

**Report on
Single European Sky Implementation
2013**

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Contact name and address for enquiries: Beatrice Thomas Beatrice.thomas@ec.europa.eu European Commission Rue de Mot, 24-26 Brussels 1000 Belgium		

Authorisation :			
	Name	Signature	Date
Prepared by	Isabel Clara Barbero	<signed in the original>	01.12.2014
Reviewed by	Paul Harvey	<signed in the original>	01.12.2014
Validated by	Augustin Klus	<signed in the original>	01.12.2014
Approved by	Trevor Woods	<signed in the original>	02.12.2014
Authorised by	Patrick Ky	<signed in the original>	02.12.2014

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1 Executive summary

In accordance with the Single European Sky Framework Regulation (EC) No 549/2004, Member States have an obligation to report to the European Commission on the implementation of the Single European Sky legislation. Furthermore, Member States have to report to the Commission on the application of the Flexible Use of Airspace (FUA), according to Commission Regulation (EC) No 2150/2005.

The Commission has requested the European Aviation Safety Agency (EASA) to submit an integrated report on fulfilment of these regulatory obligations, avoiding multiple reporting requests.

This report is based on data gathered during EASA standardisation inspections in the field of ATM/ANS, including the related follow-up inspections, conducted in the period from 1 January 2012 to 1 June 2014. For the States not yet inspected by EASA the report includes an overview created by using data collected by means of an on-line questionnaire that was made available to the national supervisory authorities in January 2014.

The report shows that in general the authorities have developed and implemented the necessary procedures and processes to fulfil their obligations. In the key area of oversight of changes of the ATM functional system, establishment of a comprehensive system including a document management is in place in a significant number of authorities. Also, formalisation of arrangements between the authorities to allocate oversight responsibilities in cases of cross-border services are now in place via overarching NSA agreements at FAB level.

The following issues have been identified as potentially having an impact on the safe implementation and accomplishment of SES objectives:

- **Authority personnel qualification and training**

Inability of authorities, compounded by resource constraints, to ensure that their staff have the required operational and technical knowledge.

- **Certification obligations**

Lack of robust oversight, resulting in non-compliances not being properly managed or corrected in due time. As an example, certification of small service providers, notably those providing AFIS, was not always conducted.

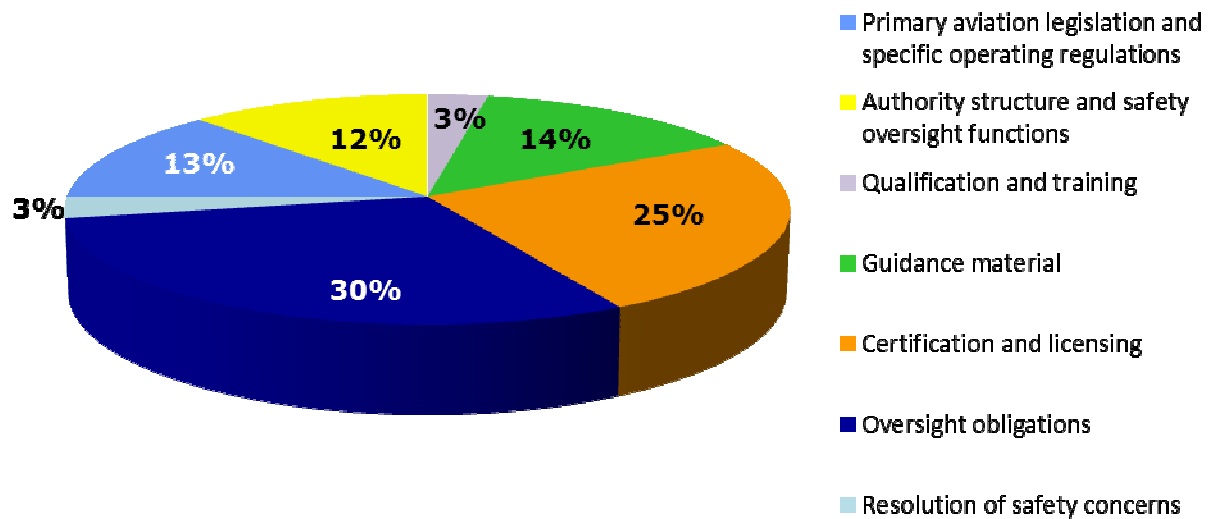
- **Training Organisations and Licencing**

Non-conformities in training and licenses that would not support mutual recognition.

- **Continuous oversight obligations**

Authorities not always addressing all the functional areas in the required 2-year cycle within their oversight program. The oversight of Air Space Management and Air Traffic Flow Management often does not receive sufficient priority.

Regarding the EU authorities, the highest percentage of the total number of open safety related non-compliances is in the area of continuous oversight obligations (30%) closely followed by certification obligations (25%). The lack of appropriate guidance for oversight staff (14%), deficiencies in the empowerment and/or establishment of the competent authorities (13%) and issues with the structure and oversight functions (12%) are the next most significant areas where open safety related non-compliances were found.



Status of open¹ safety related non-compliances – EU authorities

¹ As of 1st June 2013

2 Introduction

2.1 Background

Pursuant to Article 12.1 of Regulation (EC) No 549/2004 as amended, EU Member States have to submit to the European Commission annual reports on the implementation actions taken pursuant to the SES Regulations. Additionally, under Article 8 of Commission Regulation (EC) No 2150/2005 Member States have to report to the Commission on the application of the flexible use of airspace (FUA).

As the legislator has extended EASA's competences to include, in particular, ATM/ANS through Regulation (EC) 1108/2009 amending the EASA Basic Regulation (EC) 216/2008, a comprehensive reporting of the implementation of the SES-related obligations should also include the provisions of the EASA Basic Regulation, as amended, as well as its implementing rules built upon the provisions of the SES Regulations. Therefore the reporting mechanism will also include the obligations of States in respect of the EASA Basic Regulation and its Implementing Rules in the ATM/ANS field.

The reporting obligations on SES implementation and FUA were managed by EUROCONTROL at the Commission's request until 2012 by adding additional chapters in the Local Single Sky Implementation (LSSIP). The LSSIP (formerly known as ECIP/LCIP) was originally intended to coordinate the planning and performance monitoring of operational and technical deployments across ECAC. This mechanism was adapted to accommodate the Commission's mandate to facilitate the States to report on SES and FUA.

In 2012, in collaboration with EASA, the Commission started to simplify the reporting system and to review the questionnaire to be addressed to the Member States, in line with the SES and EASA regulatory obligations and with the objective to complete the standardisation inspections with Air Traffic Management (ATM) and Air navigation Services' (ANS) requirements as part of new EASA competences via Regulation (EC) No 216/2008 as amended.

After EASA extended its competences and started its inspection activities, the Commission requested EUROCONTROL to cease this activity and tasked EASA to deal with it.

The Commission informed Member States on the simplification of the SES reporting mechanism during the meetings of the SSC (Single Sky Committee) held during 2013. The extension of EASA tasks in the field of ATM/ANS gives the opportunity to simplify reporting requirements and to link them with EASA activities in this field, namely standardisation inspection in the area of ATM/ANS.

2.2 Objectives

The 'Annual Reporting on SES Implementation' project consists of the collection, analysis and verification of the data (whenever applicable) provided by the States through the EASA's on-line questionnaire mechanism.

Reports have been collected from all 28 EU Member States, Iceland, Norway, Switzerland and the following non-EU Countries who have working arrangements with EASA in the ATM/ANS domain: Albania, Armenia, Bosnia and Herzegovina, Georgia, Moldova, Monaco, Montenegro, FYROM and Serbia, providing an overview of the status of the implementation in 40 States/Countries and giving them a comprehensive pan-European perspective.

The States' annual reports will cover all SES Legislation in force by the 31st of December of the reporting year. To ensure this, EASA, in cooperation with the Commission and stakeholders, will maintain and update the on-line questionnaire so as to reflect amendments to existing legislation.

The data collected from Member States has been consolidated and analysed into this report on the SES Legislation Implementation as per the following methodology:

The responsibility for this report activity has been undertaken by the ATM/ANS Standardisation Section of EASA. For those States visited by the ATM/ANS standardisation team, the data collected through the on-line questionnaire have been used for the preparation of the audit and further verified in the light of the standardisation visits performed by the team.

All standardisation team members have been team leader on one or more visits to the States concerned; as such, each team leader has checked the data relating to the States where they have the lead and provided the status of the open safety related non-conformities ('D' findings) as well as of the most significant open standardisation related non-conformities ('C' findings) as of the 1st of June 2014.

The overall process has been managed by EASA and coordinated with the Commission.

2.3 Structure of the report

The 'Annual Report on SES Implementation' data is structured as follows:

- States not visited by EASA during the reporting period: The reports are based on the data submitted via the on-line questionnaire; for the next few years, they will contain a comparison between the status of the previous (n-1) year and the present (n) year with the objective of showing the improvements and weaknesses.
- For those States audited by EASA: The reports are the result of the verification performed by the team, by cross-checking the questionnaire with the results of the audit and the implementation of the corrective actions. For the next few years, the reports will contain a comparison between the status of the previous (n-1) year and the present (n) year with the objective of showing the improvements and deficiencies.

The analysis has been done on the following areas:

- Area 1: Primary Aviation legislation and specific operating regulations
- Area 2: Competent authority structure and safety oversight functions
- Area 3: Competent authority personnel qualification and training
- Area 4: Acceptable Means of Compliance (AMC) and Guidance Material (GM)
- Area 5: Certification obligations and licensing
 - o 5.1 Certification
 - o 5.2 ATCO licensing
 - o 5.3 Training Organisations
- Area 6: Continuous oversight obligations
 - o 6.1 Continuous oversight obligations – General
 - o 6.2 Continuous oversight obligations – Changes management
 - o 6.3 Continuous oversight obligations – ASM and ATFM
 - ASM – Flexible Use of Airspace
 - ATFM – Air Traffic Flow Management
 - o 6.4 Continuous oversight obligations – MOR
- Area 7: Resolution of Safety concerns

2.4 Applicable legislation²

- Reg. (EC) No. 549/2004 Framework Regulation as amended by the Reg. (EC) 1070/2009;
- Reg. (EC) No. 550/2004 Service Provision regulation as amended by the Reg. 1070/2009;
- Reg. (EC) No. 551/2004 Airspace regulation as amended by the Reg. (EC) 1070/2009;
- Reg. (EC) No. 552/2004 Interoperability regulation as amended by the Reg. 1070/2009;
- Reg. (EC) No. 216/2008 as amended by the Reg. (EC) No 1108/2009 (Basic regulation);
- Reg. (EU) No. 1034/2011 Safety oversight in ATM/ANS;
- Reg. (EU) No. 1035/2011 Common Requirements for the provision of Air Navigation Services;
- Reg. (EU) No. 805/2011 Detailed rules for Air Traffic Controllers licences and certain certificates;
- Reg. (EC) No. 482/2008 Establishing a software safety assurance system to be implemented by ANS providers;
- Reg. (EC) No. 691/2010 Performance scheme for ANS and network functions;
- Reg. (EU) No. 923/2012 Single European Rules of the Air;
- Reg. (EC) No. 255/2010 Common rules on ATFM;
- Reg. (EC) No. 2150/2005 Common rules for the FUA;
- Reg. (EC) No. 73/2010 Requirements on the quality of aeronautical data and aeronautical information;
- Directive 2003/42 (EC) On occurrence reporting in civil aviation.

² As of December 2013

3 States/ Countries

The authorities included in this report are:

3.1 Authorities inspected by EASA (January 2012 to June 2014):

2012 (1 st half)	2012 (2 nd half)	2013 (1 st half)	2013 (2 nd half)	2014 (1 st half)
Austria Greece Poland Serbia ¹	Belgium Bulgaria Croatia Czech Republic Denmark Finland	Albania ¹ Cyprus The Netherlands Portugal Spain	Germany Italy Luxembourg Switzerland ² Austria (Focused) Poland (Focused) Serbia (Focused)	Hungary Malta Sweden Croatia (Focused) Finland (Focused) Greece (Focused)

¹ Non-EU

² EFTA

3.2 Authorities not inspected by EASA (Reporting period January – December 2013):

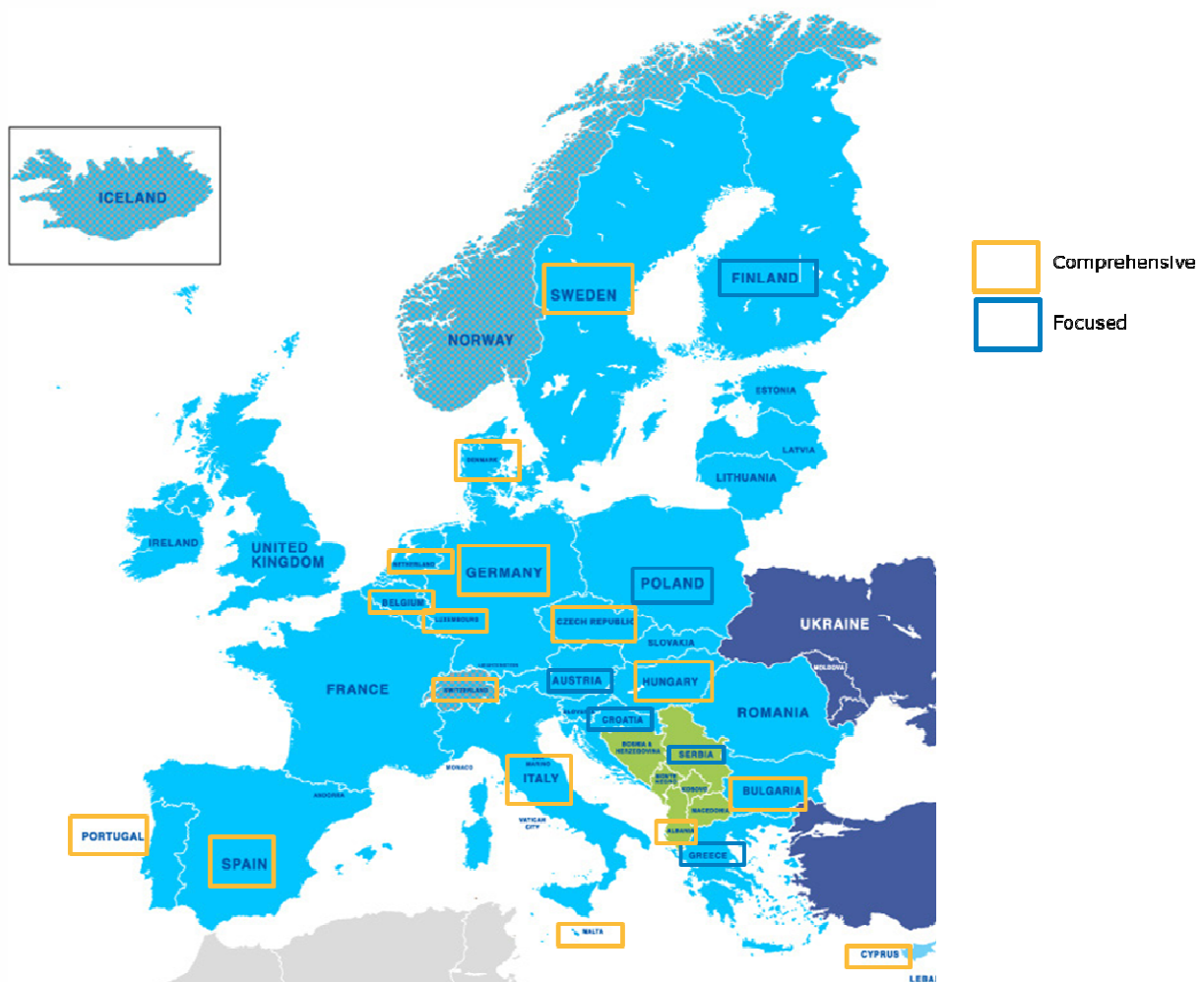
EU	EFTA	EASA WA
Estonia France Ireland Latvia Lithuania Romania Slovakia Slovenia UK	Iceland Norway	Armenia Bosnia-Herzegovina FYROM Georgia Moldova Montenegro

WA: With working arrangements with EASA

4 Authorities inspected by EASA

For those authorities inspected by EASA there are several aspects to take into account: First is the fact that the audits started at different times and therefore some of the States are much more advanced in their implementation adherence than others, simply because they were audited first. The report presents States at different stages of their implementation adherence development depending on which point they are at in the audit process.

The second aspect is the nature of the audits. Inspections are sampled-based exercises and not all deficiencies are spotted at the time of the audit. It is only by continuous monitoring and oversight – usually after four years (CMA cycle) - that a satisfactory level of confidence on the status is achieved.



**CA/NSAs inspected by EASA
(January 2012 – June 2014)**

The non – conformities presented in the following pages depict the situation in June 2014. A number of these non-conformities will have been detected in other authorities inspected earlier in the inspection programme but they have been resolved via completed corrective action plans; moreover, six of them have had the implementation of their corrective action plans verified through focussed inspections. It is expected that the identified deficiencies will be progressively corrected as the audit process continues.

In theory, the earlier an audit has taken place in the programme, fewer non-conformities should remain open. However, this is not always the case, particularly when corrective actions are not fully under the authorities' control. Non-conformities such as independence from ANSPs or lack of adequate staff are examples that necessarily need the involvement of other State institutions at higher levels, and thus can take more time to resolve.

The Regulation (EU) 628/2013 in the article 18.1 classifies non-conformities in the following order of severity:

- Class C: non-conformity with the applicable requirements, raising mainly standardisation concerns;
- Class D: non-conformity with the applicable requirements, raising standardisation concerns and safety concerns if not timely corrected;
- Class G: immediate safety concern.

The following chapters show the 'D' non-conformities and the number of Countries/States that have that finding open on the 1st of June 2014. In some cases examples and explanations have been added for a better understanding.

It might happen that the inspection reports of different authorities contain the same finding with a different classification ('C' instead of 'D'). The classification depends on the safety implications that the non-conformity may cause in the local context if not corrected; as an example. a typical case can be the absence of rules for ATSEPs, an explanation of which can be found in the following pages.

It is worth noting that there were a number of 'D' findings raised during audits that were easily and rapidly corrected, therefore these findings are not attributed to the States concerned.

4.1 Primary Aviation legislation and specific operating regulations

It is quite common to find references to superseded EU regulations, EC directives and to regulatory requirements that are no longer applicable in national legislation. Some of these provisions are sometimes inconsistent with current EU regulations.

It is well known that should an inconsistency arise between national and EU rules, the latter prevail, thereby abrogating any potential safety issue. However, it has been noted that the continuing adherence to national rules that are inconsistent with EU Regulation has been identified as a contributing factor in cases of non-conformity.

It has also been noted that ANSPs in seeking to be certificated have been subjected to additional requirements in the national rules. This is contrary to the 'no more no less' principle, which is the basis of the mutual recognition of the certificates in the EU. The 'no more no less' principle implies that all ANSPs are certified in accordance with the same requirements. This principle is analogous to ATCO licences and Training Organisation certificates.

Thus far no safety issues have been identified due to the aforementioned issues, therefore they have been classified as 'C' and as a consequence do not appear in this report. However, for sake of clarity, the public benefit (e.g. ANSPs, ATCOs, TOs and the CA/NSA personnel), and in order to prevent potential safety concerns, CA/NSAs and Member States in their respective areas of competence are encouraged to:

- ensure that national regulations are regularly reviewed, assessed, maintained in an up to date state and in line with the European regulatory framework³.
- keep abreast of the new regulations and, if possible, participate in the EASA rulemaking groups and/or in the consultation process.

Primary Aviation Legislation

Transposition of ICAO Annexes into national regulations are not consistent with relevant ICAO provisions contained in the EU requirements.

Reg.(EU) 1035/2011, Annexes II, III, IV, V

This finding is raised whenever the consistency between the transposed ICAO Annexes and the ICAO provisions listed in the Reg.(EU) 1035/2011 Annexes II,III, IV and V is not ensured. It is classified as safety relevant if found to be the root cause or contributing factor of a safety issue.

States: 1

³ Q1.4 of the Appendix 1 to AMC2 SKPI Reg. (EU) No. 691/2010 (Performance Regulation).

Enforcement to the CA/NSA

National Laws on Civil Aviation do not empower the Competent Authorities to take enforcement measures.

Reg.(EC) 550/2004 Art.7.7, Reg. (EU) 1035/2011 Art. 6.3

This lack of empowerment may have an impact on the closure of the corrective actions identified during certification and/or oversight process, preventing the CA from taking further measures when they remain open.

In some cases the lack of empowerment was not limited to the inability to impose sanctions other than revocation/suspension of the certificates and licenses, but to issue binding rules for which the EU Regulations have provisions to enable the CA/NSAs to do so. This situation has forced the CA/NSAs to look for alternatives that led to a non-conformity.

States are encouraged to review the current legal instruments giving competences and empowerment to their competent authorities in order to provide them with a sound legal basis to exercise their duties.

States: 2

Issuance of safety rules for ATSEPs

The CA/NSA has not issued appropriate safety rules for engineering and technical personnel who undertake operational safety-related tasks.

Reg. (EU) 1035/2011, Art 9

This finding is considered as safety relevant when ANSPs do not have adequate safety rules of their own in place for ATSEPS (ANSP employees, subcontracted or operating organisations).

The fact that this requirement is contained in the certification of air navigation providers regulation has sometimes led to an understanding that this was a requirement for the ANSP (as set forth in the Annex II, 3.3) and not a task for the authority.

It is strongly recommended that authorities who have yet to issue such rules should consider the EASA CRD to the NPA 2013-08 (ATSEPs part).

States: 3

4.2 Competent authority structure and safety oversight functions

Establishment of the CA/NSA

No evidence that the authority was legally established as an CA/NSA

Reg. (EC) 549/2004 Art. 4.1, Reg.(EU) 1034/2011 Art. 3, Reg.(EU) 1035/2011 Art. 3

Only one case has been identified in which no evidence was provided that the authority was legally established as an NSA. The corrective action plan has been agreed and the measures are on-going.

The previous recommendation stated in the 'enforcement to the CA/NSA' applies equally in this case.

States: 1

Oversight capability

The State has not ensured that the CA/NSA has the necessary capability to ensure the safety oversight of all organisations operating under its supervision and to carry out the actions identified in the referenced regulation.

Reg.(EC) 549/2004 Art. 4.4, Reg.(EU) 1034/2011 Arts.12.1

This lack of capability is raised whenever there is a shortage of resources, there are no staff with knowledge and practical experience in relevant areas under the CA/NSA's responsibility and/or when the CA/NSA did not adhere to its qualification process.

Note: It has been found in several cases that the sentence "define and document the education, training, technical and operational knowledge" of the article 12.3 (a) of Regulation (EU) 1034/2011 has not been correctly translated from English to the national language, replacing "technical and operational knowledge" by "technical and/or operational knowledge" or "technical or operational knowledge". The Commission advice to States is to address this issue to them.

States: 5

Independence from the ANSPs/TOs

The State has not ensured independence of the CA/NSA through adequate separation, at least at the functional level, between the CA/NSA and the Service Provider/Training Organisation.

Reg. (EC) 549/2004 Art.4.2, Reg. (EU) 805/2011 Art.21

This lack of independence has been identified in several States but circumstances differ e.g. institutional set-ups, staff detached from the ANSP working for the CA/NSA, staff originally from the ANSP working as CA/NSA for a limited period of time, conflicts of

interest. Corrective action plans can take longer to implement depending on the particular situation.

No cases have so far been found where there has been a conflict of interest/lack of independence between a CA/NSA and a Training Organisation.

States: 2

Arrangements with other institutions

No evidence could be provided that the State has developed mechanisms to ensure that Competent Authorities establish formal coordination between them with respect to areas of interface.

Reg. (EU) 1034/2011 Art.3

This is not a common case since it may only be present on those Countries with different competent authorities that have to interact in the ATM/ANS and ATCO fields. An example may be the oversight of changes to meteorological equipment installed in the ANSP premises.

States: 2

Agreement/arrangement for cross border provision of ATS

No formal agreement has been concluded by the CA/NSAs for the oversight of the cross-border services.

Reg. (EU) 550/2004 Arts.2.4 and 2.5; Reg. (EU) 1034/2011 Art.4.2

This finding is considered safety relevant whenever roles and responsibilities are not defined or informal contacts do not take place. So far all FAB agreements at CA/NSA level contain provisions for oversight in case of cross border services. For the rest of the cases (i.e. outside the FAB), the agreements are still on going.

States and NSAs are strongly encouraged to conclude agreements relating to cross-border supervision.

States: 2

4.3 Competent authority personnel qualification and training

Those findings raised in this area principally related to authorities being unable to recruit personnel who had operational knowledge (e.g. ATCOs, pilots, technical personnel). Training of staff also remains problematic, it is often afforded a low priority as there is insufficient time available to conduct this activity as in many cases the already tight staffing levels are struggling to meet the core oversight tasks.

Qualification

The CA/NSA does not ensure that staff involved in safety oversight activities are competent to perform the required functions.

Reg.(EU) 1034/2011 Art.12.3

As already mentioned in the Executive Summary, the findings raised in this area relate to the authorities' personnel resources with a required operational or technical knowledge. In addition, the adequate training of staff was also identified as a challenging issue. This has been specially noted in the MET and ATFM areas.

Competent authorities are encouraged to exchange views on respective corrective action plans to ascertain possible ways forward.

Authorities should also ensure that all the requirements applicable to its staff also apply to subcontracted personnel conducting audits on behalf of the CA/NSA.

States: 3

Subcontracted organisations

The CA/NSA can not demonstrate that they assess the corrective actions by themselves as they are reliant on information initially provided by subcontracted entities.

Reg.(EU) 1034/2011 Art.8.3

States: 1

4.4 Acceptable Means of Compliance (AMC) and Guidance Material (GM)

Guidance material

Certification and safety oversight audit processes are not supported by documentation specifically intended to provide safety oversight personnel with guidance to perform the tasks as identified in the process.

Reg.(EU) 1034/2011 Art 6.2(b); Art.10.2(b); Reg. (EU) 805/2011 Art. 27.1

This non-conformity has been raised whenever the guidance material for the inspectors was misleading, incomplete or non-existent in one or several areas.

Authorities are encouraged to document guidance and procedures in a way that suits the size, tasks and profile of the staff, are understandable and provide clear guidance. It is also advisable to avoid long and theoretical instructions.

In addition, it is also beneficial to be aware and to participate on the rulemaking process that EASA has in place to advance possible changes that might impact on the processes and staff training.

States: 7

CA/NSA procedures

The CA/NSA process used for initial and on-going oversight is incorrect.

Reg.(EU) 1034/2011 Art. 6

States: 1

The CA/NSA does not consistently adhere to its own documented procedures.

Reg.(EU) 1034/2011 Art. 6

This finding has also been raised whenever the procedures were incomplete.

States: 5

The CA/NSA has not established a process in order to verify (several requirements).

Reg.(EU) 1034/2011 Art. 6

This finding has also been raised whenever the procedures were incomplete.

States: 1

4.5 Certification obligations and licensing

Non-conformities raised about ANSP certification are broken down into three distinct areas with AFIS certification being treated separately because of its peculiarities.

In one case it was identified that an ANSP was providing services without being certified and in another case an organisation holding a certificate did not provide the stated service as they were provided by a sub contracted company.

In the remainder of the cases the most common non-conformities are certificates with open non-compliances and/or certificates being issued without ensuring all the certification requirements were checked.

4.5.1 Certification

ANSP certification

The CA/NSA has not ensured that the Air Navigation Services are provided by a provider which is certified.

Reg.(EC) 550/2004 Art. 7.1; Reg.(EC) 216/2008 Art. 8b(2)

There is one case (a non-EU Country) where the ANSP is not yet certified. In addition to this, it is worth noting that in a number of cases a CNS provider holds the certificate but it is actually another organisation (operating organisation) that provides support to the ATS and CNS services. In this case the finding is raised against 'ensuring safety of the services 'i.e. Reg.(EU) 1035/2011 Art. 3.1 and the corresponding Annex, Annex II for CNS, Art. 3 Safety Management System.

In one case it was found that the AISP who provided certain aeronautical information services was not certified.

Authorities are to check that the safety of services is ensured by the certified service provider when operating organisations or sub-contracted companies are undertaking safety related tasks on their behalf.

States: 3

The CA/NSA issued/reissued the ANSP's certificate with open non-compliances.

Reg. (EU) 1035/2011 Art. 4.3

This is one of the most common non-conformities. Since continuity of the services must be ensured, the authorities found a compromise by issuing the certificates with attached conditions (subject to the correction of the non conformities within the agreed deadlines). In one case it was found that when these deadlines were not met the CA/NSA did not take appropriate measures. Lack of empowerment is also an issue.

The issuance of certificates with open non compliances is being addressed by EASA through its CRD to NPA 2013 – 08 (ATM/ANS.AR.C.020 Issue of certificates).

Authorities are encouraged to follow the approach contained in that text.

States: 5

The CA/NSA could not demonstrate verification of compliance of the ANSPs with all the common requirements before issuing their certificates.

Reg. (EU) 1035/2011 Art. 4.2

This non conformity is also present in the post-certification oversight (continuous oversight obligations).

States: 6

AFIS certification

The CA/NSA has not ensured certification and oversight of AFIS providers.

Reg.(EC) 550/2004 Art. 7; Reg.(EC) 216/2008, 8b; Reg.(EU) 1035/2011 Annex II

In one case sampling showed that an AFIS was certified without verifying all applicable requirements.

The main causes of this non-conformity were the national set-ups and/or the interpretation of what is considered as 'AFIS'.

States: 5

4.5.2 ATCO licensing

Most of the findings classified as safety relevant were found in the process of issuing/revalidation/renewal of the licences, local language endorsement and recording of working hours.

It is worth noting that sampling of licences revealed a significant number of non-compliances. Only the safety relevant ones are listed below.

Although it is not safety relevant, it is recommended that the State checks whether it has notified European Commission and EASA the name of the Competent Authority responsible for the tasks contained in Reg. (EU) 805/2011.

Issuing, validation, renewal

Reg.(EU) 805/2011 Art.8, art.12.3, art. 14, art. 16, art. 23.3, art. 27.2, Annex II (C),
Reg.(EC) 216/2008 Annex Vb, 4 (c) (iii), 4 (g), 4 (h)

The following deficiencies were identified in the **licensing process** (the list is not exhaustive):

- Not all endorsement revalidation criteria were verified
- National regulation imposed additional conditions
- Some validity periods are not in accordance with the referenced regulation
- CA/NSA database errors
- Formal approval of ANSP procedures for reduced medical fitness was missing
- No procedure in place to ensure that all required information is verified before issuing a licence
- No approval of competence examiners or competence assessors
- Assessment of pedagogical skills of OJTI
- No procedure for ATCO language proficiency
- Not all UTPs are approved
- None of the UCS were approved
- The procedure does not ensure that OJTIs receive regular refresher training nor the assessors
- Issuance of student ATCO licences to former MIL controllers not ensuring compliance with the regulation requirements
- Class 3 medical certificates are issued by personnel not approved in accordance with Regulation (EU) 805/2011

States that presented one or several of the mentioned non-conformities: 7

The following deficiencies were identified when sampling some of the **licences**:

- No indication of language endorsements
- No indication of ratings, rating endorsements and unit endorsements
- No indication of OJTI endorsement
- No indication of date of validity of OJTI endorsement
- Validity periods not in accordance with the Regulation
- Time limitations
- National language endorsement is not indicated in the templates's field

States that presented one or several of the mentioned non-conformities: 5

In both cases (process and templates) authorities are encouraged to:

- *Review current procedures and documents which in some cases are based on superseded norms (transposition of ESARR 5 and Dir. 2006/EC/23) and adapt them to the regulation in force, currently Reg. (EU) 805/2011;*
- *Keep aware of the publication of the revised regulation (see EASA opinion 11/2013).*

States are encouraged to review the current national legal basis related to ATCO licensing and certification of TOs in order to provide authorities and users with a clearer and consistent legal framework.

Local language requirements

Reg.(EU) 805/2011, Art.8.2(e), art.8.3, art.9.3(e), art.9.4, art.13.2, art. 13.3, art. 13.7, Annex I, 1.1(h)(i) and Annex II Part A

The following deficiencies were identified:

- No assessment procedure or phraseology for local language
- Local language proficiency is not tested
- Local language phraseology incomplete or not existing
- No approved local language phraseology

States that presented one or several of the mentioned non-conformities: 5

Authorities are advised to take into account all the applicable requirements (see regulatory references) in order to establish the local language requirements in the appropriate way.

It is also recommended to check whether the local language requirements have been notified by the State to EASA (art. 13.2 of Reg. (EU) 805/2011).

Working hours recording

The CA/NSA does not ensure that the ANSP correctly records the hours effectively worked in the sectors, group of sectors or in the working positions for every licence holder working in their units.

Reg.(EU) 805/2011, 12.3

Accurate recording of effective ATCO working hours is essential to ensure that ATCOs have the minimum level of hours to maintain currency.

States: 1

Medical certificates

Class 3 medical certificates are issued by personnel not approved according to Reg. (EU) 805/2011.

Reg. (EC) 216/2008 Art.8c.6 , art.8c.7; Reg. (EU) 805/2011 Art.15.2, art.15.3

States: 1

4.5.3 Training Organisations

TO certificate

The CA/NSA does not ensure that the Organisation providing unit and continuation training (or part of) of Air Traffic Controllers is certified by them.

Reg.(EU) 805/2011 Arts.18.1, 22.2 (c) and 27.2

Despite of most of the authorities conduct oversight of this training part, it has been found that some of the ANSPs are not certified as TO.

It is recommended that authorities ensure that the ANSPs providing unit and continuation training meet the requirements of the TOs (chapter IV of Reg. (EU) 805/2011).

States: 2

TO certification process

Reg.(EU) 805/2011, Art. 18.2, art. 19, art. 20, art.22(2)(f), art.27, art.28,
Annex II Part A

The following deficiencies were identified in the certification process (the list is not exhaustive):

- No verification of all/some certification requirements
- No on-site audit prior to issuing the certificate
- No approval of the ANSP UCSs and OJTI courses
- No verification that the TO is adequately staffed and equipped, that there is a management system in place and that a methodology for the courses exist.

States that presented one or several of the mentioned non-conformities: 5

TO on-going oversight

Reg. (EU) 805/2011, Art.22.2(f), art.27.2, art.28.2

The following deficiencies were identified in the on-going verification process

- The CA/NSA's procedures for maintaining the validity of training organisations' certificates is not functioning
- the CA /NSA does not monitor compliance with the requirements and conditions attached to all training organisation's certificates
- The CA/NSA does not audit TOs on a regular basis
- No on-site audit post-certification
- Observation raised during certification of the TO has never been followed up.

States that presented one or several of the mentioned non-conformities: 5

Approval of UTPs, UCSs and training courses

Reg.(EU) 805/2011 Art.22(2)(d), Art. 12.1, Art. 12.4, Annex II(C)

The current UTPs and UCS approved by the CA/NSA do not fully comply with the referenced regulation.

There is one case (a non-EU Country) where it happened.

States: 1

The CA/NSA approved UCSs differentiate between minimum number of working hours to retain unit endorsements.

States: 4

The CA/NSA could not demonstrate approval of the training courses used by certified TOs.

States: 1

No assurance that all UTPs address training in safety, security and crisis management during unit and continuation training.

States: 2

Examiners and competence assessors

Reg.(EU) 805/2011 Art.22(2)(d)

The CA/NSA could not provide evidence of the existence and approval of the assessor training courses and the unit training plan.

States: 1

The CA/NSA could not provide evidence that all approved assessors have demonstrated the ability to assess the performance of, and conduct tests and checks on ATCOs and, that all approved assessors receive regular refresher training.

States: 1

Overall, in view of the numerous non-conformities raised in the areas of ATCO licensing and Training Organisation certification and oversight, it is strongly recommended that States and their respective competent authorities consider reinforcing these areas.

4.6 Continuous oversight obligations

4.6.1 Continuous oversight obligations - General

Safety oversight obligations

The CA/NSA could not fully demonstrate that it exercises its safety oversight obligations in accordance with the referenced regulations.

Reg.(EC) 550/2004 Art. 2.2; Reg 1034/2011 Art.4.1

This finding is usually substantiated by the number of Undertaking Non compliances identified during the visit to the organisations under CA/NSA's oversight. It also relates to issues associated with oversight programme and/or lack of oversight in the ATFM domain.

States: 4

Annual inspection programme

The ongoing oversight programme does not address all the functional areas that have to be checked within the required two year period.

Reg.(EU) 1034/2011 Art.4.1 , Art.7.3(d)

States: 5

Other deficiencies identified were:

- No annual update (Reg. (EU) 1035/2011 Art. 8);
- Not based on the risk-based assessment (Reg. (EU) 1034/2011 Art. 7.3 (c))
- Changes to the audit programme are not reflected (Reg.(EU) 1034/2011 Art.7.3)

No evidence was provided that over a two year period all relevant areas of the safety related regulations are adequately addressed.

Reg.(EU) 1034/2011 Art.4.1 , Art.7.3(d); Reg.(EU) 1035/2011 Art.8

Postponement, cancellation of audits and/or areas not included in the annual inspection programme were identified when implementing the programme.

Non conformities were also raised when no evidence was found that the audits covered all the organisations, services and network functions operating under the supervision of the competent authority and/or all the areas of potential safety concern with a focus on those areas where problems were identified.

It is recommended that authorities review the current inspection programmes to ensure that audits are conducted in a manner commensurate to the level of risk posed by

organisations' activities while keeping compliant with the requirement of addressing all relevant areas over a two year period.

States: 8

Verification of compliance

Verification of compliance of the organisations subject to CA/NSA's oversight is the core business of the authorities and therefore the area where the number of deficiencies is most significant. Due to their number and variety, the verification of compliance has been grouped in three categories:

- Verification of compliance with the safety related requirements of the Regulation (EU) No. 1035/2011 (e.g. safety of services, SMS, QMS, safety requirements for ATSEPs)
- Verification of compliance with the ANSP's working methods and procedures as established in the Annexes of the Regulation (EU) No. 1035/2011.

Verification of compliance – Safety of the services, SMS, QMS

Reg.(EU) 1035/2011 Annex I, 3.1; Annex II, 3.1.2, 3.1.3

Among others the following deficiencies were identified :

- The CA/NSA has not ensured that the ANSP, through its SMS, immediately investigates all ATM operational or technical occurrences that are considered to have significant safety implications, and that it takes any necessary corrective action
- The CA/NSA has not ensured that cooperation exists between the principal ATS and MET providers
- The CA/NSA has not ensured that agreed timelines are defined for all corrective actions arising from the ANSP's internal safety surveys.
- The CA/NSA has not ensured that all ANSPs comply with the safety requirements for engineering and technical personnel undertaking operational safety related tasks.
- Compliance with applicable (new) regulatory requirements is not verified on a systematic basis.
- The CA/NSA has not ensured that the ANSP has established formal interfaces with all stakeholders that may influence the safety of their services
- The CA/NSA could not demonstrate that they ensure that all ANSPs are fulfilling their obligations in respect of the referenced regulation e.g. use of subcontracted operating organisations.

States that presented one or several of the mentioned non-conformities: 11

Verification of compliance – ANSP’s working methods and procedures

Reg.(EU) 1035/2011 Annex I, 3.1; Annex II, 3.1.2, 3.1.3

Among others the following deficiencies were identified :

- The CA/NSA does not ensure that ANSP’s working methods and operating procedures are compliant with the standards in ICAO Annexes
- minimum separation between aircraft is not ensured in accordance with the airspace classification and other relevant requirements
- Not all aeronautical information is correctly depicted in the ANSP’s products
- Coordination between all air traffic control units concerned is not assured
- Responsibility for the control of all aircraft operating within a given block of airspace is vested in a single air traffic control unit is not ensured
- No contingency plans in place
- Operational manuals are not fully compliant with relevant ICAO provisions.

States that presented one or several of the mentioned non-conformities: 11

See previous recommendation on annual inspection programme.

Corrective actions and follow-up

The CA/NSA does not ensure that approved corrective actions and the subsequent follow-up process is completed within the agreed time period.

Reg.(EU) 1034/2011 Art.7.3(e), Art.8; Reg. (EU) 1035/2011 Art. 6.3

The fact that some authorities are not empowered to take enforcement measures could lead to the organisations under their oversight not respecting the agreed timelines for corrective actions and the subsequent follow-up process.

Deficiencies in this area are usually linked to deficiencies on ‘enforcement measures’ and it should be read in conjunction with the ‘enforcement to CA/NSA’.

States: 6

Records keeping

The CA/NSA does not keep and maintain access to all records related to safety oversight activities.

Reg.(EU) 1034/2011 Art.14

Some of the inspected CA/NSAs had difficulties in managing safety oversight documentation (e.g records not traceable, partial information, absence of records).

States: 4

Military facilities and/or services to GAT

The State does not ensure that air traffic services provided by military entities to General Air Traffic (GAT) is at a level of safety that is at least as effective as that required by the regulations.

Reg.(EC) 216/2008, Art. 1.3

Whereas the EU Regulations clearly state that they are not applicable to military activities, they put an obligation on States to ensure that whenever the military entities provide air navigation services to GAT (General Air Traffic) the State has to ensure that those services are at a level of safety that is at least as effective as that required by the regulations.

States: 4

Notification of changes

Reg. (EU) 1034/2011 article 9.2 imposes two obligations on the notification of changes: one on the ANSP (also included in the Reg. 1035/2011 art. 6.2) and another on the CA/NSA.

- For the ANSP: Obligation to notify the relevant competent authority of all planned safety-related changes.
- For the CA/NSA: To this effect, competent authorities shall establish appropriate administrative procedures in accordance with national law.

The findings on the obligation on the CA/NSA is usually classified as 'C' because it is about administrative procedures that they have to put in place to allow ANSPs to notify the changes. Only when these notification procedures could endanger the process is a finding classified as safety relevant; only one such case has occurred.

States: 1

Acceptance of the ANSP procedures

No evidence of the CA/NSA acceptance of the ANSP procedures for introducing safety-related changes. Moreover, the CA/NSA allowed for ANSP procedures of the changes which are not in accordance with the regulatory requirements.

Reg.(EU) 1034/2011 Art.9.1

The acceptance by the CA/NSA of the procedures used by the ANSP needs to be substantiated by an evidence that such acceptance has been formally accepted; it also implies that the CA/NSA should have assessed these procedures before accepting them.

A possible consequence derived from the deficiencies on the ANSP procedures would be an incorrect severity classification (underscoring), implying the non-obligation for the CA/NSA to review the change and further implementation of the change without CA/NSA approval.

Authorities are strongly encouraged to:

- *Review ANSP procedures for introducing changes, checking whether they address the functional system and that are in accordance with the regulatory requirements;*
- *To evidence that they have accepted them (when the authority agrees);*

All this has to be done within a reasonable timeframe, normally at the certification stage, and in all cases before commencing any change.

States: 7

CA/NSA oversight process of changes

Reg.(EU) 1034/2011 Art.10

The following deficiencies have been identified in the CA/NSA safety oversight of changes process:

- It does not include the need for the verification of ongoing compliance
- There is no documented procedure to review the changes
- It does not ensure that the ANSP systematically follows their own procedure
- It does not include that changes with classification severity 3 or 4, which the NSA has decided to review, cannot be introduced into service without the acceptance of the CA/NSA

States: 2

4.6.2 Continuous oversight obligations – ASM and ATFM

ASM – Flexible Use of Airspace

ASM obligations - State

No evidence could be provided to confirm that the State is performing the tasks required by the rules for flexible use of airspace.

Reg. (EC) 549/2004 Art 4.1; Reg. (EC) 551/2004 Art 7.1; Reg. (EC) 2150/2005 Art.4.1, art. 3(c), art. 9

When inspecting ASM there are different roles and responsibilities assigned to the States and to the CA/NSAs. Most of the times this finding is raised against the State because the State could not demonstrate the verification of compliance at levels 1 and 2. Also, a finding is raised whenever the State fails to establish FUA.

States: 4

ASM oversight

The CA/NSA could not provide evidence that it exercises its safety oversight obligations in accordance with the referenced regulation.

Reg.(EC) 2150/2005; Reg.(EU) 1034/2011 Art.4.1

In one case the establishment of roles and responsibilities impeded the oversight of ASM.

States: 3

Changes to FUA operations – management of changes

The State does not ensure that a safety assessment is conducted before they introduce any changes to the operations of the flexible use of airspace or that the oversight of changes related to the Airspace Change process is performed.

Reg. (EC) 2150/2005 Art. 7

In one case the establishment of roles and responsibilities impeded the oversight of ASM.

States: 3

Civil and military flights – coordination procedures

The State does not ensure coordination between civil and military parties at ASM level 2.

Reg.(EC) 2150/2005 Art. 3(a), Art. 2.2(f), Art. 5, Art. 6.1, Art. 6.2

As previously mentioned, this finding is raised against the State. Some examples are: the relevant controlling military units and air traffic services units do not exchange any modification of the planned activation of airspace in a timely and effective manner and notify to all affected or the lack of mutual provision of data to allow the real-time activation.

States: 2

ATFM – Air Traffic Flow Management

ATFM obligations – State

As in the FUA regulation, the non-conformities are addressed to the States or to the CA/NSAs depending on their respective roles and responsibilities.

No evidence could be provided that the State has ensured compliance with all the requirements stemming from the ATFM Regulation.

Reg.(EU) 255/2010 Art. 5

States: 2

ATFM obligations – CA/NSA

The CA/NSA could not provide evidence of auditing all the regulatory requirements of the ATFM regulation.

Reg.(EU) 255/2010 Art. 4

Some of the CA/NSAs have partially audited the requirements, others have not audited any of them.

States: 4

Roles and responsibilities

The bodies within the Member State tasked with ensuring that the Central Unit for ATFM complies with the reference regulation are not clearly identified.

Reg.(EU) 255/2010 (several articles)

This finding is raised against the State.

States: 3

Critical events

The CA/NSA does not ensure that in the preparation for critical events, ATS units and airport managing bodies coordinate the relevance and content of the contingency procedures with operators affected by critical events, including any adjustment to priority rules and recovery arrangements.

Reg.(EU) 255/2010 Art. 10.2

States: 5

Operation manuals

The CA/NSA does not ensure that all parties with responsibilities for ATFM functions develop and maintain operations manuals containing the necessary instructions and information to enable their operations personnel to apply the provisions of the referenced regulation.

Reg.(EU) 255/2010 Art. 14.2

States: 5

Monitoring of compliance to ATFM measures

The State does not ensure the monitoring of compliance to ATFM measures in accordance with the referenced regulation.

Reg.(EU) 255/2010 Art. 11

This finding is raised against the State. However, it is the CA/NSA's responsibility to ensure that the ANSP conducts an annual review of adherence to ATFM measures.

States: 1

ATFM personnel – training and competency

Not all personnel involved in ATFM measures are duly aware of the provisions of this Regulation and have taken necessary measures to comply.

Reg.(EU) 255/2010 Art. 14

States: 1

General obligations of ATS Units

The CA/NSA could not demonstrate that the ATS units provide the central unit for ATFM with all the data and subsequent updates in a timely manner and at the required level of quality.

Reg.(EU) 255/2010 Art. 6.5

States: 1

Overall, in view of the numerous non-conformities raised in the areas of ASM and ATFM, it is strongly recommended that States and their respective competent authorities consider reinforcing these areas.

4.6.2 Continuous oversight obligations – MOR

Occurrence reporting

Dir. 2003/42/EC Art.1, art.5; Reg.(EU) 1035/2011 Annex II art. 3.1.2(g)

In the process of occurrence reporting the following deficiencies have been identified:

- The CA/NSA could not demonstrate that all ATM occurrence reports collected by them are stored in their databases and that all ANSPs which are subject to mandatory reporting fulfil their reporting obligations. Therefore the required exchange of information cannot be fully guaranteed.
- Although the State has designated the CA/NSA as one of the two competent authorities to put in place a mechanism to collect, evaluate, process and store occurrences in their databases, the CA/NSA does not perform these tasks in the area of ATM/ANS.
- The CA/NSA does not ensure that organisations under its oversight have effectively implemented the requirements on the reporting and assessment of safety occurrences in accordance with applicable national and European Union laws.

States that presented one or several of the mentioned non-conformities: 4

Area 7: Resolution of Safety concerns

Safety Directives

The CA/NSA could not demonstrate that they verify compliance with applicable safety directives.

Reg.(EU) 1034/2011 Art.6.1.(e), Art. 13.4

One finding remains open in one of the CA/NSAs.

States: 1

Enforcement measures

The CA/NSA does not take appropriate enforcement measures when the audited organisation does not implement corrective actions as agreed.

Reg.(EU) 1035/2011 Art. 6.3 and possible reference to sanctions as enforcement measures :
Reg.(EC) 549/2004 Art. 9; Reg.(EC) 550/2004 Art. 7(7) and Reg.(EC) 216/2008 Art. 68

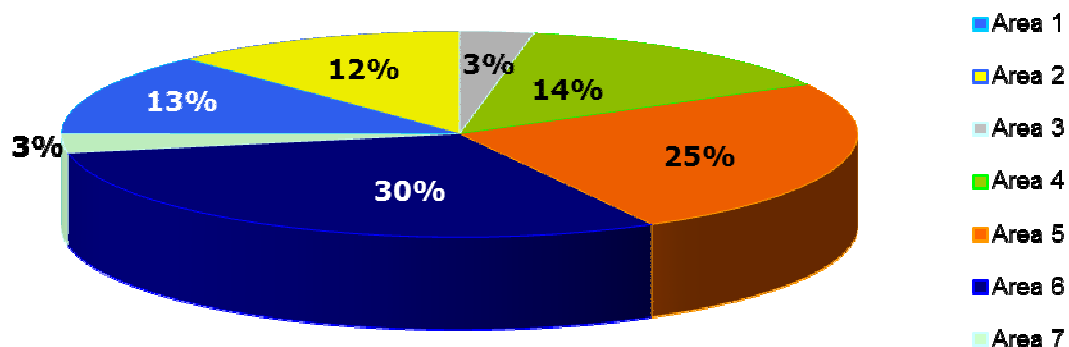
As already mentioned, this finding is sometimes originated by the inability of the CA/NSA to take enforcement measures because they have not been empowered by the State. In other cases enforcement measures were available but the CA/NSA elected not to make use of them.

States: 5

Status of open 'D' non-conformities – EU CA/NSAs

This graphic shows the percentage⁴ of the CA/NSAs with open 'D'⁵ findings in the 7 areas of inspection:

- Area 1: Primary Aviation legislation and specific operating regulations
- Area 2: Competent authority structure and safety oversight functions
- Area 3: Competent authority personnel qualification and training
- Area 4: Acceptable Means of Compliance (AMC) and Guidance Material (GM)
- Area 5: Certification obligations and licensing
 - o 5.1 Certification
 - o 5.2 ATCO licensing
 - o 5.3 Training Organisations
- Area 6: Continuous oversight obligations
 - o 6.1 Continuous oversight obligations – General
 - o 6.2 Continuous oversight obligations – Changes management
 - o 6.3 Continuous oversight obligations – ASM and ATFM
 - ASM – Flexible Use of Airspace
 - ATFM – Air Traffic Flow Management
 - o 6.4 Continuous oversight obligations – MOR
- Area 7: Resolution of Safety concerns



⁴ As of 1st June 2014

⁵ 'D' non-conformity: A non-conformity with the applicable requirements, raising standardisation concerns and safety concerns if not timely corrected

5 Authorities not inspected by EASA

At the end of 2015 all EU and EFTA authorities will have been inspected together with some of the non-EU States that have working arrangements with EASA on ATM/ANS and ATCO licensing. Until all States have been inspected, the data of non inspected countries is compiled based on the EASA e-tool replies and complemented whenever it has been deemed necessary (i.e. unclarity of the response) with available information (e.g. Effectiveness of Safety Management questionnaire used in the assessment of the Safety Key Performance Indicators in the framework of the Performance Scheme Regulation).

The results are shown in a factual way and reflect what States perceive and want to transmit (i.e. the replies have not been modified nor challenged). Therefore, similarly to the criteria used for the inspected States and whenever applicable, the number of States declaring themselves not fully compliant is shown.

EASA shall not be held liable for any incorrect or incomplete information in this report. The accuracy of the information provided by the States is their responsibility.

5.1 EU CA/NSAs

Nine (9) EU authorities have not been inspected by EASA as of the 1st of June 2014: Estonia, France, Ireland, Latvia, Lithuania, Romania, Slovakia, Slovenia and the United Kingdom.

Area 1: Primary Aviation legislation and specific operating regulations

Establishment of the CA/NSA

Member States shall, jointly or individually, either nominate or establish a body or bodies as their national supervisory authority in order to assume the tasks assigned to such authority under this Regulation and under the measures referred to in Article 3.

Reg.(EC) 549/2004 Art.4.1;

Related articles: Reg.(EU) 1034/2011 Art.3; Reg. (EU) 1035/2011 Art. 3

Establishment and/or nomination of the CA/NSAs does not seem to be an issue. All States have listed the legal instruments and references that constitute the legal basis for establishment.

Enforcement to the CA/NSA

National supervisory authorities shall monitor compliance with the common requirements and with the conditions attached to the certificates. Details of such monitoring shall be included in the annual reports to be submitted by Member States pursuant to Article 12(1) of the framework Regulation. If a national supervisory authority finds that the holder of a certificate no longer satisfies such requirements or conditions, it shall take appropriate measures while ensuring continuity of services on condition that safety is not compromised.

Reg.(EC) 550/2004 Art.7.7;

Related article: Reg.(EU) 1035/2011 Art. 6.3

Some of the replies show that national Laws on Civil Aviation do not empower the Competent Authorities to take enforcement measures other than revocation or suspension of certificates. This lack of empowerment may have an impact on the closure of corrective actions identified during certification and/or oversight process, preventing the CA/NSA from taking further measures when they remain open. Two authorities have declared having issues on enforcement.

States: 2

The reverse can be said for one of the authorities: In addition to the ability to impose sanctions in accordance with Aviation Law, there is an enforcement policy that includes measures such as variation, suspension and revocation of certifications and, in exceptional circumstances, the instigation of indictment proceedings through the Office of the Director of Public Prosecutions. The CA/NSA stated that this has never been necessary.

Independence from the ANSPs/TOs

The national supervisory authorities shall be independent of air navigation service providers.

Reg.(EC) 549/2004 Art.4.2

All authorities have declared they are independent from their ANSPs at organisational or functional level.

Exemptions, derogations and other flexibility provisions

Member States may grant exemptions from the substantive requirements laid down in this Regulation and its implementing rules in the event of unforeseen urgent operational circumstances or operational needs of a limited duration, provided the level of safety is not adversely affected. (...)

Reg. (EC) 216/2008 Art. 14.4

Where an equivalent level of protection to that attained by the application of the rules implementing this Regulation can be achieved by other means, Member States may, without discrimination on grounds of nationality, grant an approval derogating from those implementing rules.

Reg. (EC) 216/2008 Art. 14.6

The questionnaire asked for a description of the respective processes followed by the State to grant an exemption and derogation. A list of the exemptions adopted in accordance with article 14.4 of Regulation (EC) No 216/2008 as amended was also required. Two States have no processes in place.

States: 2

Safeguards

This Regulation shall not prevent the application of measures by a Member State to the extent to which these are needed to safeguard essential security or defence policy interests. (...)

Reg. (EC) 549/2004 Art. 13

Seven States confirmed that no safeguards have been adopted. One State did not reply.

Area 2: Competent authority structure and safety oversight functions

It is up to States to decide on the roles, competences and duties of their competent authorities. Two States have declared the establishment of more than one CA/NSA.

Qualified Entities

Reg.(EU) 1034/2011 Art. 11

One State has declared having a Qualified Entity. A short description of the scope of work was also provided.

Sub-contracted Organisations

Reg.(EU) 1034/2011 Art. 11

One State informed about the use of a sub-contracted organisation which provides the CA/NSA with, and performs, technical support and expertise in certain oversight activities when requested by the CA/NSA.

Safety oversight capabilities: Staff number and qualification

Regulation (EC) 549/2004 as amended and Regulation (EU) 1034/2011 requires States to ensure that national supervisory/competent authorities have the necessary/sufficient resources and capabilities to carry out the tasks assigned to them in an efficient and timely manner. Moreover, Article 12.3 of Regulation (EU) No. 1034/2011 explicitly asks CA/NSAs to ensure that all persons involved in safety oversight activities are **competent** to perform the required function.

This competency is achieved through a process, starting with the pre-requisites established by the State or the CA/NSA to ensure eligible candidates are recruited. This is followed by training and qualification processes – defined by the CA/NSA – to ensure that the personnel are competent before undertaking their oversight duties.

EASA audits of the CA/NSAs examine whether staff have been adequately qualified as required by EU regulations. Based on experience derived from inspected States, EASA observed that sometimes authorities have an incorrect perception of the actual number of competent oversight staff they employ. This anomaly can be caused by incorrect translations of regulations into the national language, deviations from their own qualification process, and lack of specific training.

As a consequence of the above mentioned reasons, and to avoid providing misleading information, this area will not show the FTEs declared by the authorities. Nevertheless this data will be taken into account and verified during the EASA's standardisation visits.

Further details about qualification and training are contained in Area 3.

Agreement/arrangement for cross border provision of ATS

National supervisory authorities shall cooperate closely to ensure adequate supervision of air navigation service providers holding a valid certificate from one Member State that also provide services relating to the airspace falling under the responsibility of another Member State. Such cooperation shall include arrangements for the handling of cases involving non-compliance with the applicable common requirements set out in Article 6 or with the conditions set out in Annex II.

In the case of cross-border provision of air navigation services, such arrangements shall include an agreement on the mutual recognition of the supervisory tasks set out in paragraphs 1 and 2 and of the results of these tasks. (...)

Reg. (EU) 550/2004 Arts.2.4 and 2.5;

Related article: Reg.(EU) 1034/2011 Art. 4.2

Three NSA/CAs have yet to finalise agreements for the oversight of cross border provision of ATS. In one of the States there is no cross-border provision of ATS.

States: 3

In addition to the inter-NSA cooperation agreements (e.g. MoUs, MoCs), provisions are included mainly in the agreements on the establishment of the FABs at State level as well as in FAB NSA Cooperation Agreements.

Arrangements with other institutions

Member States shall, within the context of the common transport policy, take the necessary steps to ensure that written agreements between the competent civil and military authorities or equivalent legal arrangements are established or renewed in respect of the management of specific airspace blocks.

Reg. (EC) 550/2004 Art.11

The questionnaire asked whether the CA/NSAs have entered into any other agreement on the safety oversight of ATSPs with another legal entity (e.g. Military Aviation Authority).

Three States answered positively. However, one of them described the scope of cooperation within the Regulation (EC) 996/2010 (accident investigation) and not to oversight.

Area 3: Competent authority personnel qualification and training

As mentioned in Area 2, the information provided on qualification requirements and training is further detailed in this section.

Staff qualification requirements

Competent authorities shall ensure that all persons involved in safety oversight activities are competent to perform the required function. (...)

Reg. (EU) 1034/2011 Art.12.3

All States explained how they ensure that CA staff, involved in safety oversight activities, are competent to accomplish their tasks. They also described the minimum qualification requirements applicable to their staff involved in safety oversight activities.

All of them confirmed that CA staff involved in safety oversight activities are qualified for the functions they are responsible for.

Human resources assessment

Competent authorities shall produce and update every 2 years, an assessment of the human resources needed to perform their safety oversight functions, based on the analysis of the processes required by this Regulation and their application.

Reg. (EU) 1034/2011 Art.12.2

In one of the CA/NSAs, the last assessment was completed in 2011, and the next is planned in 2014 (i.e. more than 2 years' interval).

The assessment done by another authority was done as the competent authority (CA) for ANSPs' certification and oversight, and also as the CA for ATCO Licensing and training; however, there is no mention that the nominated CA for security performed this assessment.

The rest of the CA/NSAs had completed the required assessment as per the regulation. One of those authorities explained that there is a Performance and Process Improvement Programme on going to implement a resource management system in order to allow all technical areas to prioritise and schedule work according to risk and this will assist in determining not only total numbers of human resources needed, but also enable a more effective resource planning process.

States: 2

State measures or plans

Member States shall ensure that national supervisory authorities have the necessary resources and capabilities to carry out the tasks assigned to them under this Regulation in an efficient and timely manner.

Reg. (EC) 549/2004 Art. 4.4

Member States and the Commission shall ensure that competent authorities have the necessary capability to ensure the safety oversight of all organisations operating under their supervision, including sufficient resources to carry out the actions identified in this Regulation.

Reg. (EU) 1034/2011 Art.12.1

The referenced articles refer to the measures or plans adopted by the State to obtain the necessary resources for the CA/NSA. In the majority of the cases, the CA/NSAs send a request to the competent Body (e.g. Ministry) based on the human resource assessment performed following the criteria established by Regulation (EU) 1034/2011. All States have provided the description of the measures with the exception of one.

One of the authorities is largely funded by the industry it regulates. Funding levels are agreed annually by the CAA Finance Advisory Committee and based on the CAA strategic and business plan for the coming year.

One of the States has declared that they have sufficient resources and no additional personnel were required.

It is worth noting the case of one of the authorities: The CAA was given approval to employ additional aviation inspectors; however none of the applicants fulfilled the requirements (imposed by national law). Consequently, the CAA identified the need to amend the Aviation Act and Rules on qualifications of aviation inspectors in relation to the working position requirements. The proposal was sent to the Ministry.

Training

Competent authorities shall ensure that all persons involved in safety oversight activities are competent to perform the required function. In that regard they shall:

(a) define and document the education, training, technical and operational knowledge, experience and qualifications relevant to the duties of each position involved in safety oversight activities within their structure;

(b) ensure specific training for those involved in safety oversight activities within their structure;

Reg. (EU) 1034/2011 Art.12.3 (a), (b)

Descriptions of the training policies, programmes and plans have been provided by all States.

All replies described in one manner or other the training policy (commitment by the authorities to provide training to all technical staff in all areas).

Descriptions of the training (initial, recurrent and specialised/technical), and confirmation of that there is a training programme detailing what type of training should be provided to its ANS inspectorate staff (ATS, CNS, AIS, MET etc.) in place, were also provided.

Referring to specific training for the personnel involved in safety oversight activities, the replies contained inclusion of initial, OJT, recurrent and specialized training.

Some of the CA/NSAs also detailed the type and frequency of training provided (initial, recurrent and specialized).

With regard to the identification of new training needs (e.g. new regulations, new technologies, and/or new types of operation (SESAR)), two authorities do it via international groups (EASA, SJU) in order to be updated.

Four of the CA/NSAs replied that this is done during their employees' annual qualification and training needs assessment and decisions on the following year's training plan are derived from that. Another CA/NSA sends staff to Eurocontrol IANS courses when new regulations are identified and/or uses self-study.

One of the CA/NSAs follows a systematic way of identifying new training needs. The process for capturing any training requirements as a result of the introduction of new ATS Regulatory Requirements or of changes to Existing Regulatory Requirements is via the Regulatory Impact Compliance Group (RICG). The RICG meet to analyse the impact of any new or changed legislation and decide on the affect this will have on the CAA including any training or shortfalls in awareness. One of the authorities did not provide any description.

Area 4: Acceptable Means of Compliance (AMC) and Guidance Material (GM)

The process referred to in paragraph 1 shall:

(b) be supported by documentation specifically intended to provide safety oversight personnel with guidance to perform their functions.

Reg. (EU) 1034/2011 Art. 6.2 (b)

All CA/NSAs confirmed that they have issued general guidance material to their oversight staff on subjects relevant to their duties (e.g. Inspecting Staff Manual, Inspectors' Handbook).

In addition, five of them have issued general guidance material to service providers on subjects relevant to their duties.

Area 5: Certification obligations and licensing

ANSP certification

The provision of all air navigation services within the Community shall be subject to certification by Member States.

Reg. (EC) 550/2004 Art. 7.1

ATM/ANS providers shall be required to hold a certificate. (...)

Reg. (EC) 216/2008 Art. 8b(2)

All States have declared that all Organisations/Entities providing Air Navigation Services (ANS) – with the exception of the two cases described further down - have a certificate issued in accordance with the referenced regulations.

Two States have established different processes to deal with the certification of AFIS providers. This is the case in of one of the authorities who have the highest number of certified AFIS providers.

The States were asked to describe the measures taken to ensure maximum compliance of uncertified ANS providers with the common requirements.

Two States have declared uncertified ANSPs:

- One of the CA/NSAs explained that there is an exceptional case related to CNS services provided by the military at one aerodrome which is not certified. These services are supervised in the same way and audited within the same programme as the certified ANSP.
- In the other State, other than the military the only other uncertified service providers are those providing services during 'Special Events' who operate under a CA/NSA approval. The oversight of 'Special Event' is done as per a dedicated CAA procedure.

Related to this question, and if applicable, a description of the arrangements and procedure(s) for the oversight of military facilities open to public use or of the services provided by military personnel to the public was also requested

In one of the States, military facilities open to the public have to have an operational approval issued by the CAA. The military personnel providing services to the public need to have a valid licence (ATCOs or MET personnel) or approval (ATSEPs, ARO, COM, FDT, NOTAM personnel).

There is a formal agreement in one State between the DfT (Department for Transport) and the MoD (Ministry of Defence) in regard to military facilities or services either open or provided for public use.

ATCO licensing

This Regulation lays down detailed rules for the issue, suspension, and revocation of licences of air traffic controllers and student air traffic controllers, of associated ratings, endorsements, medical certificates and of certificates of training organisations and the conditions of their validity, renewal, revalidation and use.

Reg. (EU) 805/2011 Art. 2.1 (and further)

All States have provided information on their processes and procedures for suspension and revocation of licences.

Reg. (EU) 805/2011 Art. 13.2: Four States have not imposed local language requirements.

Reg. (EU) 805/2011 Art. 13.5: All States affirmed that none of their ANSPs require a higher level than 4 of language proficiency (in the local language or English), although one of the States requires ATCOs who are assigned as Executive Supervisor (ES) to have English language proficiency 5. One of the authorities did not reply to this question.

Reg. (EU) 805/2011 Art. 22.2(g): Three CA/NSAs have appeal mechanisms in place published by the CAA that follow State administrative procedures. Only one CA/NSA has set up a procedure comprising the whole process from the appeal to the final decision that is all managed by the CA/NSA. In addition, there is the possibility to appeal to an independent appeal panel set up by the Minister for Transport.

Reg. (EU) 805/2011 Art. 29.1: In regard to recognition of licenses, the States having ATCOs licensed in another Member State that have applied for an exchange of their licenses for one issued in their States are two (4 and 2 ATCOs respectively).

Reg. (EU) 805/2011 Art. 22.2(d): Specific processes for approval of training courses, Unit Training Plans (UTPs) and Unit Competency Schemes (UCSs) are applied by three CAs. One of the authorities did not reply.

Training Organisations

Applications for training organisation certification shall be submitted to the competent authority in accordance with the procedure established by that authority.

Competent authorities shall issue certificates when the applicant training organisation fulfils the requirements laid down in Chapter IV.

Reg. (EU) 805/2011 Arts. 18.1 and 27.2

All States have certified their Training Organisations in accordance with the referenced regulation.

Although one of the CA/NSAs provided the name and dates of certification of its TO, it also provided a statement that it was not certified in accordance with articles 18 and 27 of Regulation (EU) 805/2011.

Area 6: Continuous oversight obligations

Continuous oversight obligations – General

All authorities have described the process and procedures related to the continuous oversight of ANSPs/TOs in order to assess their continued compliance.

The questionnaire asked for more information on how these procedures address the different types of services or geographical scope of the ANSPs under the CA/NSA's supervision.

Annual inspection programme

Within the inspection programme required by Article 8 of Implementing Regulation (EU) No 1035/2011, competent authorities shall establish and update at least annually a programme of safety regulatory audits in order to (requirements (a) to (e)).

Reg. (EU) 1034/2011 Art. 7.3

Related article is also: Reg. (EU) 1035/2011 Art. 8

All authorities have replied that annual inspection programmes are in place. Different levels of details were also provided.

Risk based approach

Within the inspection programme required by Article 8 of Implementing Regulation (EU) No 1035/2011, competent authorities shall establish and update at least annually a programme of safety regulatory audits based on an assessment of the risks associated with the different operations constituting the air navigation services provided:

Reg. (EU) 1035/2011 Art. 8 and Reg. (EU) 1034/2011 Arts. 5.2 and 7.3 (c)

The States were asked to provide a description of the methodology and/or criteria to ensure that the scheduled visits to ANSPs/TOs in the 'NSA annual inspection programme' are prioritised on a risk based approach.

The replies were:

- No specific methodology (criteria) to ensure that audits are prioritised on a risk based approach. This methodology is under development.
- Adaptation of CA/NSA inspection programme to the assessed risks.
- The CA/NSA considers the annual audit programme as a live “working document”; in practice this means that should adverse safety trends or the presence of a large number of findings be identified, audits may be prioritised and re-scheduled, or additional audits included as considered appropriate.
- Higher attention is paid to the units where more non-conformities were identified in previous years.
- Detailed description of all the aspects taken into account i.e. annual audit programme and the annual inspection programme objectives, locations where there are situations that could have a negative impact on safety, overall level of safety performance determined in a certain period of time, conclusions from documentation review related to proposed changes to functional systems.
- Comprehensive description of all the aspects taken into account i.e. occurrence reportings received through the mandatory reporting system, the level of safety as based on final audit reports and SPS, any entry having an impact on safety (reporting passengers and other reports that are not included in the system of mandatory reporting, annual reports of ANSP providers). The NSA staff concerned are required to prepare a half-yearly report on developments in the field of safety to identify trends in operational safety and the factors that influenced the change in the trend, such as change safety culture within the organization, unsafe practices , equipment failure etc. This report must also contain areas where verification of compliance with safety regulatory requirements is a priority.
- The annual inspection/audit programmes are developed and published in accordance with Procedure Audit Planning and Risk Based Oversight. There is a Risk Based Oversight Tool used by the CA/NSA.

States: 1

Non-scheduled inspections

Eight CA/NSAs are able in one way or another (e.g. in one of them the inspectors are allowed to do it but notification is needed if they want to meet a nominated person) to conduct non-scheduled inspections, and a short description of the process accompanied the replies. One CA/NSA replied that it does not perform unscheduled inspections; however, it is unclear whether this is because the authority is not empowered to do so or because this is the CA/NSA approach.

Despite the CA/NSAs' ability, some of the CA/NSAs are reluctant to use this means; one of the replies from an authority was: “In a mature SMS environment the CA did not consider unannounced inspections to be an approach that is likely to engender trust and effective working relationships between the NSA and the service provider; however this position is kept under review. In addition to the scheduled audit programme, where considered appropriate (e.g. degradation in the effectiveness of an ANSP's SMS, a specific safety concern arises, prior to the introduction of significant changes), the right of unannounced access to facilities for inspections is provided for under National legislation”.

Oversight of changes to the ATM functional system

1. Organisations shall only use procedures accepted by the relevant competent authority when deciding whether to introduce a safety-related change to their functional systems. In case of air traffic service providers and communication, navigation or surveillance service providers, the relevant competent authority shall accept these procedures in the framework of Implementing Regulation (EU) No 1035/2011.

2. Organisations shall notify the relevant competent authority of all planned safety-related changes. To this effect, competent authorities shall establish appropriate administrative procedures in accordance with national law.

3. Unless Article 10 applies, organisations may implement notified changes following the procedures referred to in paragraph 1 of this Article.

Reg. (EU) 1034/2011 Art. 9

Some of the authorities provided a short description of the CA's processes and procedure(s) with regard to the notification of changes and required assessment of changes, others opted to refer to their CA procedures. One of the answers referred to the CA/NSA review process and not to the notification. Overall, the replies contained in one way or other the provisions stated in the corresponding articles of the regulations.

Continuous oversight obligations – ASM and ATFM

[Airspace Management \(Flexible Use of Airspace\) – Regulation \(EC\) 2150/2005](#)

This Regulation reinforces and harmonises the application, within the Single European Sky, of the concept of the flexible use of airspace as defined in Article 2 point (22) of Regulation (EC) No 549/2004, in order to facilitate airspace management and air traffic management within the limits of the common transport policy.

In particular, this Regulation sets out rules to ensure better cooperation between civil and military entities responsible for air traffic management that operate in the airspace under the responsibility of Member States.

Reg. (EC) 2150/2005 Art. 1

Regulation (EC) 2150/2005 sets out rules to ensure better cooperation between civil and military entities responsible for air traffic management that operate in the airspace under the responsibility of Member States. The CA/NSAs have oversight obligations in respect to this regulation.

Member States shall perform the following tasks:

(a) ensure the overall application of the flexible use of airspace concept at a strategic, pre-tactical and tactical level;

Reg. (EC) 2150/2005 Art. 4.1 (a)

All NSAs have described the processes established to ensure the overall application of the FUA concept at strategic, pre-tactical and tactical levels. In addition to this, one of the States uses annual audits performed by the Pans-Ops and Airspace Inspectorate of the 3 FUA Levels.

Member States shall identify and notify to the Commission those persons or organisations which are responsible for the execution of tasks listed in paragraph 1. (...)

Reg. (EC) 2150/2005 Art. 4.3

Three States have not informed the Commission of the persons identified or organisations responsible for all tasks listed in article 4.1 of the FUA regulation.

States: 3

FUA level 1 – Strategic level - Reg. (EC) 2150/2005 Art. 4.1 (a) to (n)

The questionnaire addressed the most significant aspects of the FUA level 1.

No issues have been reported on the following aspects related to FUA level 1:

Member States shall perform the following tasks:

(b) regularly review users' requirements;

(c) approve the activities which require airspace reservation or restriction;

(d) define temporary airspace structures and procedures to offer multiple airspace reservation and route options;

(l) set up consultation mechanisms between the persons or organisations as referred to in paragraph 3 and all relevant partners and organisations to ensure that users' requirements are properly addressed;

Some of the issues reported by the States are:

Member States shall perform the following tasks:

(e) establish criteria and procedures providing for the creation and the use of adjustable lateral and vertical limits of the airspace required for accommodating diverse variations of flight paths and short-term changes of flights;

States: 1

(f) assess the national airspace structures and route network with the aim of planning for flexible airspace structures and procedures;

States: 2

(g) define the specific conditions under which the responsibility for separation between civil and military flights rests on the air traffic services units or controlling military units;

States: 1

(h) develop cross-border airspace use with neighbouring Member States where needed by the traffic flows and users' activities;

States: 4

(i) coordinate their airspace management policy with those of neighbouring Member States to jointly address use of airspace across national borders and/or the boundaries of flight information regions;

States: 2

(k) establish with neighbouring Member States one common set of standards for separation between civil and military flights for cross-border activities;

States: 5

(m) assess and review airspace procedures and performance of flexible use of airspace operations;

States: 2

FUA level 2 – Pre-tactical

Member States shall appoint or establish an airspace management cell to allocate airspace in accordance with the conditions and procedures defined in Article 4(1).

In those Member States where both civil and military authorities are responsible for or involved in airspace management, this cell shall take the form of a joint civil military cell.

Reg. (EC) 2150/2005 Art. 5.1

All States have established an airspace management cell to allocate airspace in accordance with the conditions and procedures defined in article 5.1. In one State its airspace management cell works in co-operation with the airspace management cell of another State.

This function is conducted on a joint civil/military basis with the exception of one State where the airspace management function is conducted by the ANSP.

In addition while still joint one States' airspace management cell is composed of a civil and military part, each being embedded within its own ANSP and having thus access to its ANSP systems and tools. The airspace management cell also has its own systems and procedures to ensure proper coordination between the needs of civil and military airspace users, and communication of relevant information to the Network Manager for the update of AUP or UUP. An further State has its airspace management cell located in two different places.

States: 3

Member States shall ensure that adequate supporting systems are put in place to enable the airspace management cell to manage airspace allocation and to communicate in good time the airspace availability to all affected users, airspace management cells, air traffic service providers and all relevant partners and organisations.

Reg. (EC) 2150/2005 Art. 5.3

The States provided a description of the communication lines and other means (e.g. telephone lines, fax lines, dedicated military computers, AFTN, LARA). One of the States emphasised the need to take into account equipment enhancements and future technology as well as cost efficiency. Currently CIAM and LARA ensure that that State can perform and communicate the pre-tactical ASM task. Plans are on-going.

In one State the military activity is very low, expecting that CHMI would be enough; the intention is to review the situation after a full year of operation.

Finally, two authorities interpreted the question from the oversight point of view to ensure that the AMC function is fulfilled (e.g. audits and inspections of communication lines).

FUA level 3 – Tactical

The questionnaire addressed the most significant aspects of the FUA level 3.

All States have ensured the the establishment of civil-military coordination procedures and communication facilities between appropriate air traffic service units and controlling military units permitting mutual provision of airspace data to allow the real-time activation, deactivation or reallocation of the airspace allocated at pre-tactical level (Reg. (EC) 2150/2005 Art. 6.1).

Some of the issues reported by the States related to the legal provisions quoted below are:

Member States shall ensure that the relevant controlling military units and air traffic services units exchange any modification of the planned activation of airspace in a timely and effective manner and notify to all affected users the current status of the airspace.

Reg. (EC) 2150/2005 Art. 6.2

States: 2

Member States shall ensure the establishment of coordination procedures and the establishment of supporting systems between air traffic service units and controlling military units in order to ensure safety when managing interactions between civil and military flights.

Reg. (EC) 2150/2005 Art. 6.3

States: 1

Member States shall ensure that coordination procedures are established between civil and military air traffic service units so as to permit direct communication of relevant information to resolve specific traffic situations where civil and military controllers are providing services in the same airspace. This relevant information shall be made available, in particular where it is required for safety reasons, to civil and military controllers and controlling military units through a timely exchange of flight data, including the position and flight intention of the aircraft.

Reg. (EC) 2150/2005 Art. 6.4

States: 2

Where cross-border activities take place, Member States shall ensure that a common set of procedures to manage specific traffic situations and to enhance real time airspace management is agreed between civil air traffic services units and military air traffic services units and/or controlling military units which are concerned by those activities.

Reg. (EC) 2150/2005 Art. 6.5

States: 3

Finally, two States have declared that there is no mechanism to evaluate the functioning of agreements, procedures and supporting systems at the three levels.

Member States shall, in order to maintain or enhance existingsafety levels, ensure that, within the context of a safety management process, a safety assessment, including hazard identification, risk assessment and mitigation, is conducted, before they introduce any changes to the operations of the flexible use of airspace.

Reg. (EC) 2150/2005 Art. 7

All States confirmed that there is a safety management process to conduct all safety assessment activities before the introduction of any changes to the operations of the FUA.

[Air Traffic Flow and Capacity Management \(ATFM\) – Regulation \(EC\) 255/2010](#)

Regulation (EC) 255/2010 lays down the requirements for air traffic flow management (hereinafter ATFM) in order to optimise the available capacity of the European air traffic management network (hereinafter EATMN) and enhance ATFM processes.

It assigns obligations to all actors involved in the EATMN, some of them out of the CA/NSA competences; as such, the questions were limited to the oversight obligations that the CA/NSAs have with regard to ATFM and an overarching question to the States about how they meet general ATFM obligations in accordance with per article 4.

General obligations of Member States

Reg. (EC) 255/2010 Art. 4

Article 4 of Regulation (EC) 255/2010 lists the general obligations of Member States. In general, the replies refer to documents and/or national rules aiming to ensure that States fulfil those obligations.

Two States replied that ATFM provision is delegated to the CFMU and that the FMP at the ACC is responsible for the execution of ATFM measures within the State's FIR.

In one of the States a company (Ltd.) fulfils the ATFM obligations within the State, acting as the Local ATFM Unit. This function is carried out on behalf of the FAB on H24 basis and is the main point of contact with regard to ATFM between Eurocontrol NMD (the central unit for ATFM) and the FAB.

CA/NSA oversight processes and procedures

Six CA/NSAs replied that they use the same processes as for the rest of ANSPs. Two authorities perform dedicated audits with different guidance and protocol than the ones used for the ANSPs. In another State the ANSP has reporting requirements that enable performance monitoring as part of the oversight. Oversight of airports ATFM activities forms part of the overall oversight of ATS units.

No issues have been reported on the following aspects:

- All States with the exception of one explained how the State ensures consistency between flight plans and airport slots (Reg. (EU) No. 255/2010, Art.9).
- All States have explained how to meet their obligations concerning critical events and how ATFM performance assessment is conducted (Reg. (EU) No. 255/2010, Art.10).

Monitoring of compliance to ATFM measures

Reg. (EC) 255/2010 Art. 11.

All CA/NSAs have provided a description of how the monitoring of compliance with ATFM measures is ensured in their States.

- In two authorities monitoring is done via audits/oversight process and no further explanation is provided.
- Three authorities described in detail the use of CHMI/CFMU reports for monthly monitoring and the request of corrective measures or action plans to mitigate the non-compliance with adherence to ATFM departure slots (80% or less).
- Two CA/NSAs use both audits and inspections plus the use of occurrences, NOP data (protected) and the public Network Manager ATCFM compliance reports.
- One authority makes use of the Eurocontrol NM Dashboard on ANS performance monitoring to conduct an annual review of adherence to ATFM measures.
- Finally, in one State the main ANSP has reporting requirements that enable performance monitoring as part of the oversight of compliance with their licence. This includes reporting on their ATFM functions. The central unit for ATFM also provides monthly reports on ATFM performance, highlighting any non-compliance with ATFM measures. This information is used to monitor the overall performance of the State with regard to ATFM.

Additional requirements

Member States shall ensure that personnel of the parties referred to in Article 1(3) involved in ATFM activities are:

(a) made duly aware of the provisions of this Regulation;

(b) adequately trained and competent for their job functions.

Reg. (EC) 255/2010 Art. 14.1

Two CA/NSAs referred to the audits as the verification method to ensure it. Four authorities described the material/courses used as a basis for informing personnel. One of the CA/NSAs provided a detailed description of the qualification criteria for FMP personnel before taking duties.

Member States shall ensure close cooperation and coordination between the functional airspace block and the Network Manager, such as in strategic planning level and tactical daily flow and capacity management.

Reg. (EU) 677/2011 Art. 10.1

Article 10.1 of Regulation (EU) 677/2011 (laying down detailed rules for the implementation of air traffic management (ATM) network functions) requires that Member States shall ensure close cooperation and coordination between the functional airspace block and the Network Manager, such as in strategic planning level and tactical daily flow and capacity management.

Most of the replies refer to LoAs or bilateral agreements with the Network Manager.

Other means used by the States to fulfil this requirement are:

- Presence of Baltic FAB representatives on the NM Board.
- Establishment of the FAB council by state level agreement in order to meet the commitments of the contracting states.
- Participation of the relevant entities within the State to all relevant NM working groups.
- Through the SE Axis, NE Axis, larger events planning and tactical management together with NM and local providers/users.
- ANSP QMS complemented by an internal system of compliance monitoring.
- The ANSP carries out all these functions at FAB level for the States. The ANSP has fluent dialogue with the Network Manager on both strategic and pre-tactical planning. There is also a well-developed tactical relationship with NMOC.

Area 7: Resolution of Safety concerns

All States have described the arrangements between the AIB, CA/NSA and ANSPs with regard to the occurrence reporting system, analysis of data and investigation with the exception of one State which did not provide details of the arrangements (if any).

The States specified the outcome of the subsequent accident/incident investigations (i.e. safety recommendations). Two States did not reply to the question asking for the actions taken by the CA/NSAs in response to the safety recommendations. Another State indicated that it has yet to happen because no accident or serious incident with direct or indirect ATM involvement has occurred. The rest of the States confirmed that they receive safety recommendations and examine them and take appropriate actions if needed.

Corrective Actions and follow-up

Where a certified organisation no longer complies with the applicable common requirements or, where applicable, with the conditions attached to the certificate, the competent authority shall, within one month of the date of discovering the non-compliance, require the organisation to take corrective action.

That decision shall immediately be notified to the relevant organisation.

The competent authority shall check that the corrective action has been implemented before notifying its approval to the relevant organisation.

Where the competent authority considers that corrective action has not been properly implemented within the timetable agreed with the organisation, it shall take appropriate enforcement measures as provided for in Article 7(7) of Regulation (EC) No 550/2004 and Article 10, Article 22a(d), and Articles 25 and 68 of Regulation (EC) No 216/2008, while taking into account the need to ensure the continuity of air navigation services.

Reg. (EU) 1034/2011 Art. 8;

Related articles: Reg. (EU) 1034/2011 Art. 7.3(e) and Reg. (EU) 1035/2011 Art. 6.3

All authorities described the process, b But none of them presented the case when deviations exist (e.g. the auditee does not respect the agreed timeframe or the 'negotiation' phase of submitting the corrective action plan takes too long) and what measures the authority is able to take.

Safety Directives

Competent authorities shall issue a safety directive when they have determined the existence of an unsafe condition in a functional system requiring immediate action.

Reg. (EU) 1034/2011 Art. 13

There is only one not-inspected State that has issued safety directives (four safety directives).

Enforcement measures

Article 7.7 of the Service Provision Regulation (EC) 550/2004 and article 9 (Sanctions) of the Framework Regulation (EC) 549/2004 and Articles 10, 22a (d), 25 and 68 of Regulation (EC) No 216/2008 lay down enforcement requirements. The question asked for a description of the process and procedure(s) through which the CA/NSAs ensure that appropriate enforcement measures are taken in accordance with the referenced regulations. The situation in the States is as follows:

- One State only refers to revocation, suspension or limitations to the certificate with no mention of economical sanctions.
- One State has no process in place.
- Only basic arrangements for enforcement measures exist in one State; however, a change proposal to the Administrative Penal Code is on-going.
- In another State there are several steps, ranging from notification to limitation or suspension of the certificate.

- Inspectors are empowered to apply sanctions.
- In one of the States the CA cannot impose sanctions (it is the MoT who can do it).
- Another State will adopt legislation in order to regulate this field. Draft legislation has been prepared and it is in internal procedures. The revision of the Aviation Act is also on-going.
- The two remaining States provided a description of their processes and procedures.

Penalties for infringement of the common rules on ATFM regulation

Reg. (EU) No. 255/2010, Art. 15.

There is no legislation regarding the penalties for the infringement of the ATFM Regulation in one State.

Six States have not notified penalty provisions to the European Commission.

States: 7

5.2 EFTA CA/NSAs

The EFTA authorities not inspected by EASA as of the 1st of June 2014 are:

- Iceland
- Norway

Area 1: Primary Aviation legislation and specific operating regulations

Establishment of the CA/NSA

Member States shall, jointly or individually, either nominate or establish a body or bodies as their national supervisory authority in order to assume the tasks assigned to such authority under this Regulation and under the measures referred to in Article 3.

Reg.(EC) 549/2004 Art.4.1;

Related articles: Reg.(EU) 1034/2011 Art.3; Reg. (EU) 1035/2011 Art. 3

Establishment and/or nomination of the CA/NSAs does not seem to be an issue. All States have listed the legal instruments and references that constitute the legal basis for establishment.

In one of the States the CA/NSA was the CAA until July 1st 2013. The Transport Authority is a multimodal authority and the current CA/NSA; it was established July 1st 2013.

Enforcement to the CA/NSA

National supervisory authorities shall monitor compliance with the common requirements and with the conditions attached to the certificates. Details of such monitoring shall be included in the annual reports to be submitted by Member States pursuant to Article 12(1) of the framework Regulation. If a national supervisory authority finds that the holder of a certificate no longer satisfies such requirements or conditions, it shall take appropriate measures while ensuring continuity of services on condition that safety is not compromised.

Reg.(EC) 550/2004 Art.7.7;

Related article: Reg.(EU) 1035/2011 Art. 6.3

The Aviation Act in one of the States provides for criminal sanctions and for enforcement measures (e.g. fines, administrative sanctions such as suspension, revocation and cancellation). However, the process for continuous oversight is lacking provisions regarding enforcement measures in accordance with article 7.7 of Regulation (EC) 550/2004 as amended. Any actions would thus be on an ad hoc basis.

In the other State the Aviation Act empowers the CA/NSA to impose financial sanctions. A common procedure for financial sanctions is being developed in order to allow the CA/NSA to make use of them.

States: 2

Independence from the ANSPs/TOs

The national supervisory authorities shall be independent of air navigation service providers.

Reg.(EC) 549/2004 Art.4.2

One of the authorities has declared to be independent from their ANSPs at organisational level. The other CA/NSA is both at organisational and functional level.

EC Directive 2003/42 on Occurrence Reporting

Both States have transposed the referenced Directive.

Adoption of EU Regulations and Directives related to ATM/ANS (Non-EU States)

Iceland is an EFTA State and a member of the EEA. Therefore all SES and EASA regulations and their implementing rules are adopted via the EEA agreement.

Norway's case is the same (i.e. an EFTA State and an EEA member). Norway highlighted that there is often a time lag from when a regulation is adopted until it is incorporated into Norwegian law.

Neither State provided a status of the incorporation of the EU rules into their respective national legal frameworks.

Exemptions, derogations and other flexibility provisions

Member States may grant exemptions from the substantive requirements laid down in this Regulation and its implementing rules in the event of unforeseen urgent operational circumstances or operational needs of a limited duration, provided the level of safety is not adversely affected. (...)

Reg. (EC) 216/2008 Art. 14.4

Where an equivalent level of protection to that attained by the application of the rules implementing this Regulation can be achieved by other means, Member States may, without discrimination on grounds of nationality, grant an approval derogating from those implementing rules.

Reg. (EC) 216/2008 Art. 14.6

The questionnaire asked for a description of the respective processes followed by the State to grant an exemption and derogation. A list of the exemptions adopted in accordance with article 14.4 of Regulation (EC) No 216/2008 as amended was also required.

One of the authorities has a process in place to deal with exemptions which is currently only applicable to airworthiness; this process will be updated to include other areas such as ANS, ADR and OPS. Therefore no exemption has been granted in the ATM/ANS domain.

Regarding derogations, the authority foresees no need to use them; nevertheless the process exists and is going to be amended in the same manner as for exemptions.

The other authority did not indicate whether processes exist or not for exemptions and derogations. No exemption and no derogation have been adopted by the State.

Safeguards

This Regulation shall not prevent the application of measures by a Member State to the extent to which these are needed to safeguard essential security or defence policy interests. (...)

Reg. (EC) 549/2004 Art. 13

The two states confirmed that no safeguards have been adopted.

Area 2: Competent authority structure and safety oversight functions

It is up to the States to decide on the roles, competences and duties of their competent authorities. Neither State declared establishing more than one CA/NSA.

Qualified Entities

Reg.(EU) 1034/2011 Art. 11

Neither CA/NSA uses the services of a Qualified Entity.

Sub-contracted Organisations

Reg.(EU) 1034/2011 Art. 11

Neither CA/NSA uses the services of sub-contracted organisations.

Safety oversight capabilities: Staff number and qualification

Regulation (EC) 549/2004 as amended and Regulation (EU) 1034/2011 requires States to ensure that national supervisory/competent authorities have the necessary/sufficient resources and capabilities to carry out the tasks assigned to them in an efficient and timely manner. Moreover, Article 12.3 of Regulation (EU) No. 1034/2011 explicitly asks CA/NSAs to ensure that all persons involved in safety oversight activities are **competent** to perform the required function.

This competency is achieved through a process, starting with the pre-requisites established by the State or the CA/NSA to ensure eligible candidates are recruited. This is followed by training and qualification processes – defined by the CA/NSA - to ensure that the personnel are competent before undertaking their oversight duties.

EASA audits of the CA/NSAs examine whether staff have been adequately qualified as required by EU regulations. Based on experience derived from inspected States, EASA observed that sometimes authorities have an incorrect perception of the actual number of competent oversight staff they employ. This anomaly can be caused by incorrect translations of regulations into the national language, deviations from their own qualification process, and lack of specific training.

As a consequence of the above mentioned reasons, and to avoid providing misleading information, this area will not show the FTEs declared by the authorities. Nevertheless this data will be taken into account during the EASA's standardisation visits and verified.

Further details about qualification and training are contained in Area 3.

Agreement/arrangement for cross border provision of ATS

National supervisory authorities shall cooperate closely to ensure adequate supervision of air navigation service providers holding a valid certificate from one Member State that also provide services relating to the airspace falling under the responsibility of another Member State. Such cooperation shall include arrangements for the handling of cases involving non-compliance with the applicable common requirements set out in Article 6 or with the conditions set out in Annex II.

In the case of cross-border provision of air navigation services, such arrangements shall include an agreement on the mutual recognition of the supervisory tasks set out in paragraphs 1 and 2 and of the results of these tasks. (...)

Reg. (EU) 550/2004 Arts.2.4 and 2.5;

Related article: Reg.(EU) 1034/2011 Art. 4.2

One of the CA/NSAs has formalised agreements with two other EU authorities for oversight. A draft agreement with another CA is to be signed this year, 2014.

In the other State, Cross Border Agreements (CBA) have been established between the State and three other States. Although roles and responsibilities for the safety oversight tasks are contained in the CBA, limited tasks have been performed so far.

Arrangements with other institutions

Member States shall, within the context of the common transport policy, take the necessary steps to ensure that written agreements between the competent civil and military authorities or equivalent legal arrangements are established or renewed in respect of the management of specific airspace blocks.

Reg. (EC) 550/2004 Art.11

The CA/NSAs have not entered into any other agreement on the safety oversight of ATSPs with another legal entity (e.g. Military Aviation Authority).

Area 3: Competent authority personnel qualification and training

As mentioned in Area 2, the information provided on qualification requirements and training is further detailed in this section.

Staff qualification requirements

Competent authorities shall ensure that all persons involved in safety oversight activities are competent to perform the required function. (...)

Reg. (EU) 1034/2011 Art.12.3

Both States explained how it is ensured that the CA/NSA staff, involved in safety oversight activities, are competent to accomplish their tasks. They also described the minimum qualification requirements applicable to the staff involved in safety oversight activities.

Both authorities confirmed that the CA/NSA staff involved in safety oversight activities are qualified for the functions they are responsible for.

Human resources assessment

Competent authorities shall produce and update every 2 years, an assessment of the human resources needed to perform their safety oversight functions, based on the analysis of the processes required by this Regulation and their application.

Reg. (EU) 1034/2011 Art.12.2

In one of the CA/NSAs the assessment is still on-going from 2013. The other authority conducts the assessment during the annual budget process.

States: 2

State measures or plans

Member States shall ensure that national supervisory authorities have the necessary resources and capabilities to carry out the tasks assigned to them under this Regulation in an efficient and timely manner.

Reg. (EC) 549/2004 Art. 4.4

Member States and the Commission shall ensure that competent authorities have the necessary capability to ensure the safety oversight of all organisations operating under their supervision, including sufficient resources to carry out the actions identified in this Regulation.

Reg. (EU) 1034/2011 Art.12.1

The referenced articles refer to the measures or plans adopted by the State to obtain the necessary resources for the CA/NSA. In one of the States this topic is pending on the outcome of the assessment. The other State referred to an annual 'task letter' from the Ministry of Transport assigning the tasks to the CAA; however, the number of resources needed per task is not specified.

States: 1

Training

Competent authorities shall ensure that all persons involved in safety oversight activities are competent to perform the required function. In that regard they shall:

(a) define and document the education, training, technical and operational knowledge, experience and qualifications relevant to the duties of each position involved in safety oversight activities within their structure;

(b) ensure specific training for those involved in safety oversight activities within their structure;

Reg. (EU) 1034/2011 Art.12.3 (a), (b)

One of the States noted that the Transport Agency was established on July 1st 2013 and that policies, plans and programmes are still under development.

The other authority described the training policy and plans.

As regard the identification of new training needs (e.g. new regulations, new technologies, and/or new types of operation (SESAR)), one of the CA/NSAs does it on an ad-hoc basis. The

other authority uses several sources such as the Eurocontrol courses at IANS, participation in workshops and other international groups (NCP).

States: 1

Area 4: Acceptable Means of Compliance (AMC) and Guidance Material (GM)

The process referred to in paragraph 1 shall:

(b) be supported by documentation specifically intended to provide safety oversight personnel with guidance to perform their functions.

Reg. (EU) 1034/2011 Art. 6.2 (b)

Both CA/NSAs confirmed that they have issued general guidance material to their oversight staff on subjects relevant to their duties (e.g. Inspecting Staff Manual, Inspectors' Handbook) and also to have issued general guidance material to service providers on subjects relevant to their duties.

Area 5: Certification obligations and licensing

ANSP certification

The provision of all air navigation services within the Community shall be subject to certification by Member States.

Reg. (EC) 550/2004 Art. 7.1

ATM/ANS providers shall be required to hold a certificate. (...)

Reg. (EC) 216/2008 Art. 8b(2)

Both States have declared that all Organisations/Entities providing Air Navigation Services (ANS) have a Certificate issued in accordance with Article 7 of Regulation (EC) 550/2004 as amended and of Article 8b (2) of Regulation (EC) 216/2008 as amended.

In one of the States there are no AFIS providers. There is one AFISP in the other State and the certification process is the same as for any other ANSP.

ATCO licensing

This Regulation lays down detailed rules for the issue, suspension, and revocation of licences of air traffic controllers and student air traffic controllers, of associated ratings, endorsements, medical certificates and of certificates of training organisations and the conditions of their validity, renewal, revalidation and use.

Reg. (EU) 805/2011 Art. 2.1 (and further)

Both authorities have provided information on their processes and procedures for suspension and revocation of licences.

Reg. (EU) 805/2011 Art. 13.2: Both States have imposed local language requirements.

Reg. (EU) 805/2011 Art. 13.5: None of their respective ANSPs require a higher level than 4 of language proficiency (in the local language or English).

Reg. (EU) 805/2011 Art. 22.2(g): The CA/NSA of one of the States has set up an internal procedure for appeals. There is a special appeal committee in the CA/NSA. The appeals against the committee's decisions follow the Administrative Procedures Act. In the other State the appeals mechanism is under development.

Reg. (EU) 805/2011 Art. 29.1: In regard to recognition of licenses, one of the authorities fully accepts ATCO licences issued by other States. The national licences are issued after successful completion of unit training. In the other State this process is not yet established. Similarly to the other State, the national licenses are issued after unit training has been successfully completed. This CA/NSA declared having 3 (three) ATCOs licensed in another Member State that have applied for an exchange of their licenses for ones issued by them.

Reg. (EU) 805/2011 Art. 22.2(d): Specific process for approval of training courses, Unit Training Plans (UTPs) and Unit Competency Schemes (UCSs) are applied by one of the CA/NSAs. In the other authority the CA has approved a template for UTPs for all units. The process for UCS approval is not yet applied (it is planned to be finished by April 2014). New procedures for approval of training courses, UCSs and UTPs are also under development.

Training Organisations

Applications for training organisation certification shall be submitted to the competent authority in accordance with the procedure established by that authority.

Competent authorities shall issue certificates when the applicant training organisation fulfils the requirements laid down in Chapter IV.

Reg. (EU) 805/2011 Arts. 18.1 and 27.2

One of the CA/NSAs has certified the Training Organisation in accordance with Articles 18 and 27 of Regulation (EU) 805/2011.

This is not the case in the other authority where processes and procedures for monitoring and auditing training systems to assess their compliance with the terms and conditions of the approval are under development. For the time being the CA is using the same auditing procedures as for the ANSPs. The process and procedure for the approval of examiners and competence assessors including the applied criteria is also under development.

States: 1

Area 6: Continuous oversight obligations

Continuous oversight obligations – General

Both authorities have described the process and procedures related to the continuous oversight of ANSPs/TOs in order to assess their continued compliance.

The questionnaire asked for more information on how these procedures address the different types of services or geographical scope of the ANSPs under the CA/NSA's supervision.

Annual inspection programme

Within the inspection programme required by Article 8 of Implementing Regulation (EU) No 1035/2011, competent authorities shall establish and update at least annually a programme of safety regulatory audits in order to (...).

Reg. (EU) 1035/2011 Art. 8

Related article: Reg. (EU) 1034/2011 Art. 7

Both authorities have replied that annual inspection programmes are in place. Different levels of details were also provided.

Risk based approach

Within the inspection programme required by Article 8 of Implementing Regulation (EU) No 1035/2011, competent authorities shall establish and update at least annually a programme of safety regulatory audits in order to:

(c) ensure that audits are conducted in a manner commensurate to the level of risk posed by the organisations' activities.

Reg. (EU) 1034/2011 Art. 7.3 (c)

Related article: Reg. (EU) 1034/2011 Art. 5.2

The States were asked to provide a description of the methodology and/or criteria to ensure that the scheduled visits to ANSPs/TOs in the 'NSA annual inspection programme' are prioritised on a risk based approach.

The current process in one of the CA/NSAs does not include any provisions for a risk based or a performance based oversight. As result of an internal audit the CA decided to amend the process (it is planned to be amended this year). Although not formally reflected in the process, the CA's common practice is to use safety occurrences and safety analysis division reports.

The other authority had an oversight regime whereby every ATM unit was visited on a 2,5 year cycle, and the biggest airport annually. There is now a gradual change to a more risk based approach, with no fixed requirement on frequency of visits. The goal is to ensure that all applicable requirements have been verified in a two year period for every service provider.

The methodology is currently being improved to ensure a better documented risk based approach. The depth of the verification will be based on estimated risk. The complexity, number and type of changes and a dynamic safety rating of the service provider will be important factors in building and adjusting the audit programme and deciding what services to pay special attention to.

States: 2

Non-scheduled inspections

The process to conduct non-scheduled inspections has not been established in one of the States. In the other State the process exists; ad-hoc inspections are performed when a concern about the safety of the operation exists.

Oversight of changes to the ATM functional system

1. Organisations shall only use procedures accepted by the relevant competent authority when deciding whether to introduce a safety-related change to their functional systems. In case of air traffic service providers and communication, navigation or surveillance service providers, the relevant competent authority shall accept these procedures in the framework of Implementing Regulation (EU) No 1035/2011.

2. Organisations shall notify the relevant competent authority of all planned safety-related changes. To this effect, competent authorities shall establish appropriate administrative procedures in accordance with national law.

3. Unless Article 10 applies, organisations may implement notified changes following the procedures referred to in paragraph 1 of this Article.

Reg. (EU) 1034/2011 Art. 9

The authorities provided a short description of the CA's processes and procedure(s) with regard to the notification of changes and required assessment of changes.

Continuous oversight obligations – ASM and ATFM

[Airspace Management \(Flexible Use of Airspace\) – Regulation \(EC\) 2150/2005](#)

This Regulation reinforces and harmonises the application, within the Single European Sky, of the concept of the flexible use of airspace as defined in Article 2 point (22) of Regulation (EC) No 549/2004, in order to facilitate airspace management and air traffic management within the limits of the common transport policy.

In particular, this Regulation sets out rules to ensure better cooperation between civil and military entities responsible for air traffic management that operate in the airspace under the responsibility of Member States.

Reg. (EC) 2150/2005 Art. 1

Regulation (EC) 2150/2005 sets out rules to ensure better cooperation between civil and military entities responsible for air traffic management that operate in the airspace under the responsibility of Member States. The CA/NSAs have oversight obligations in respect to this regulation.

Member States shall perform the following tasks:

(a) ensure the overall application of the flexible use of airspace concept at a strategic, pre-tactical and tactical level;

Reg. (EC) 2150/2005 Art. 4.1 (a)

One of the States described the processes established to ensure the overall application of the FUA concept at strategic, pre-tactical and tactical levels. In the other State the process became effective in December 2013. The other State does not have a military; prior to this process, an agreement was in place between the authority and the Coast Guard, which serves as a liaison body for NATO and other foreign forces operating in the State.

Member States shall identify and notify to the Commission those persons or organisations which are responsible for the execution of tasks listed in paragraph 1. (...)

Reg. (EC) 2150/2005 Art. 4.3

One of the States has not identified and informed the Commission of the persons identified or organisations responsible for all tasks listed in article 4.1 of the FUA regulation.

States: 1

FUA level 1 – Strategic level

The questionnaire addressed the most significant aspects of the FUA level 1.

No issues have been reported on the following aspects related to FUA level 1:

Member States shall perform the following tasks:

(b) regularly review users' requirements;

(c) approve the activities which require airspace reservation or restriction;

(d) define temporary airspace structures and procedures to offer multiple airspace reservation and route options;

(e) establish criteria and procedures providing for the creation and the use of adjustable lateral and vertical limits of the airspace required for accommodating diverse variations of flight paths and short-term changes of flights;

(f) assess the national airspace structures and route network with the aim of planning for flexible airspace structures and procedures;

(l) set up consultation mechanisms between the persons or organisations as referred to in paragraph 3 and all relevant partners and organisations to ensure that users' requirements are properly addressed;

Some of the issues reported by the States on aspects related to FUA level 1 are:

Member States shall perform the following tasks:

(g) define the specific conditions under which the responsibility for separation between civil and military flights rests on the air traffic services units or controlling military units;

States: 1

(h) develop cross-border airspace use with neighbouring Member States where needed by the traffic flows and users' activities;

States: 1

(i) coordinate their airspace management policy with those of neighbouring Member States to jointly address use of airspace across national borders and/or the boundaries of flight information regions;

States: 2

(k) establish with neighbouring Member States one common set of standards for separation between civil and military flights for cross-border activities;

States: 2

(m) assess and review airspace procedures and performance of flexible use of airspace operations;

States: 2

FUA level 2 – Pre-tactical

Member States shall appoint or establish an airspace management cell to allocate airspace in accordance with the conditions and procedures defined in Article 4(1).

In those Member States where both civil and military authorities are responsible for or involved in airspace management, this cell shall take the form of a joint civil military cell.

Reg. (EC) 2150/2005 Art. 5.1

One of the States has established an airspace management cell to allocate airspace in accordance with the conditions and procedures defined in article 4.1. This cell is joint civil/military and it has not been established jointly with any other Member State.

In the other State no airspace management cell has been established.

States: 1

Member States shall ensure that adequate supporting systems are put in place to enable the airspace management cell to manage airspace allocation and to communicate in good time the airspace availability to all affected users, airspace management cells, air traffic service providers and all relevant partners and organisations.

Reg. (EC) 2150/2005 Art. 5.3

The State which has established the airspace management cell replied that there is not an adequate technical system according to the specifications; however, the ANSP and the military are in a process of implementing LARA by 2015.

FUA level 3 – Tactical

The questionnaire addressed the most significant aspects of the FUA level 3.

One of the States has not established FUA level 3. The other State did it.

In this State, co-ordination procedures and communication facilities to allow the real-time activation, deactivation or reallocation of airspace allocated at pre-tactical level are defined in the LoA between the ANSP and the military. Data exchange is done via telephone (automatic data exchange does not exist).

No issues have been reported by this State on the following aspects related to FUA level 3:

Member States shall ensure that the relevant controlling military units and air traffic services units exchange any modification of the planned activation of airspace in a timely and effective manner and notify to all affected users the current status of the airspace.

Reg. (EC) 2150/2005 Art. 6.2

Member States shall ensure the establishment of coordination procedures and the establishment of supporting systems between air traffic service units and controlling military units in order to ensure safety when managing interactions between civil and military flights.

Reg. (EC) 2150/2005 Art. 6.3

Member States shall, in order to maintain or enhance existing safety levels, ensure that, within the context of a safety management process, a safety assessment, including hazard identification, risk assessment and mitigation, is conducted, before they introduce any changes to the operations of the flexible use of airspace.

Reg. (EC) 2150/2005 Art. 7

Finally, a mechanism to evaluate the functioning of agreements, procedures and supporting systems at the three levels exists.

The State declared not being fully compliant with the following quoted requirement:

Member States shall ensure that coordination procedures are established between civil and military air traffic service units so as to permit direct communication of relevant information to resolve specific traffic situations where civil and military controllers are providing services in the same airspace. This relevant information shall be made available, in particular where it is required for safety reasons, to civil and military controllers and controlling military units through a timely exchange of flight data, including the position and flight intention of the aircraft.

Reg. (EC) 2150/2005 Art. 6.4

As regard the requirement regarding a common set of procedures to manage specific traffic situations and/or to enhance the real-time ASM between civil and military units involved in or concerned with cross-border activities, the State replied that they do not have cross border areas.

[Air Traffic Flow and Capacity Management \(ATFM\) – Regulation \(EC\) 255/2010](#)

Regulation (EC) 255/2010 lays down the requirements for air traffic flow management (hereinafter ATFM) in order to optimise the available capacity of the European air traffic management network (hereinafter EATMN) and enhance ATFM processes.

It assigns obligations to all actors involved in the EATMN, some of them out of the CA/NSA competences; as such, the questions were limited to the oversight obligations that the CA/NSAs have with regard to ATFM and an overarching question to the States about how they meet general ATFM obligations as per article 4.

This regulation is not applied in one of the States (this State is NAT region) hence only one State will be referred to.

General obligations of Member States

Reg. (EC) 255/2010 Art. 4

Article 4 of Regulation (EC) 255/2010 lists the general obligations of Member States. In the State, procedures on the ATFM function have been agreed and established by the ANSP between the Network Manager and the ATCCs.

CA/NSA oversight processes and procedures

In the State the process for auditing ATFM is the same as for the ANSPs.

No issues have been reported on the following aspects:

- Consistency between flight plans and airport slots is done according to agreed procedures between ATCC/Airports and NM.
- State obligations concerning critical events are fulfilled through agreed procedures between the ANSP and NM.
- Monitoring of compliance to ATFM measures is ensured via regular reports/communication between the ANSP and NM.
- Safety assessments are conducted ahead of the introduction of any significant changes to ATFM systems and procedures.

The State declared not being fully compliant on the following requirements:

- ATFM performance assessment has not been verified.
- No measures have been taken by the State to ensure that parties referred to in article 1.3 with responsibilities for ATFM functions to fulfil the additional ATFM requirements as indicated in article 14.2.
- No verification has been done in order to ensure that personnel involved in ATFM activities are made aware of the provisions of the 'common rules on ATFM regulation' and that these personnel are adequately trained and competent for their job functions.

Additional requirements

Article 10.1 of Regulation (EU) 677/2011 (laying down detailed rules for the implementation of air traffic management (ATM) network functions) requires that Member States shall ensure close cooperation and coordination between the functional airspace block and the Network Manager, such as in strategic planning level and tactical daily flow and capacity management.

Regulation (EU) 677/2011 is not applicable in one of the States. The other State replied that this requirement is achieved via regular meetings between ANSP representatives and the NM; the authority is not involved in these meetings.

Area 7: Resolution of Safety concerns

Both States have described the arrangements between the AIB, CA/NSA and ANSPs with regard to the occurrence reporting system, analysis of data and investigation.

The States specified the outcome of the subsequent accident/incident investigations (i.e. safety recommendations).

Corrective Actions and follow-up

Where a certified organisation no longer complies with the applicable common requirements or, where applicable, with the conditions attached to the certificate, the competent authority shall, within one month of the date of discovering the non-compliance, require the organisation to take corrective action.

That decision shall immediately be notified to the relevant organisation.

The competent authority shall check that the corrective action has been implemented before notifying its approval to the relevant organisation.

Where the competent authority considers that corrective action has not been properly implemented within the timetable agreed with the organisation, it shall take appropriate enforcement measures as provided for in Article 7(7) of Regulation (EC) No 550/2004 and Article 10, Article 22a(d), and Articles 25 and 68 of Regulation (EC) No 216/2008, while taking into account the need to ensure the continuity of air navigation services.

Reg. (EU) 1034/2011 Art. 8; Reg. (EU) 1035/2011 Art. 6.3

Both authorities described the process but neither described the case when deviations exist (e.g. the auditee does not respect the agreed timeframe or the 'negotiation' phase of submitting the corrective action plan takes too long) and what measures the authority is able to take.

Safety Directives

Competent authorities shall issue a safety directive when they have determined the existence of an unsafe condition in a functional system requiring immediate action.

Reg. (EU) 1034/2011 Art. 13

Neither State has issued a safety directive.

Enforcement measures

Article 7.7 of the Service Provision Regulation (EC) 550/2004 and article 9 (Sanctions) of the Framework Regulation (EC) 549/2004 and Articles 10, 22a (d), 25 and 68 of Regulation (EC) No 216/2008 lay down enforcement requirements. The question asked for a description of the process and procedure(s) through which the CA/NSAs ensure that appropriate enforcement measures are taken in accordance with the referenced regulations.

In one of the CA/NSAs the process for continuous oversight lacks provisions regarding enforcement measures in accordance with article 7.7 of Regulation (EC) 550/2004. Any actions would thus be on an ad-hoc basis.

In the other authority the CA/NSA has a procedure for sanctions including suspension/revocation of the certificate and the possibility to report the offence to the police among other means. The procedure will be revised in order to make use of financial sanctions.

Penalties for infringement of the common rules on ATFM regulation

Reg. (EU) No. 255/2010, Art. 15.

This regulation is not applicable to one of the States. In the other State, the rules on penalties for infringement of the 'common rules on ATFM regulation' are laid down in the Aviation Act. The penalty provisions have not been notified to the Commission.

5.3 CA/NSAs of States/Countries with Working Arrangements with EASA

The CA/NSAs of States with Working Arrangements with EASA not inspected as of the 1st of June 2014 and that replied to the questionnaire are:

- Armenia
- Bosnia-Herzegovina
- FYROM
- Georgia
- Moldova
- Montenegro

Area 1: Primary Aviation legislation and specific operating regulations

Establishment of the CA/NSA

Member States shall, jointly or individually, either nominate or establish a body or bodies as their national supervisory authority in order to assume the tasks assigned to such authority under this Regulation and under the measures referred to in Article 3.

Reg.(EC) 549/2004 Art.4.1;

Related articles: Reg.(EU) 1034/2011 Art.3; Reg. (EU) 1035/2011 Art. 3

Establishment and/or nomination of the CA/NSAs does not seem to be an issue. All Countries have listed the legal instruments and references that constitute the legal basis for establishment.

Enforcement to the CA/NSA

National supervisory authorities shall monitor compliance with the common requirements and with the conditions attached to the certificates. Details of such monitoring shall be included in the annual reports to be submitted by Member States pursuant to Article 12(1) of the framework Regulation. If a national supervisory authority finds that the holder of a certificate no longer satisfies such requirements or conditions, it shall take appropriate measures while ensuring continuity of services on condition that safety is not compromised.

Reg.(EC) 550/2004 Art.7.7;

Related article: Reg.(EU) 1035/2011 Art. 6.3

Three CA/NSAs listed the legal instruments empowering the authority to take appropriate enforcement measures without describing them. The other three competent authorities referred to the different measures that their national regulations allow them to take in case of breach of provisions.

Independence from the ANSPs/TOs

The national supervisory authorities shall be independent of air navigation service providers.

Reg.(EC) 549/2004 Art.4.2

Two authorities have declared that they are independent from their ANSPs at organisational level. One CA/NSA is separated at functional level. Three authorities said they are separated at both organisational and functional level.

Adoption of EU Regulations and Directives related to ATM/ANS (Non-EU States)

As non-EU States, the Countries were asked whether they adopt (through bilateral agreements) and/or intend to adopt (e.g. following a convergence process) EU Regulations and Directives related to ATM/ANS.

- One Country has working arrangements with EASA and as such they have transposed Regulation (EU) 1034/2011, Regulation (EU) 1035/2011 and Regulation (EU) 805/2011;
- One Country that most of the EU regulations have been transposed through the ECAA (European Common Aviation Area) agreement without detailing which of them;
- One Country replied that there is a commitment to transpose the relevant EU regulations and Directives in ATM/ANS because of the CAAA (Common Aviation Area Agreement) signature, without detailing their progress on the transposition;
- One Country referred to the Annex of ECAA agreement containing the EU regulations; no indication on what is the current status of the implementation has been provided;
- One Country signed the CAA agreement in 2012; they did not inform on the situation;
- One Country signed the ECAA agreement and ratified it in 2007. The Single European Sky (SES) regulations are translated into the national language (Annex I of the Law) and form an integral part of the legal order of that State. Regulation (EC) 550/2004 is transposed into the States legal system as well as Regulation (EU) 1035/2011, Regulation (EU) 1034/2011, Regulation (EC) 482/2008 and Regulation (EU) 691/2010.

Exemptions, derogations and other flexibility provisions

Member States may grant exemptions from the substantive requirements laid down in this Regulation and its implementing rules in the event of unforeseen urgent operational circumstances or operational needs of a limited duration, provided the level of safety is not adversely affected. (...)

Reg. (EC) 216/2008 Art. 14.4

Where an equivalent level of protection to that attained by the application of the rules implementing this Regulation can be achieved by other means, Member States may, without discrimination on grounds of nationality, grant an approval derogating from those implementing rules.

Reg. (EC) 216/2008 Art. 14.6

The questionnaire asked for a description of the respective processes followed by the State to grant an exemption and derogation. A list of the exemptions adopted in accordance with article 14.4 of Regulation (EC) No 216/2008 as amended was also required.

- Regulation (EU) 216/2008 as amended is not applicable in one State; therefore this article does not apply.
- One Country did not reply.
- Two Countries have not transposed Regulation (EC) No 216/2008 as amended yet in their respective legislative systems.
- One Country replied that no exemptions, derogations or other flexibility provisions have been adopted.
- In one Country there are no requests for exemptions and derogations. There is no internal process established for this purpose at this moment but a new internal procedure is to be adopted.

Safeguards

This Regulation shall not prevent the application of measures by a Member State to the extent to which these are needed to safeguard essential security or defence policy interests. (...)

Reg. (EC) 549/2004 Art. 13

Two Countries did not reply to the questions related to the safeguards adopted in accordance with article 13 of Regulation (EC) 549/2004 as amended. Two Countries confirmed that no safeguards have been adopted. Two Countries have legislation pending on the transposition of the Regulation (EC) 549/2004 as amended.

Area 2: Competent authority structure and safety oversight functions

It is up to the States to decide on the roles, competences and duties of their competent authorities. Two States have declared the establishment of more than one CA/NSA.

Qualified Entities

Reg.(EU) 1034/2011 Art. 11

None of the authorities make use of Qualified Entities. One of the Countries noted that Regulation (EU) 1034/2011 is not applicable to them.

Sub-contracted Organisations

Reg.(EU) 1034/2011 Art. 11

One CA/NSA did not reply. The rest of the CA/NSAs confirmed that no sub-contracted organisations assist them in performing the oversight tasks in accordance with regulation (EU) 1034/2011. The Regulation (EU) 1034/2011 is not applicable in one of the Countries; having said that, the CAAs of this Country and a neighbouring Country have signed a MoU which allows CAA inspectors to assist the CAA of the referred Country with performing the NSA Tasks.

Safety oversight capabilities: Staff number and qualification

Regulation (EC) 549/2004 as amended and Regulation (EU) 1034/2011 requires States to ensure that national supervisory/competent authorities have the necessary/sufficient resources and capabilities to carry out the tasks assigned to them in an efficient and timely manner. Moreover, Article 12.3 of Regulation (EU) No. 1034/2011 explicitly asks CA/NSAs to ensure that all persons involved in safety oversight activities are **competent** to perform the required function.

This competency is achieved through a process, starting with the pre-requisites established by the State or the CA/NSA to ensure eligible candidates are recruited. This is followed by training and qualification processes – defined by the CA/NSA – to ensure that the personnel are competent before undertaking their oversight duties.

EASA audits of the CA/NSAs examine whether staff have been adequately qualified as required by EU regulations. Based on experience derived from inspected States, EASA observed that sometimes authorities have an incorrect perception of the actual number of competent oversight staff they employ. This anomaly can be caused by incorrect translations of regulations into the national language, deviations from their own qualification process, and lack of specific training.

As a consequence of the above mentioned reasons, and to avoid providing misleading information, this area will not show the FTEs declared by the authorities. Nevertheless this data will be taken into account during the EASA's standardisation visits and verified.

Further details about qualification and training are contained in Area 3.

Agreement/arrangement for cross border provision of ATS

National supervisory authorities shall cooperate closely to ensure adequate supervision of air navigation service providers holding a valid certificate from one Member State that also provide services relating to the airspace falling under the responsibility of another Member State. Such cooperation shall include arrangements for the handling of cases involving non-compliance with the applicable common requirements set out in Article 6 or with the conditions set out in Annex II.

In the case of cross-border provision of air navigation services, such arrangements shall include an agreement on the mutual recognition of the supervisory tasks set out in paragraphs 1 and 2 and of the results of these tasks. (...)

Reg. (EU) 550/2004 Arts.2.4 and 2.5;

Related article is also: Reg.(EU) 1034/2011 Art. 4.2

Four CA/NSAs have not formalised any agreement for the oversight of cross border provision of ATS.

Provisions are included mainly in the agreement on the establishment of the FAB for one of the Countries. One Country has signed a Cooperation Agreement at State level with another Country (non-EU Member) and a MoU between CAAs exists; it puts in place arrangements establishing the cooperation of the contracting parties in the work regarding the joint ANS provider.

States: 4

Arrangements with other institutions

Member States shall, within the context of the common transport policy, take the necessary steps to ensure that written agreements between the competent civil and military authorities or equivalent legal arrangements are established or renewed in respect of the management of specific airspace blocks.

Reg. (EC) 550/2004 Art.11

None of the authorities have entered into any other agreement on the safety oversight of ATSPs with another legal entity (e.g. Military Aviation Authority).

Area 3: Competent authority personnel qualification and training

As mentioned in Area 2, the information provided on qualification requirements and training is further detailed in this section.

Staff qualification requirements

Competent authorities shall ensure that all persons involved in safety oversight activities are competent to perform the required function. (...)

Reg. (EU) 1034/2011 Art.12.3

All Countries explained how they ensure that CA staff, involved in safety oversight activities, are competent to accomplish their tasks. They also described the minimum qualification requirements applicable to their staff involved in safety oversight activities.

All of them confirmed that CA staff involved in safety oversight activities are qualified for the functions they are responsible for.

Human resources assessment

Competent authorities shall produce and update every 2 years, an assessment of the human resources needed to perform their safety oversight functions, based on the analysis of the processes required by this Regulation and their application.

Reg. (EU) 1034/2011 Art.12.2

- One CA/NSA provided a description of the methodology without confirming if they have performed the required assessment.
- One CA/NSA conducts it on a yearly basis in accordance with its own internal procedure for human resources assessment.
- One CA/NSA said the assessment of its human resources has been performed without detailing when.
- Two CA/NSAs described the methodology and the steps followed for such an assessment. In one of the authorities Division directors conduct, at least twice a year, the analysis of the need for modification of the number of employees.
- In one of the Countries the minimum staff number is declared by national regulation.

State measures or plans

Member States shall ensure that national supervisory authorities have the necessary resources and capabilities to carry out the tasks assigned to them under this Regulation in an efficient and timely manner.

Reg. (EC) 549/2004 Art. 4.4

Member States and the Commission shall ensure that competent authorities have the necessary capability to ensure the safety oversight of all organisations operating under their supervision, including sufficient resources to carry out the actions identified in this Regulation.

Reg. (EU) 1034/2011 Art.12.1

The referenced articles refer to the measures or plans adopted by the State to obtain the necessary resources for the CA/NSA. In the majority of the cases the CA/NSAs send a request to the competent Body (e.g. Ministry) based on the human resource assessment performed following the criteria established by the transposed Regulation (EU) 1034/2011.

One of the authorities did not reply. Two CA/NSAs informed that for the time being there are no measures or plans adopted by the State in relation to CAA human resources.

In one of the authorities ISO procedures are followed, which requests yearly resource planning.

Training

Competent authorities shall ensure that all persons involved in safety oversight activities are competent to perform the required function. In that regard they shall:

(a) define and document the education, training, technical and operational knowledge, experience and qualifications relevant to the duties of each position involved in safety oversight activities within their structure;

(b) ensure specific training for those involved in safety oversight activities within their structure;

Reg. (EU) 1034/2011 Art.12.3 (a), (b)

Two authorities did not describe their respective training policies, programmes and plans.

As regard the identification of new training needs (e.g. new regulations, new technologies, and/or new types of operation (SESAR)), none of the authorities explained how they identify them or whether there is a systematic approach to detect them. All of the CA/NSAs agreed on the need to update staff training as long as changes in aviation legislation and industry happen.

Area 4: Acceptable Means of Compliance (AMC) and Guidance Material (GM)

The process referred to in paragraph 1 shall:

(b) be supported by documentation specifically intended to provide safety oversight personnel with guidance to perform their functions.

Reg. (EU) 1034/2011 Art. 6.2 (b)

All CA/NSAs with the exception of one have issued general guidance material to their oversight staff on subjects relevant to their duties (e.g. Inspecting Staff Manual, Inspectors' Handbook).

In addition, two CA/NSAs have issued general guidance material to service providers on subjects relevant to their duties.

Area 5: Certification obligations and licensing

ANSP certification

The provision of all air navigation services within the Community shall be subject to certification by Member States.

Reg. (EC) 550/2004 Art. 7.1

ATM/ANS providers shall be required to hold a certificate. (...)

Reg. (EC) 216/2008 Art. 8b(2)

Four Countries have declared that all Organisations/Entities providing Air Navigation Services (ANS) have a certificate issued in accordance with Article 7 of Regulation (EC) No 550/2004 as amended and of Article 8b (2) of Regulation (EC) No 216/2008 as amended.

The Countries were asked to describe the measures taken to ensure maximum compliance of uncertified ANS providers with the common requirements. Two CA/NSAs noted that there are no uncertified ANSPs; the rest (four) replied that this question was 'not applicable'.

Although none of the Countries have AFIS providers, one of the States is drafting a regulation on certification of AFISP.

ATCO licensing

This Regulation lays down detailed rules for the issue, suspension, and revocation of licences of air traffic controllers and student air traffic controllers, of associated ratings, endorsements, medical certificates and of certificates of training organisations and the conditions of their validity, renewal, revalidation and use.

Reg. (EU) 805/2011 Art. 2.1 (and further)

Two Countries have not provided information on their processes and procedures for suspension and revocation of licences. One CA/NSAs refers to its Aviation Act with no further description. In the other authority, despite it is competent for suspending/revoking the licenses, it has no procedure to do it.

None of the authorities have imposed local language requirements and none of their ANSPs require a higher level than 4 of language proficiency (in the local language or English).

One of the CA/NSAs has an internal appeal mechanism. Another authority refers to ICAO Circular 318-AN/180 as the appealing mechanisms and the rest of authorities confirmed that there are appeal mechanisms in place that follow State administrative procedures.

In one of the CA/NSAs some tasks are performed by the ANSP. The ANSP conducts all examinations for issuing and renewal of licences, ratings and endorsements. After the examinations have been conducted applicants submit all relevant documentation to the CAA for the granting or renewal of the licences, ratings and/or endorsements.

As regard recognition of licenses (article 29.1 of Regulation (EU) 805/2011), one of the authorities confirmed having 47 ATCOs licensed in another Member State that have applied for an exchange of their licenses for one issued in its State. In another Country the provisions of article 29.1 of Regulation (EU) 805/2011 have not been transposed yet. No ATCOs licensed in another Member State have applied for an exchange of their licenses for one issued in that State, to date.

In one of the Countries there is no procedure for the recognition of ATCO licences.

Specific processes for the approval of training courses, Unit Training Plans (UTPs) and Unit Competency Schemes (UCSs) are applied by all CAs with the exception of one.

Training Organisations

Applications for training organisation certification shall be submitted to the competent authority in accordance with the procedure established by that authority.

Competent authorities shall issue certificates when the applicant training organisation fulfils the requirements laid down in Chapter IV.

Reg. (EU) 805/2011 Arts. 18.1 and 27.2

Two CA/NSAs declared that their Training Organisations have not been certified in accordance with Articles 18 and 27 of Regulation (EU) No 805/2011.

Area 6: Continuous oversight obligations

Continuous oversight obligations – General

All authorities have described the process and procedures related to the continuous oversight of ANSPs/TOs in order to assess their continued compliance.

The questionnaire asked for more information on how these procedures address the different types of services or geographical scope of the ANSPs under the CA/NSA's supervision. None of the authorities replied to this part.

Annual inspection programme

Within the inspection programme required by Article 8 of Implementing Regulation (EU) No 1035/2011, competent authorities shall establish and update at least annually a programme of safety regulatory audits in order to (...).

Reg. (EU) 1035/2011 Art. 8

Related article: Reg. (EU) 1034/2011 Art. 7

All authorities have replied that annual inspection programmes are in place.

Risk based approach

Within the inspection programme required by Article 8 of Implementing Regulation (EU) No 1035/2011, competent authorities shall establish and update at least annually a programme of safety regulatory audits in order to:

(c) ensure that audits are conducted in a manner commensurate to the level of risk posed by the organisations' activities.

Reg. (EU) 1034/2011 Art. 7.3 (c)

Related article is also: Reg. (EU) 1034/2011 Art. 5.2

The States were asked to provide a description of the methodology and/or criteria to ensure that the scheduled visits to ANSPs/TOs in the 'NSA annual inspection programme' are prioritised on a risk-based approach.

- In one of the CA/NSAs the annual inspection programme takes into account risk assessments from the previous audit and the results from the internal audit of organisation.
- One authority only refers to inspections and audits, planned and non-scheduled.
- One CA/NSA includes the identified risk areas in the annual oversight programme or performs dedicated inspections.
- The reply from one authority does not mention if a risk-based approach has been the basis for the prioritisation.
- One CA/NSA did not reply.
- In one authority the annual oversight plan contains additional (priority) areas in relation to the analysis of the findings from the previous audits, significant changes in the functional system, occurrences reports and achieved level of safety in relation to the annual report on the conducted analysis of safety indicators.

States: 3

Non-scheduled inspections

All CA/NSAs are able to conduct non-scheduled inspections, and a short description of the process accompanied the replies.

Oversight of changes to the ATM functional system

A description of CA/NSA processes and procedure(s) with regard to the notification of changes and required assessment of changes was required.

One authority did not reply. The description by one CA/NSA was incomplete. Two CA/NSAs referred to their respective national regulations transposing Regulation (EC) 1315/2007 without further information. Finally, two CA/NSAs described the processes in place.

States: 2

Oversight processes and procedures with regard to security

One authority responded that this is not applicable to them. One CA/NSA did not reply and another authority replicated the NSA tasks as per the regulations with no reference to security.

States: 3

Continuous oversight obligations – ASM and ATFM

[Airspace Management \(Flexible Use of Airspace\) – Regulation \(EC\) 2150/2005](#)

This Regulation reinforces and harmonises the application, within the Single European Sky, of the concept of the flexible use of airspace as defined in Article 2 point (22) of Regulation (EC) No 549/2004, in order to facilitate airspace management and air traffic management within the limits of the common transport policy.

In particular, this Regulation sets out rules to ensure better cooperation between civil and military entities responsible for air traffic management that operate in the airspace under the responsibility of Member States.

Reg. (EC) 2150/2005 Art. 1

Regulation (EC) 2150/2005 sets out rules to ensure better cooperation between civil and military entities responsible for air traffic management that operate in the airspace under the responsibility of Member States. The CA/NSAs have oversight obligations in respect to this regulation.

Member States shall perform the following tasks:

(a) ensure the overall application of the flexible use of airspace concept at a strategic, pre-tactical and tactical level;

Reg. (EC) 2150/2005 Art. 4.1 (a)

Three Countries referred to their respective national regulations that contain the processes established to ensure the overall application of the FUA concept at strategic, pre-tactical and tactical levels.

One Country made reference to Eurocontrol LSSIP 2013 for further information. One State did not reply.

States: 1

Member States shall identify and notify to the Commission those persons or organisations which are responsible for the execution of tasks listed in paragraph 1. (...)

Reg. (EC) 2150/2005 Art. 4.3

Three Countries have identified those persons or organisations responsible for all tasks listed in Art 4.1 of the FUA regulation. One Country has not informed the Commission of the above mentioned persons. Two Countries did not reply.

Despite one of the Countries replying positively to the question on the identification by the State of those persons or organisations responsible for all tasks listed in Art 4.1 of the FUA regulation, the rest of the questions are answered as 'not applicable' or left empty. In none of the Countries this Regulation is not applicable.

States: 3

Therefore, the following statements apply to four Countries.

FUA level 1 – Strategic level - Reg. (EC) 2150/2005 Art. 4.1 (a) to (n)

The questionnaire addressed the most significant aspects of the FUA level 1.

No issues have been reported on the following aspects related to FUA level 1:

Member States shall perform the following tasks:

(c) approve the activities which require airspace reservation or restriction;

Some of the issues reported by the Countries are:

Member States shall perform the following tasks:

(b) regularly review users' requirements;

States: 2

(d) define temporary airspace structures and procedures to offer multiple airspace reservation and route options;

States: 1

(e) establish criteria and procedures providing for the creation and the use of adjustable lateral and vertical limits of the airspace required for accommodating diverse variations of flight paths and short-term changes of flights;

States: 4

(f) assess the national airspace structures and route network with the aim of planning for flexible airspace structures and procedures;

States: 1

(g) define the specific conditions under which the responsibility for separation between civil and military flights rests on the air traffic services units or controlling military units;

States: 2

(h) develop cross-border airspace use with neighbouring Member States where needed by the traffic flows and users' activities;

States: 4

(i) coordinate their airspace management policy with those of neighbouring Member States to jointly address use of airspace across national borders and/or the boundaries of flight information regions;

States: 2

(k) establish with neighbouring Member States one common set of standards for separation between civil and military flights for cross-border activities;

States: 3

(m) assess and review airspace procedures and performance of flexible use of airspace operations;

States: 3

(l) set up consultation mechanisms between the persons or organisations as referred to in paragraph 3 and all relevant partners and organisations to ensure that users' requirements are properly addressed;

States: 3

Member States shall appoint or establish an airspace management cell to allocate airspace in accordance with the conditions and procedures defined in Article 4(1).

In those Member States where both civil and military authorities are responsible for or involved in airspace management, this cell shall take the form of a joint civil military cell.

Reg. (EC) 2150/2005 Art. 5.1

Only one Country has established an airspace management cell to allocate airspace in accordance with the conditions and procedures defined in article 4.1. However, it did not confirm if the cell is joint civil/military. One Country replied as 'not applicable'.

States: 5

Only one Country have reported that FUA level 3 has been established.

Some of the issues reported by the Countries related to the legal provisions quoted below are:

Member States shall ensure that the relevant controlling military units and air traffic services units exchange any modification of the planned activation of airspace in a timely and effective manner and notify to all affected users the current status of the airspace.

Reg. (EC) 2150/2005 Art. 6.2

States: 2

Member States shall ensure the establishment of coordination procedures and the establishment of supporting systems between air traffic service units and controlling military units in order to ensure safety when managing interactions between civil and military flights.

Reg. (EC) 2150/2005 Art. 6.3

States: 2

Member States shall ensure that coordination procedures are established between civil and military air traffic service units so as to permit direct communication of relevant information to resolve specific traffic situations where civil and military controllers are providing services in the same airspace. This relevant information shall be made available, in particular where it is required for safety reasons, to civil and military controllers and controlling military units through a timely exchange of flight data, including the position and flight intention of the aircraft.

Reg. (EC) 2150/2005 Art. 6.4

States: 2

Member States shall, in order to maintain or enhance existing safety levels, ensure that, within the context of a safety management process, a safety assessment, including hazard identification, risk assessment and mitigation, is conducted, before they introduce any changes to the operations of the flexible use of airspace.

Reg. (EC) 2150/2005 Art. 7

States: 3

Finally, none of the authorities have established a mechanism to evaluate the functioning of agreements, procedures and supporting systems, established at the three levels of ASM.

[Air Traffic Flow and Capacity Management \(ATFM\) – Regulation \(EC\) 255/2010](#)

Regulation (EC) 255/2010 lays down the requirements for air traffic flow management (hereinafter ATFM) in order to optimise the available capacity of the European air traffic management network (hereinafter EATMN) and enhance ATFM processes.

It assigns obligations to all actors involved in the EATMN, some of them out of the CA/NSA competences; as such, the questions were limited to the oversight obligations that the CA/NSAs have with regard to ATFM and an overarching question to the States about how they meet general ATFM obligations as per article 4.

This regulation is not currently implemented in two of the Countries.

General obligations of Member States

Reg. (EC) 255/2010 Art. 4

Article 4 of Regulation (EC) 255/2010 lists the general obligations of Member States. One Country replied as 'not applicable'. One Country did not reply and another Country mentioned that they are member of Eurocontrol with a FMP in one ATC centre which ensures fulfilment of the State's obligations.

One Country transposed the ATFM regulation in 2013.

Some of the issues reported by the States are:

- In one Country there is no oversight process in place. Two CA/NSAs include it in the annual audit plan. One Country replied as 'not applicable'.
- One Country did not explain how the State ensures consistency between flight plans and airport slots and how the state meets its obligation on critical events.
- None of the authorities with the exception of one described how the monitoring of compliance to ATFM measures is ensured within their States. In that authority this task is done by the ANSP on a voluntary basis; it is envisaged to impose this requirement on the ANSP for both ATFM unit and local ATC unit and airport operations centre to exchange information in regard of planning and exchanging information concerning critical and special events. The amendment is expected to be promulgated during 2014.
- Only one Country has explained how ATFM performance assessment is conducted.
- One Country confirmed that safety assessments are conducted ahead of the introduction of any significant changes to ATFM systems and procedures; one Country replied that it is done by implementing national regulations.

Additional requirements

Member States shall ensure that personnel of the parties referred to in Article 1(3) involved in ATFM activities are:

(a) made duly aware of the provisions of this Regulation;

(b) adequately trained and competent for their job functions.

Reg. (EC) 255/2010 Art. 14.1

Only one Country replied that some activities are planned. It is envisaged that parties define the required level of competence, subject to local circumstances, by adopting an internal training programme aligned with ICAO SARPs and DNM handbooks.

Member States shall ensure close cooperation and coordination between the functional airspace block and the Network Manager, such as in strategic planning level and tactical daily flow and capacity management.

Reg. (EU) 677/2011 Art. 10.1

Article 10.1 of Regulation (EU) 677/2011 (laying down detailed rules for the implementation of air traffic management (ATM) network functions) requires that Member States shall ensure close cooperation and coordination between the functional airspace block and the Network Manager, such as in strategic planning level and tactical daily flow and capacity management.

None of them have taken action on this aspect.

Area 7: Resolution of Safety concerns

The Countries were asked to describe how the State defines the arrangements between the AIB, CA and ANSPs with regard to the occurrence reporting system, analysis of data and investigation.

- In one Country there is no AIB. The CA is responsible for investigation of Accident and Serious Incident and the ANSP is responsible for less severe incidents and ATM specific occurrences.
- One Country referred to its national regulations.
- One Country has no concrete arrangements; the terms and conditions are described in the Aviation Act and Regulation on principles governing the accident, serious incidents, incident and occurrences investigation of civil and state aircraft, as well as their reporting.
- One Country has not established a mandatory incident reporting system or a voluntary occurrence reporting system and the associated database.
- One Country did not reply.
- One Country provided a detailed description of the mechanisms.

Only one Country specified the outcome of the subsequent accident/incident investigations (i.e. safety recommendations). Two Countries did not reply. Two Countries answered as 'not applicable'.

Corrective Actions and follow-up

Where a certified organisation no longer complies with the applicable common requirements or, where applicable, with the conditions attached to the certificate, the competent authority shall, within one month of the date of discovering the non-compliance, require the organisation to take corrective action.

That decision shall immediately be notified to the relevant organisation.

The competent authority shall check that the corrective action has been implemented before notifying its approval to the relevant organisation.

Where the competent authority considers that corrective action has not been properly implemented within the timetable agreed with the organisation, it shall take appropriate enforcement measures as provided for in Article 7(7) of Regulation (EC) No 550/2004 and Article 10, Article 22a(d), and Articles 25 and 68 of Regulation (EC) No 216/2008, while taking into account the need to ensure the continuity of air navigation services.

Reg. (EU) 1034/2011 Art. 8; Reg. (EU) 1035/2011 Art. 6.3

All authorities described the process:

- One CA/NSA follows the procedure as described in Regulation (EU) 1034/2011.
- One CA/NSA follows the national regulations and internal CA procedures and the transposed Regulation (EC) No 1315/2007.
- In one Country an escalation process is in place in case an unsatisfactory resolution of significant non-conformities happens. The DG of CAA shall escalate the issue and take appropriate measures in accordance with the relevant regulation or law (including proposing the issuance of a Safety Directive).
- One CA/NSA ensures the implementation of corrective actions and actions agreed by means of continuous supervision. More specifically CA conducts follow-up audits addressing each finding and the status of its implementation until it is closed.
- In one Country the ANSP implementation report is considered for the next audit cycle.
- In one Country, if the CA/NSA CA determines that the corrective measures are not adequate or properly implemented within the agreed time frame, it can take appropriate measures, which may include the revocation of the certificate.

Safety Directives

Competent authorities shall issue a safety directive when they have determined the existence of an unsafe condition in a functional system requiring immediate action.

Reg. (EU) 1034/2011 Art. 13

There is only one not-inspected State that has issued safety directives. This Country has issued one on the organisation of frequent bilateral meeting with military ATC unit to ensure safe civil-military operations and to present surveillance information data from civil ATC centre to military ATC units.

Enforcement measures

Article 7.7 of the Service Provision Regulation (EC) 550/2004 and Article 9 (Sanctions) of the Framework Regulation (EC) 549/2004 and Articles 10, 22a (d), 25 and 68 of Regulation (EC) No 216/2008 lay down enforcement requirements. The question asked for a description of the process and procedure(s) through which the CA/NSAs ensure that appropriate enforcement measures are taken in accordance with the referenced regulations.

- Two Countries did not reply.
- One Country does it in accordance with national regulations and transposed SES regulations.
- In one Country the transposition of the referenced articles is pending. However, fines and sanctions can be imposed based on national regulations.
- In one Country they have the capability to impose sanctions in case of a breach of the provisions of the Aviation Act and laws enacted under this Act.

Penalties for infringement of the common rules on ATFM regulation

Two Countries have yet to transpose the ATFM regulation. One Country is in the process of amending their national framework and no penalties for infringement of the common rules on ATFM regulation are enforced so far.

6 Acronyms list

This table contains the list of acronyms used in this document

Acronym	Description
ACC	Area Control Centre
AFIS	Aerodrome Flight Information Service
AFISP	Aerodrome Flight Information Service Provider
AIB	Accident Investigation Bureau
AIP	Aeronautical Information Publication
AIS	Aeronautical Information service
AMC	Acceptable Mean of Compliance
ANS	Air Navigation Services
ANSP	Air Navigation Service Provider
ARO	Airport Reservtion Office
ASM	Airspace Management
ATC	Air Traffic Control
ATCC	Air Traffic Control Centre
ATCO	Air Traffic Controller
ATFM	Air Traffic Flow Management
ATM	Air Traffic Management
ATS	Air Traffic Services
ATSEP	Air Traffic Safety Electronics Personnel
ATSP	Air Traffic Service Provider
CA	Competent Authority
CAA	Civil Aviation Authority
CAAA	Common Aviation Area Agreement
CBA	Cross-Border Area (FUA)
CFMU	Central Flow Management Unit
CNS	Communication Navigation Surveillance
CNSP	Communication Navigation Surveillance Provider
COM	Communications
EASA	European Aviation Safety Agency
EATMN	European Air Traffic Management Network
EC	European Commission
ECAA	European Common Aviation Area
EFTA	European Free Trade Association

Acronym	Description
EU	European Union
EUROCONTROL	European Organisation for the Safety of Air Navigation
EUR Region	European Region (ICAO)
FAB	Functional Airspace Block
FIR	Flight Information Region
FMP	Flow Management Position
FTE	Full-Time Equivalent
FUA	Flexible Use of Airspace
GAT	General Air Traffic
GM	Guidance Material
IANIS	EUROCONTROL Institute of Air Navigation Services
ICAO	International Civil Aviation Organization
IOP	Interoperability
IR	Implementing Rule
ISO	International Organization for Standardisation
LSSIP	Local Single Sky ImPlementation
MET	Meteorological Services for Air Navigation
MoD	Ministry of Defence
MoT	Ministry of Transport
MoU	Memorandum of Understanding
n/a	Not applicable
NAT Region	North Atlantic Region (ICAO)
NM	Network Manager
NOTAM	Notice to Airmen
NPA	Noticed of Proposed Amendment (EASA)
NSA	National Supervisory Authority
OAT	Operational Air Traffic
OJT	On-the-Job Training
QMS	Quality Management System
PRB	Performance Review Board
SARP	Standards and Recommended Practices (ICAO)
SERA	Standardised European Rules of the Air
SES	Single European Sky
SESAR	the Single European Sky ATM Research Programme
SESAR JU	SESAR Joint Undertaking
SMS	Safety Management System

Acronym	Description
SSC	Single Sky Committee
TO	Training Organisation
UCS	Unit Competency Scheme
UTP	Unit Training Plan