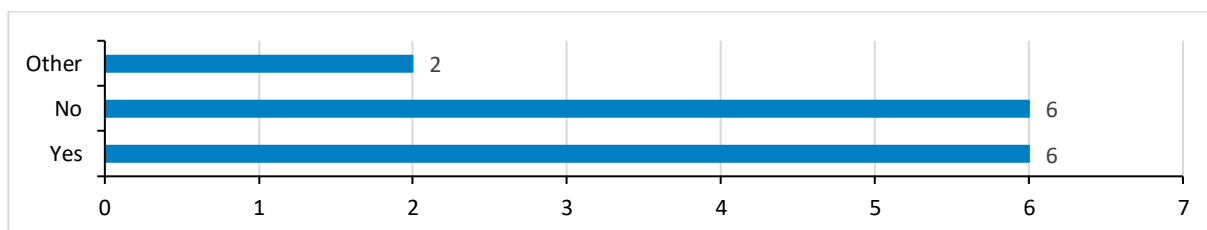


Figure 70: On-site audits for high-exposure operators

43 % of the staff members agree that an on-site audit should be performed based on the high exposure and proximity because this is in line with the principles of a risk-based approach (put your resources where the potential risks are). 14 % of the staff members mention that this is dependent on many factors (e.g. information provided, country score, NAA). Another 43 % of the staff members consider that such audits are not necessary because they are not in line with the fair and standardised treatment mentioned in the MB Decision. Also, with the TCO model, operators are already graded based on their risk.

Statements

Statement 1. The attached specifications to a TCOA should only be added when there is a limitation. Otherwise, a reference to the TCO Web-Interface can be made without the issuance of specifications.

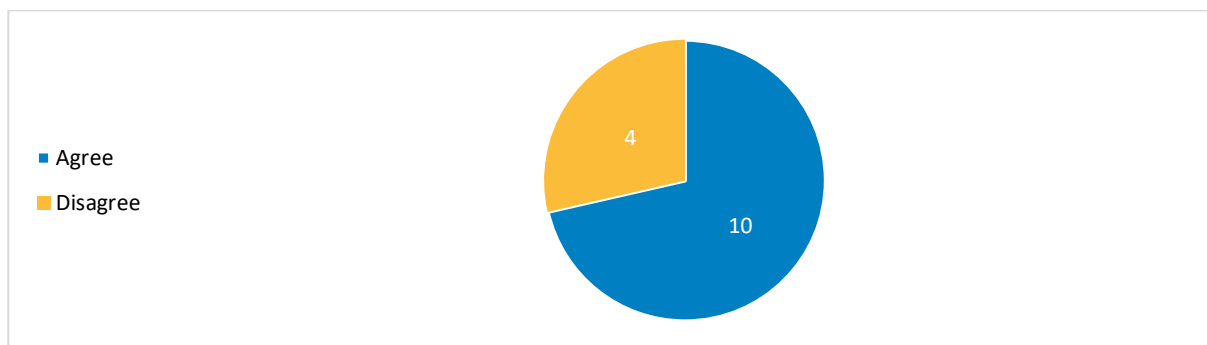


Figure 71: Attached specifications to the TCOA

- The majority of the employees agreed that the specifications should only be issued when a limitation is in place.
- An annex could be added to the authorisation with a reference to the TCO Web-Interface, specifying the issuance of limitations.

Statement 2. Operators with manuals in another language other than English should at least provide an English translation of several parts of their documents.

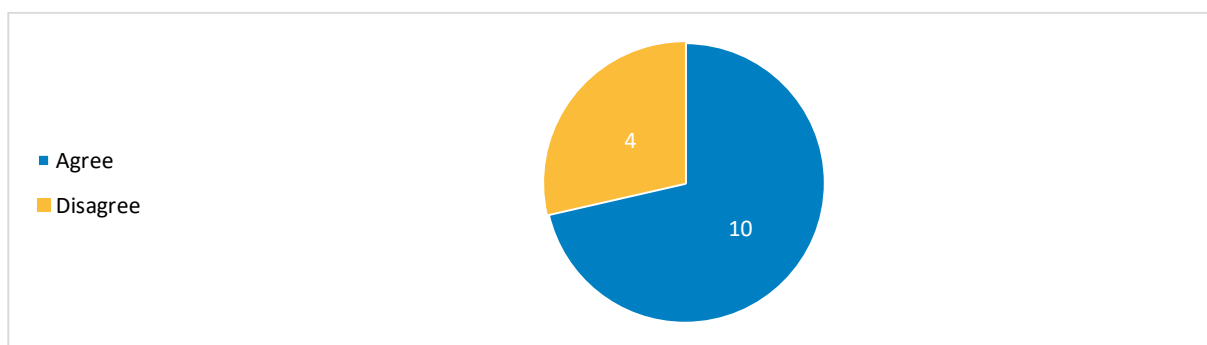


Figure 72: Operators with non-English manuals

- The majority of the staff members agreed that operators should provide parts of their manuals in English.
- This provision can be added as an additional rule in TCO.300 or as Guidance Material.

Statement 3. Article 13 of the MB Decision states that EASA should have a public list with all authorisation decisions. Currently, there is only a list with authorised operators. A list should be made public with all authorisation decisions.

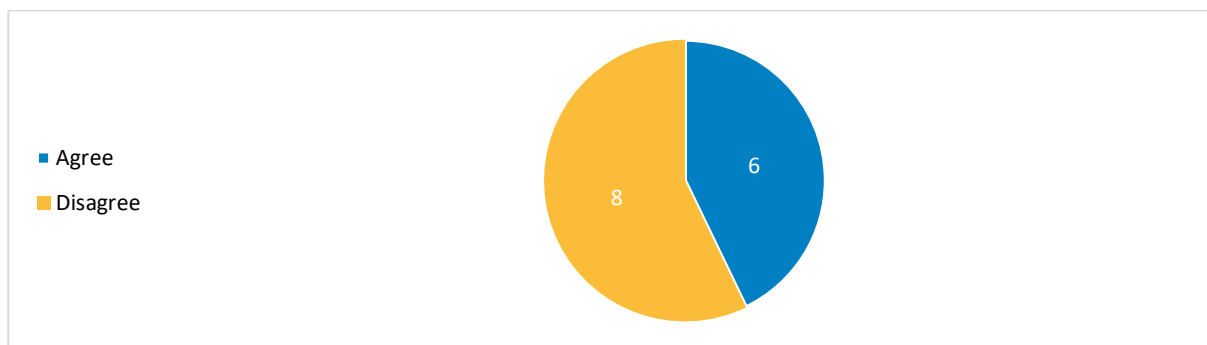


Figure 73: List with authorisation decisions

- The majority disagreed with the publication of a list of all authorisation decisions.
- Article 13(2) should thus be deleted/amended if such a list is not to be published.

Statement 4. The current CAP process should be changed. Currently, EASA allows multiple submissions. This should be changed to give the operator two chances. After a second failure to deliver a CAP, the operator should be put ‘on hold’.

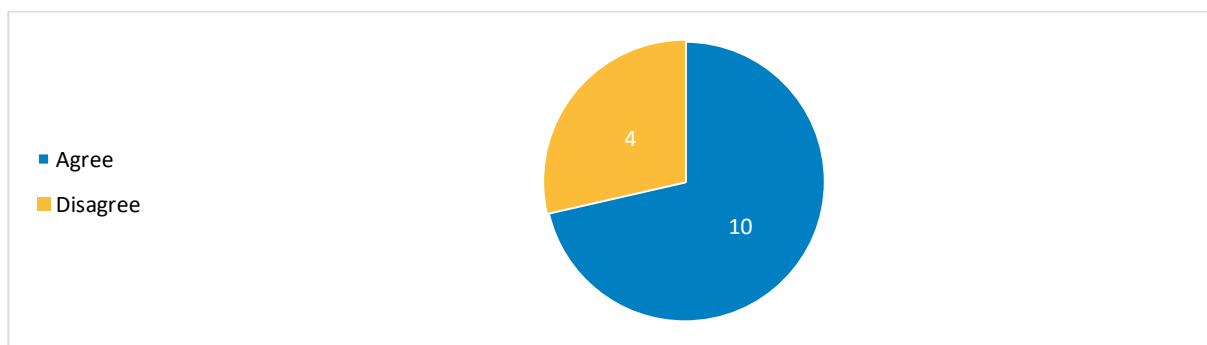


Figure 74: CAP

- The majority agreed that this described CAP process should be implemented.
- An extra rule should be added to ART.230 to give the operator two chances for submitting a CAP.

Statement 5. TCO.105 and ART.105 are both irrelevant to the TCO Regulation.

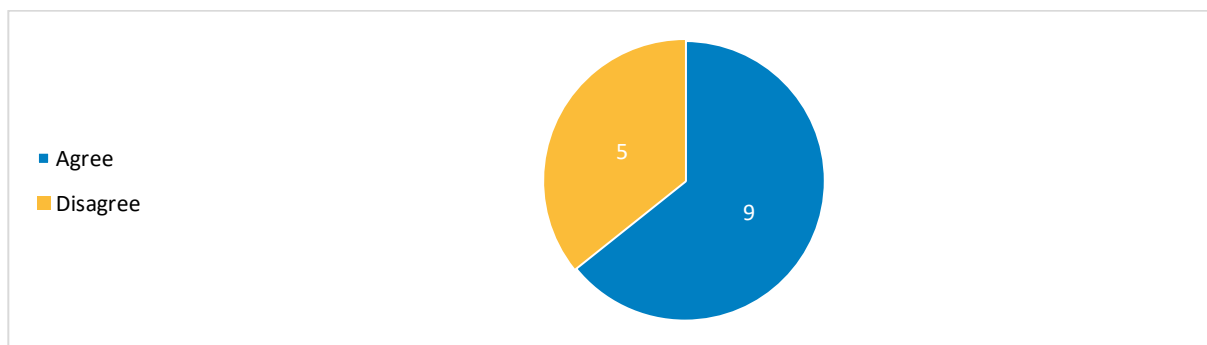


Figure 75: Irrelevance of TCO.105 and ART.105

- The majority of the staff members agreed that both articles are irrelevant to the TCO Regulation.
- These two articles could either be deleted or amended to better reflect their purpose. Another option could be to combine these articles with TCO.110 on the acceptance of mitigating measures.

Statement 6. The suspension provision should be deleted. A TCOA should be revoked immediately.

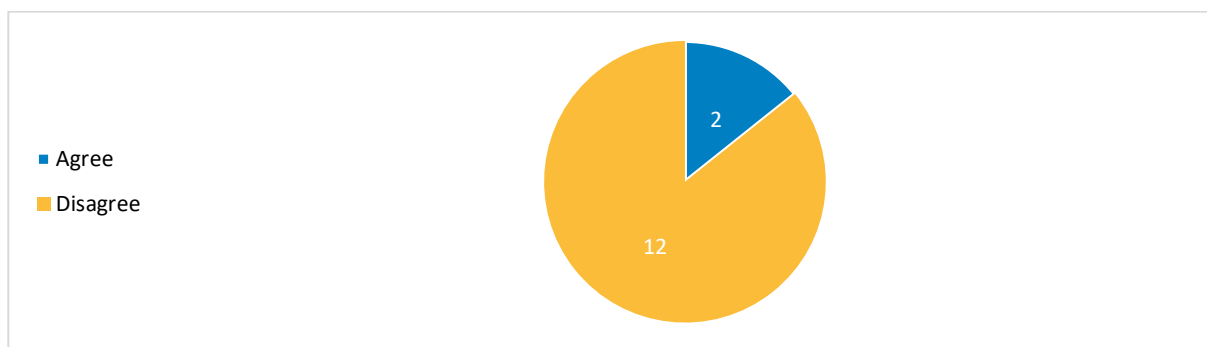


Figure 76: Deletion of the suspension provision

The majority of the employees disagreed with the deletion of the suspension provision.

Statement 7. ART.210 (a) (4) (related to the issuance of an authorisation when there is no evidence of any major deficiencies in the ability of the State of the operator) should be deleted from the TCO Regulation as it is not for EASA to decide on this.

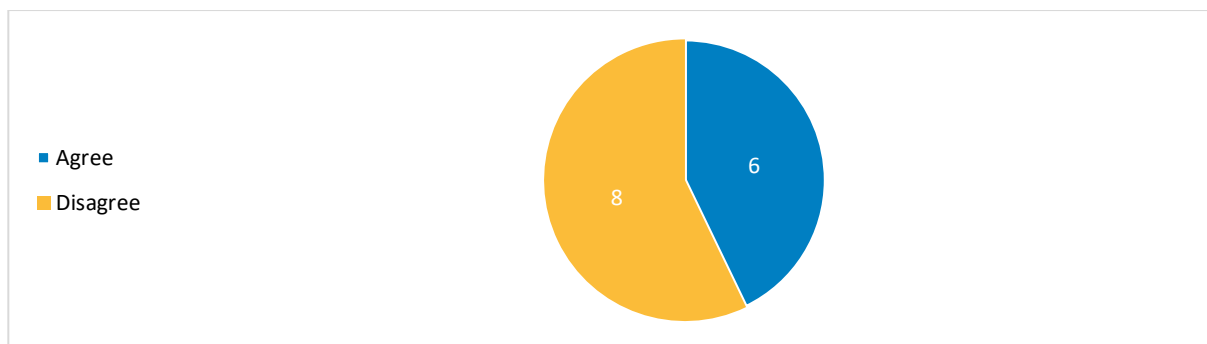


Figure 77: Deletion of ART.210 (a) (4)

The majority of the employees disagreed with the deletion of ART.210 (a) (4).

Statement 8. TCO.305 (a) (3) refers to 'working days'. This is however the only time the term 'working days' is mentioned in the TCO Regulation, as the rest of the TCO Regulation refers to either 'days' or 'calendar days'. Should either 'calendar days' or 'working days' be used in the TCO Regulation?

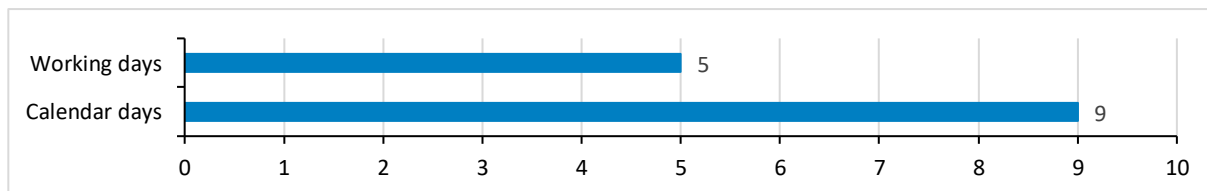


Figure 78: Working days versus calendar days

- 64 % of the EASA TCO staff suggested to use 'calendar days' instead of 'working days'.
- The 'working days' in the TCO Regulation can be deleted and replaced by 'days' to ensure consistency throughout the rules.

7.5 Appendix V — List of abbreviations

AMC	acceptable means of compliance
AOC	air operator certificate
ART	Authority Requirements
BOD	basic operator data
CAA	civil aviation authority
CAP	corrective action plan
CAT	commercial air transport
CMA	continuous monitoring activity
CofA	certificate of airworthiness
EASA	European Union Aviation Safety Agency
EC	European Commission
ED	Executive Director
EU	European Union
FDM	flight data monitoring
FS	Flight Standards Directorate
FTE	full-time equivalent
GA	General Aviation
GM	guidance material
IATA	International Air Transport Association
ICAO	International Civil Aviation Organization
IOSA	IATA Operational Safety Audit
KPI	key performance indicator
MB	Management Board
MEDEVAC	medical evacuation
MS	Member State
MTOM	maximum take-off mass
NAA	national aviation authority
OPS SPECS	operations specifications
SD	Safety Directive
SL	Safety List
TCO	third-country operator
TCOA	third-country operator authorisation
USOAP	Universal Safety Oversight Audit Programme