

MEMORANDUM OF COOPERATION (MoC)

BETWEEN

the **EUROPEAN UNION AVIATION SAFETY AGENCY**

(hereinafter referred to as "EASA"),

with headquarters in Konrad-Adenauer-Ufer 3
50668 Köln, Germany,

represented by Patrick Ky, Executive Director,

AND

the **EUROPEAN UNION AGENCY FOR RAILWAYS**

(hereinafter referred to as "ERA"),

with headquarters in 120 rue Marc Lefrancq,
59307 Valenciennes, France,

represented by Josef Doppelbauer, Executive Director,

(hereinafter referred to individually as "a Party" or collectively as "the Parties")

PREAMBLE

Having regard to Regulation (EC) No 2018/1139 of the European Parliament and of the Council on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency ('the EASA Regulation')¹, and in particular Articles 1, 75 and 86 thereof;

Having regard to Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways ('the ERA Regulation')², and in particular Articles 2, 18, the second sentence of 35(2), and 54(4) thereof;

WHEREAS

- it is within the interests of the Parties to promote a high level of aviation- and railway safety and environmental protection in Europe as well as a high level of efficiency of the aviation- and railway systems;
- the Parties acknowledge their distinct specific technical expertise and capacities in the field of civil aviation and railways, and their respective unique roles in interfacing with industry, regulatory authorities and other stakeholders;
- the Parties have an understanding that, in order to ensure an efficient operation and interoperability of the European aviation- and railway safety systems, it is necessary to combine technical and scientific resources at a European level in order to establish a more harmonised regulatory system, exchange expertise and ensure resilience;
- the Parties share the common objective of strengthening their cooperation in certain areas of aviation- and railway research and innovation, with a view to reinforcing their roles and the effectiveness in the field of civil aviation and railways, while contributing to the safety and environmental protection targets of both Parties;
- an enhanced interest in mutual exchange of information between the Parties can generate relevant data and knowledge on existing and emerging areas of aviation- and railway risks, allowing for timely safety and environmental protection measures, while avoiding duplication of efforts and overlaps in their respective activities, and ensuring the best use of available resources;
- the Parties share the common interest to liaise and establish a coordinated exchange of information to the extent possible on the definition and implementation of their respective technical objectives, programmes and plans in view of identifying a strategic cooperation as well as making the best possible use of synergies in the area of common interest; and
- the Parties share the common interest to find synergies in using similar systems, platforms and methodologies for example for identifying potential emerging risks and to save costs.

Therefore, in consideration of the mutual interest above, the Parties have reached the following understanding:

¹ 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 (OJ L 212, 22.08.2018, p. 1).

² Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (OJ L 138, 26.05.2016, p. 1).

1. PURPOSE

The purpose of this Memorandum of Cooperation (MoC) is to promote inter-Agency cooperation. Specifically it is to further develop exchange of know-know between the Parties in the areas identified in this MoC.

2. SCOPE

The intended cooperation under this MoC encompasses in particular the following:

- 2.1. the coordination and mutual exchange of knowledge and expertise in areas of **common interest**, including the possibility for the temporary secondment of staff between the Parties pursuant to Articles 37 and 38 of the Staff Regulations and Article 51 of the Conditions of Employment of other servants ('Staff Regulations')³. This may entail consultation on matters of common interest as well as the establishment of a regular structured dialogue between the Parties for sharing of information, knowledge and experience in the domains of aviation- and railway safety and environmental protection and related regulatory, scientific or innovation developments of mutual interest to the Parties, in order to coordinate activities and to avoid duplication of efforts, as appropriate;
- 2.2. the exchange of relevant information, in particular with regard to the sharing of test results and outcome of research studies carried out by either Party, with due respect for the intellectual property rights (IPR) of each Party or of any third party concerned and in accordance with the applicable regulatory framework;
- 2.3. the facilitation and planning of the participation of ERA and EASA experts in each other's activities including the participation in committees, steering groups, meetings, events and relevant working groups established by either Party in matters in which the other Party has an interest or technical competence, as appropriate and agreed between the Parties;
- 2.4. the establishment of a regular structured dialogue between the Parties for sharing of information, knowledge and experience in the domains of aviation- and railway safety and environmental protection and related regulatory, scientific or innovation developments of mutual interest to the Parties; and
- 2.5. the consultation of one another on matters of common interest to coordinate their activities and to avoid duplication of efforts, as appropriate.

3. CORE AREAS AND MEANS OF COOPERATION

- 3.1. The core areas of cooperation under this MoC are intended to be the following activities:

- 3.1.1. European Co-ordination centre for Accident and Incident Reporting Systems (ECCAIRS):

EASA and ERA share a common interest in sharing knowledge and experience on collecting and analyzing safety occurrences, with a view in particular to assisting ERA in the development of their Information Sharing System (ISS) based on the EASA experiences with ECCAIRS (E2) in the aviation sector.

With the view to maximising the benefits of the pre-existing E2 developments, EASA

³ Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ P 045 14.6.1962, p. 1385).

and ERA will collaborate in the development of the ISS, starting from E2 functionalities. The collaboration will aim at developing the ISS based on configurations and adaptations of the current E2 version, as well as maximising the benefits of a multimodal approach to the sharing of safety-related information. This may potentially lead to future common development of E2 and the ISS. The practical approach to the funding of the cooperation in this field, as well as the applied development, operation and maintenance processes of E2 and of the ISS will be described in an Implementing Agreement to be concluded in accordance with Section 5.4

3.1.2. Big data:

With the aim of supporting the overall objective of the digital transformation of the transport and mobility sector, EASA and ERA will collaborate towards the creation of a Mobility Data Space that should provide further structure for data sharing in transport. Practically, this collaboration will build on the potential strong synergies and economy of scales in developing a global Big Data for Transport system, including but not limited to:

- i. Sharing a common Big Data platform (possibly with the connection/integration of a safety reporting solution common to both Agencies);
- ii. Sharing of Data Science resources;
- iii. Sharing a common data set (e.g. weather data, space-based traffic data, etc.);
- iv. Sharing of knowledge and experience on methodologies to develop use cases and governance;
- v. Additional potential benefits on trans-modal use cases.

3.1.3. Sustainability:

- i. Provide joint technical expertise to the European Commission (upon their request) concerning:
 - the assessment of regulatory options to facilitate multimodal transport services supporting and promoting air-rail multimodal journeys.
 - an EU framework for harmonised measurement of transport and logistics emissions;
- ii. Analyse the impact of electrification of the different transport modes and the use of different energy sources e.g. future of hydrogen, e-fuel;
- iii. Exchange on best practices related to the development of an environmental report;
- iv. Cooperate in the frame of EASA's 'Environmental Labelling Programme for Aviation' with a view to develop a consistent system to make transport modes comparable;
- v. Exchange about further developing the safety requirements for hydrogen powered trains and airplanes (both in the vehicle and infrastructure).

- 3.2. The Focal Points referred to in Section 5.2 will further facilitate contacts between Agencies' staff members on subjects of common interest as necessary and on a case-by-case basis.
- 3.3. In the event of contradiction between this MoC and Implementing Agreements referred to in Section 5.4, this MoC prevails, unless otherwise explicitly agreed between the Parties.

4. LEGAL IMPLICATIONS

- 4.1. This MoC is a statement of intent with non-binding, non-enforceable intentions declared therein. The Parties will fulfil their tasks under this MoC on a best-effort basis.
- 4.2. This MoC does not modify or supersede any European Union law or any national laws nor does it affect any provisions under other multilateral or bilateral agreements in force and applicable to the Parties.
- 4.3. There will be no third-party beneficiaries to this MoC.
- 4.4. The Parties agree that this MoC does not give rise to any legal entity. Neither does it establish any legal entities or corporate bodies or relationships of a similar nature.

5. GOVERNANCE AND IMPLEMENTATION

- 5.1. This MoC will be implemented in mutual consent and by regular consultation between the Parties.
- 5.2. For implementation of this MoC: (i) It will be governed and steered at strategic level by EASA and ERA Executive Directors; (ii) It will be coordinated and monitored on a day-to-day basis by one Focal Point for each Party; and (iii) In all core areas of cooperation (which are set out in 3.1), each Party will identify Points of Contact (PoC) who will perform technical, financial and administrative coordination.
- 5.3. The Parties mutually recognise their efforts in implementing the tasks under this MoC and will strive for joint deliverables and communications, where and when possible.
- 5.4. Further aspects of the cooperation between the Parties as well as detailed working methods and procedures under this MoC may be developed and agreed between the Parties and laid down in separate Implementing Agreements, remaining always within the mandates of the Parties, to be signed between the Parties. These separate Implementing Agreements will be stored in a dedicated section of the Sharepoint area hosted by ERA.
- 5.5. The Parties acknowledge that, in duly justified cases, such Implementing Agreements may contain provisions that deviate from the general provisions laid down in this MoC.

6. CONFIDENTIALITY

- 6.1. The Parties acknowledge that they are bound by the Staff Regulations, relevant codes of conduct and other relevant rules and both work within a legal framework and institutional environment which provides for the highest confidentiality standards with regard to the use and dissemination of the information handled within the context of their respective mandates.
- 6.2. The Parties intend to apply the necessary measures to ensure the appropriate confidentiality of the information or documents received in connection with this MoC that are considered as Confidential Information, and ensure that each person involved in the performance of the MoC complies with such measures. This includes both written and verbal information. Written

information will be clearly labelled as “Confidential Information” by the disclosing Party. Verbal information will also be identified as “Confidential” at the time of disclosure by informing the receiving Party of its confidential nature.

- 6.3. Subject to applicable national and international rules and regulations, the receiving Party undertakes that:
 - it intends not to divulge or disclose Confidential Information to third parties;
 - it intends not to use the Confidential Information otherwise than for the purpose of this MoC;
 - it intends to ensure that internal distribution to its employees takes place on a strict need to know basis;
 - it intends not to copy or reproduce Confidential Information without prior consent.
- 6.4. The intention is that the undertaking of the receiving party under Section 6.3 will not apply insofar as Confidential Information:
 - is already in the public domain without any breach of confidentiality. Unauthorised disclosure of information will not deem the information to be in the public domain;
 - is disclosed to comply with the law or legal process to which the receiving Party is subject. In this case the Parties will consult before such disclosure is needed;
 - is approved for release or use by written authorisation of the disclosing Party.
- 6.5. Each Party intends to continue to be bound by this confidentiality undertaking for 6 years after termination of this MoC.
- 6.6. In the event of an unauthorised disclosure or use of the Confidential Information and/or data occurring through a disclosure made by either Party, that Party intends to immediately notify the other Party in writing of such disclosure and intends to use all reasonable endeavours to assist the other Party in recovering and preventing the use, dissemination, sale, or other disposal of such Confidential Information and/or data.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1. For the purpose of the MoC “Intellectual Property Rights” shall mean any and all intellectual property rights, including without limitation copyrights, trade secrets, design rights, database rights (whether or not registered and including applications for registration and the right to make applications and renewals) and all other intellectual property rights or forms of protection of a similar nature having equivalent or similar effect anywhere in the world.
- 7.2. The Parties understand that this MoC does not impact or change any pre-existing Intellectual Property Rights (“Background”) that was held by the Parties prior or independent of this MoC. Ownership of the information, results and material exchanged under this MoC will therefore remain vested to the contributing Party unless owned by a third party. Under no circumstances will the mere possession of the information and material be interpreted as conveying express or implied ownership of intellectual property rights.
- 7.3. The Parties understand that rights on Intellectual Property that is jointly developed by the Parties pursuant to this MoC (“Foreground”) will be jointly owned by the Parties, except where the Parties agree otherwise. The Parties agree their intention to refrain from any sharing of such jointly developed information, results and material, without the prior written consent of the other, unless such sharing is required by law.

7.4. The Parties may access, view, retrieve, and print the information and material received under this MoC. They intend not to republish, sell, rent or otherwise sub-license, reproduce, duplicate, copy and exploit the received material for a commercial purpose, edit or otherwise modify this material, or redistribute it, except for content specifically and expressly made available for redistribution. This clause shall not restrict either Party in publishing its own research results or knowledge if required by the applicable laws and statutes.

8. PROTECTION OF PERSONAL DATA

- 8.1. The Parties acknowledge that any personal data included in or relating to this MoC including its execution shall be processed by EASA and ERA in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data (“Regulation (EU) 2018/1725”).
- 8.2. The categories of personal data undergoing processing in the context of this MoC are the following: contact details, personal identification data, professional information. No special categories of personal data in accordance with Article 10 of Regulation (EU) 2018/1725 are being processed under the present MoC.
- 8.3. The categories of data subjects are: Parties’ personnel in charge of the performance of this MoC, and Parties’ staff participating in a temporary secondment under this MoC.
- 8.4. In the context of this MoC, each Party shall be regarded as Controller for the processing of the above-mentioned categories of personal data only for the following purposes: (i) to manage the cooperation relationship under this MoC (ex: communication, etc.), and (ii) to allow the participation of temporary secondments of both Parties’ staff between the Parties.
- 8.5. The localisation of and access to the personal data processed by each Controller shall comply with the following: (a) the personal data shall only be processed within the territory of the European Union and the European Economic Area and will not leave that territory; (b) the data shall only be held in data centres located within the territory of the European Union and the European Economic Area; and (c) no access shall be given to such data outside of the European Union and the European Economic Area.
- 8.6. In case of staff exchange programmes each Party undertakes to provide to its relevant staff member (data subject) the privacy notice as provided by the other Party to enable the latter to comply with Article 16 of Regulation (EU) 2018/1725. Concerning EASA, the template privacy notice is attached to this MoC as **Annex 1**, concerning ERA it is attached as **Annex 2**.
- 8.7. In advance of processing operations under this MoC: (i) a final version of the privacy notices, the templates for which are at **Annex 1** and **Annex 2**, shall be agreed between the Parties; and (ii) the Parties shall enter into a joint controllership agreement should this be required.

9. CONFLICT OF INTEREST

- 9.1. Both Parties undertake to refrain, in accordance with the applicable Regulations and Rules, from any action that may give rise to a conflict of interest. Each Party commits to immediately inform the other in case of any activity that could constitute a conflict of interest.

9.2. There is a conflict of interest where the impartial and objective exercise of the functions of any person implementing this Agreement is compromised.

10. LIABILITY ASPECTS

10.1. In respect of liability, each Party is governed by its legal framework. In particular, EASA is governed by Article 97 of the EASA Regulation and ERA is governed by Article 72 of the ERA Regulation.

10.2. The Parties understand that, in the event of any action brought by a third party against any Party in connection with the performance of this MoC, the other Party has the intention to provide the required assistance.

11. FINANCIAL MATTERS

11.1. Each Party shall bear its own costs and expenses (incl. cost for experts, facilities, material, etc.) incurred in connection with the intended activities under this MoC, unless otherwise agreed by the Parties.

11.2. Under specific circumstances and depending on the nature of the activities concerned, the Parties may agree to share the costs incurred by the one or the other Party in connection with the activities performed under this MoC. Details in this respect shall be agreed between the Parties in writing.

12. DISPUTE SETTLEMENT

12.1. The Parties agree to settle any disagreement arising in connection with this MoC amicably by consultation and reconciliation between the EASA Executive Director and the ERA Executive Director and agree that such disagreement will not be referred to any international or domestic tribunal, or to a third party for settlement.

13. APPLICABILITY, AMENDMENT AND TERMINATION

13.1. This MoC will enter into force on the date on which it is signed by the last Party. It shall remain in effect for 5 years unless terminated by either Party. Before expiry of the 5 years the MoC may be renewed for another definite period upon written agreement of both parties.

13.2. This MoC may be amended in writing at any time by exchange of letters between the EASA Executive Director and the ERA Executive Director. The Parties may in particular agree to make such amendments in order to extend the scope of the intended cooperation laid down in Section 2 or to agree on additional core areas of cooperation addressed in Section 3.

13.3. This MoC may be terminated by either Party by providing six (6) months' written notice to the other Party.

13.4. If the MoC is terminated by either Party, the Parties agree to use their best efforts to mitigate any adverse effects to any joint projects or activities already in progress.

IN WITNESS WHEREOF, the Parties have signed this MoC in two (2) original copies of which each Party receives one copy:

For EASA

Patrick Ky, Executive Director

Signature: _____

Done at: Valenciennes

Date: _____

For ERA

Josef Doppelbauer, Executive Director

Signature: _____

Done at: Valenciennes

Date: _____

Annex 1 – Template EASA privacy Notice

Processing of personal data on the occasion of EASA Exchange Programme (staff exchange) with ERA

Personal data will be processed in accordance with Regulation (EU) No 2018/1725 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001.

A memorandum of understanding for the exchange programme shall be agreed between the Parties in advance of such exchange.

Purpose:

The purpose of the personal data processing is to allow the participation of EASA staff members to exchange programmes at ERA and to host experts at EASA from ERA within the framework of an exchange programme to facilitate the cooperation and the knowledge sharing between EASA and ERA. Please note that, in order to carry out the processing activities specified therein, EASA relies on Article 5(1)(a) of Regulation (EU) 2018/1725 in relation with Article 95 of Regulation (EU) 2018/1139.

Data controller:

EASA - European Union Aviation Safety Agency

Contact: Head of Human Resources Department: hr.info@easa.europa.eu

Personal data collected and further processed:

For the above-mentioned purpose, EASA processes the data of the following data subjects:

- EASA staff members (temporary agents, contract agents)
- ERA staff members (temporary agents, contract agents)

Categories of personal data processed:

- First name, surname; personnel number; job title; administrative status, grade, function and duties; telephone number, address; assignment
- Data being used to evaluate personal aspects of the data subject (ability, efficiency, conduct)

Other categories of personal data that might be processed:

- Data concerning the data subject's career (CV, etc.)
- Data concerning missions and journeys

Recipients of personal data:

In the context of such processing, the recipients of all or part of your personal data will be at EASA: HR Department, managers of staff members participating in an exchange programme, managers potentially hosting a visiting expert, HR focal points, mentors, and any other organisational functions relevant or contributing to the programme implementation, as appropriate, such as the Authority allowed to conclude contracts of employment, Internal Audit Service, Legal Department, Staff Committee.

This is without prejudice to a possible transfer to bodies in charge of a monitoring, auditing or inspection function in accordance with European Union legislation.

Data retention:

For the above-mentioned purposes, your personal data are recorded and stored as mentioned below:

Retention period applied to EASA staff members:

- Collected data for requests to an exchange programme: data are kept for 10 years
- The memorandum of understanding for the exchange programme is kept in the staff member's personnel file. It will be kept for the same length of time as other documents contained in the staff members' personnel files

Retention period applied to visiting experts:

- Collected data of visiting experts applying for an exchange programme: data are kept for 10 years
- The memorandum of understanding for the exchange programme will be kept for 10 years after the end of the exchange period

Contact & exercise of rights:

You have the right to request from EASA access to and rectification or erasure of your personal data or restriction of processing.

EASA should provide information on action taken on a request within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests.

A breach concerning your personal data should be communicated to you under certain circumstances. EASA should also ensure the confidentiality of electronic communications. Should you require further information concerning the processing of your personal data or exercise your rights, please contact the Data Controller by sending an email to hr.info@easa.europa.eu.

Recourse:

If you consider your data protection rights have been breached, you can always lodge a complaint with the EASA's Data Protection Officer (dpo@easa.europa.eu) or with the European Data Protection Supervisor: edps@edps.europa.eu

Annex 2 – Template ERA privacy Notice

Processing of personal data on the occasion of ERA Exchange Programme (staff exchange) with EASA

Personal data will be processed in accordance with Regulation (EU) No 2018/1725 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001.

A memorandum of understanding for the exchange programme shall be agreed between the Parties in advance of such exchange.

Purpose:

The purpose of the personal data processing is to allow the participation of ERA staff members to exchange programmes at EASA and to host experts at ERA from EASA within the framework of an exchange programme to facilitate the cooperation and the knowledge sharing between ERA and EASA. Please note that, in order to carry out the processing activities specified therein, ERA relies on Article 5(1)(a) of Regulation (EU) 2018/1725 in relation with Chapter 11 of the ERA Regulation.

Data controller:

ERA - the European Union Agency for Railways

Contact: Head of Resources and Support Unit: hr@era.europa.eu

Personal data collected and further processed:

For the above-mentioned purpose, ERA processes the data of the following data subjects:

- ERA staff members (temporary agents, contract agents)
- EASA staff members (temporary agents, contract agents)

Categories of personal data processed:

- First name, surname; personnel number; job title; administrative status, grade, function and duties; telephone number, address; assignment
- Data being used to evaluate personal aspects of the data subject (ability, efficiency, conduct)

Other categories of personal data that might be processed:

- Data concerning the data subject's career (CV, etc.)
- Data concerning missions and journeys

Recipients of personal data:

In the context of such processing, the recipients of all or part of your personal data will be at ERA: Resources and Support Unit, managers of staff members participating in an exchange programme, managers potentially hosting a visiting expert, mentors, and any other organisational functions relevant or contributing to the programme implementation, as appropriate, such as the Authority allowed to conclude contracts of employment, ICC and Ethics Officer, Legal Officers within the Executive Director Office, Staff Committee.

This is without prejudice to a possible transfer to bodies in charge of a monitoring, auditing or inspection function in accordance with European Union legislation.

Data retention:

For the above-mentioned purposes, your personal data are recorded and stored as mentioned below:

Retention period applied to ERA staff members:

- Collected data for requests to an exchange programme: data are kept for 10 years
- The memorandum of understanding for the exchange programme is kept in the staff member's personnel file. It will be kept for the same length of time as other documents contained in the staff members' personnel files

Retention period applied to visiting experts:

- Collected data of visiting experts applying for an exchange programme: data are kept for 10 years
- The memorandum of understanding for the exchange programme will be kept for 10 years after the end of the exchange period

Contact & exercise of rights:

You have the right to request from ERA access to and rectification or erasure of your personal data or restriction of processing.

ERA should provide information on action taken on a request within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests.

A breach concerning your personal data should be communicated to you under certain circumstances. ERA should also ensure the confidentiality of electronic communications. Should you require further information concerning the processing of your personal data or exercise your rights, please contact the Data Controller by sending an email to hr@era.europa.eu.

Recourse:

If you consider your data protection rights have been breached, you can always lodge a complaint with the ERA's Data Protection Officer (dataprotectionofficer@era.europa.eu) or with the European Data Protection Supervisor: edps@edps.europa.eu