European Union Aviation Safety Agency

FAQ n.70137

FAQs:

Basic Regulation, Regulations

Question:

What is the opt-in for state operations/ aircraft? What is the opt-in for military aircraft?

Answer:

One of novelties introduced by the new Basic Regulation is the possibility for member States to decide to apply the Basic Regulation to aircraft performing State activities (military, police, coast guard, firefighting, search and rescue and other similar operations and services), which would normally be subject to national rules.

The main advantage of the opt-in is that once the aircraft are in the EASA system, they would benefit from mutual recognition of certificates, and therefore move more freely within the EU, enjoy international recognition, and increase their market value.

In relation to this opt-in, the important elements to highlight are its voluntary and modular nature - the decision to apply the BR, and the extent to which it is applied remains in the hands of the Member States. This means that the opt-in does not need to extend to the full EASA system system (from airworthiness, maintenance and production to OPS and licensing) nor to the full range of State operations under the responsibility of the Member States:

- A Member State may decide to opt-in for police operations, but not for search and rescue;
- Equally, the Member States may decide to opt-in for a certain category/type of aircraft and not for others (eg, opt-in for rotorcraft but not for fixed wing);
- Finally, a Member State may decide to opt-in for one area of the EASA system and not for others (e.g. opt-in for the airworthiness of the aircraft but not for the operations).

It is important to highlight in relation to modular opt-ins (for instance restricted to airworthiness or OPS/licensing) that within each area the opt-in has to be complete – it is not possible to opt-in for initial airworthiness but not for the continued airworthiness/maintenance of the aircraft, for example. Another important element to highlight is that in certain cases there will be the need for specific measures to address risks created by the disconnection from the total system approach – e.g. if a Member State opts-in for the airworthiness/maintenance but not for the operations, appropriate measures need to be put in place to ensure the continued airworthiness of the aircraft.

Due to this modularity, each opt-in case will be different from the next, and requires an individual approach.

The Basic Regulation establishes only one condition for the opt-in, which is that the provisions covered by the opt-in can be effectively applied. The formalities needed to implement the opt-in are simple:

- The Member State needs to issue a decision; from the date of that decision, the opt-in applies immediately;
- The Member State then notifies this decision to the Commission and the Agency, together with relevant information;
- The Commission, after consulting the Agency, establishes whether the condition for the opt-in is fulfilled. If it is not, then the Commission issues a decision. Once notified, the Member State needs to modify or revoke its decision.

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