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1. Better Regulation

The EC Better Regulation Agenda¹ aims at delivering tangible benefits for European citizens and addressing the common challenges Europe faces. Thus, Better Regulation principles are applied in the development of EPAS.

Applying Better Regulation principles means for EASA that efforts must aim at:

- a transparent and streamlined rulemaking process that is supported by an efficient stakeholder consultation;
- evidence-based policy decisions (through safety data analysis, impact assessment, monitoring and evaluation);
- a plain and easily understandable language also for non-native English speakers in all EASA documents;
- communication and IT platforms that give stakeholders easy access to deliverables, other regulatory material, including soft law, safety promotion material, and research deliverables;
- a regulatory approach that:
 - is performance-based where appropriate;
 - respects the principles of subsidiarity and proportionality;
 - contributes to the competitiveness of the industry, without compromising safety; and
- actors involved in the drafting of regulatory material that have been appropriately trained in drafting performance-based rules. To that end, EASA initiated a series of performance-based regulation drafting workshops for regulations officers and issued guidance on performance-based rule drafting.

Modern, proportionate rules that are fit for purpose are essential in aviation safety to uphold high common standards and ensure the competitiveness of the European industry. Regulations should be as efficient and performance-based as possible, and as prescriptive as necessary to provide legal certainty.

Regulating elements of aviation safety by describing the desired outcome is not new. This so-called performance-based approach is intended to make aviation safer, more efficient and flexible. This approach promotes the principles of subsidiarity and proportionality by prescribing safety objectives instead of prescribing how to achieve them.

The expected benefits of performance-based regulations (PBRs) are:

- **Resilience:** the increased complexity in operations and aviation activities, the dynamics of aviation business models, and fast and proliferating technological advancements require a regulatory framework capable of anticipating changes (technology-neutral regulations).
- **Flexibility:** by focusing on safety outcomes, PBRs provide flexibility and encourage innovation by not restricting a priori the means to control specific risks.
- **Safety management:** by providing a flexible implementation framework and focusing on safety outcomes, PBRs allow organisations and authorities to foster risk management capability and to better allocate resources against risks identified under their SMS and SSP.

¹ https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how_en



To meet EC Better Regulation Agenda, EASA must ensure that its regulatory proposals and other EPAS actions deliver maximum safety, economic, social and environmental benefits at minimum cost to citizens, businesses and workers, without creating unnecessary regulatory burden for Member States, the industry and EASA itself. To that end, EASA must prioritise and design the EPAS actions through a transparent process and based on evidence, understandable by those who are affected and backed up by the views of stakeholders. Evidence is gathered ex ante through a Best Intervention Strategy (BIS) at the programming stage, and Regulatory Impact Assessment (RIA) at the rule development stage (see **Paragraph 3.3**) or ex post through the evaluation process (see **Paragraph 3.7**). About two thirds of the EPAS actions take the form of RMTs.

To be fully effective, Better Regulation must cover the entire regulatory cycle, i.e. the programming and planning phase, design of a proposal, adoption, implementation, application, evaluation and revision. In other words, the effort to equip the EU with state-of-the-art aviation safety rules must start already in the planning and programming phase. Efficient planning and programming in the context of Better Regulation means to take well-informed decisions, which must be based on holistic risk management principles. Where there is no or limited data available, such as for innovative technologies or new ways of operating, decisions may have to rely on expert knowledge and/or the extrapolation of existing data from similar subjects.

Stakeholder consultation

In line with the principles of Better Regulation, EASA engages with its stakeholders via different channels and for different purposes, such as:

- EASA Advisory Bodies (ABs), Collaborative Analysis Groups (CAGs), and European Network of Analysts (NoAs) to identify the aviation issues to be further assessed;
- EASA AB consultation of:
 - BIS, RIAs, rulemaking ToRs and evaluation reports;
 - draft Opinions/Decisions when applying Articles 15 or 16 of the Rulemaking procedure;
 - the draft EPAS.
- Inclusion of stakeholder experts and representatives in rulemaking groups;
- Open public consultation of NPAs;
- Targeted consultation to groups of stakeholders (e.g. questionnaire for evaluation of existing rules);
- Work with groups of experts (e.g. focus groups).



2. The programming cycle

EPAS covers a 5-year timeframe. In line with Article 6(1) of the Basic Regulation, EPAS is updated on a yearly basis. Hence, EPAS is developed as a rolling 5-year plan in close cooperation with stakeholders, drawing increasingly from an evidence-based approach. The standard EPAS programming cycle foresees two distinct phases, each with a dedicated stakeholder consultation.

- During the first phase, the priorities derived from the EU Aviation Strategy (see EPAS Volume I Chapter 3) are discussed and confirmed with the EASA ABs. MAB and SAB take the lead in consolidating inputs from their domain sub-committees and provide EASA with the Member State/industry views on the priorities.
- Based on these priorities agreed/confirmed with the EASA ABs, the planning milestones for individual EPAS actions are defined or updated in line with the EASA Single Programming process. A draft EPAS is then developed and provided to all ABs for detailed comments.

Following the AB consultation and analysis of comments, the final draft EPAS is consolidated and presented for approval to the EASA Management Board (MB). Following its formal approval by the MB, the document is published on the EASA website².

3. How actions are prioritised in EPAS – standard process

This section describes the normal prioritisation process for EPAS actions. For the development of the EPAS 2021-2025, a dedicated prioritisation exercise focusing on a review of rulemaking priorities was applied in response to the COVID-19 crisis. This is further described in **Paragraph 3.5**.

The Agency receives candidate issues (safety and non-safety ones) which are recorded in a Candidate Issue Register (CIR). This register is an internal repository for all received proposals, from internal and external sources (see **Figure 3**). The prioritised candidate issues are then further assessed with a view to finding the most cost-effective approach to tackle them and according to the Better Regulation proportionality principle³. The level of impact, criticality and complexity will determine where an in-depth analysis is necessary. This in-depth analysis will result in a 'Best Intervention Strategy' (BIS), to confirm the need for and define EPAS actions. The BIS report, which is consulted with the ABs. It is only after the AB consultation that the actions proposed in a BIS report become EPAS actions.

New candidate issues may be captured in the CIR at any moment in the programming cycle. However, considering that the EPAS edition for Year N + 1 will require the final actions to be validated by end of October of Year N at the latest, the initial prioritisation process for the received candidate issues should start between 6 months to 2 years before 31 October Year N. Therefore, the processing duration for candidate issues may range between 6 months and 2 years, depending on the nature of each candidate issue. Refer to **Figure 1**.

² <https://www.easa.europa.eu/easa-and-you/safety-management/european-plan-aviation-safety>

³ The more an issue is critical, the more it deserves an in-depth analysis.

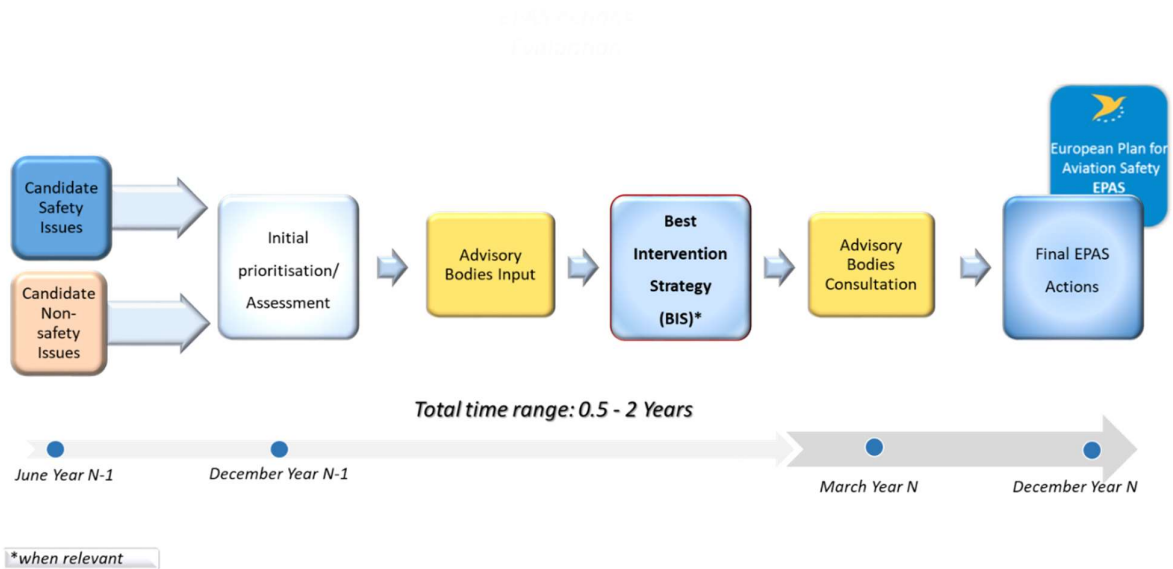


Figure 1: Key steps to prioritise actions in EPAS

3.1 EPAS inputs

In addition to the individual proposals submitted via the Candidate Issue Identification form, EASA collects proposals from various other sources (see Figure 2). For each proposal, core data is recorded in the CIR.

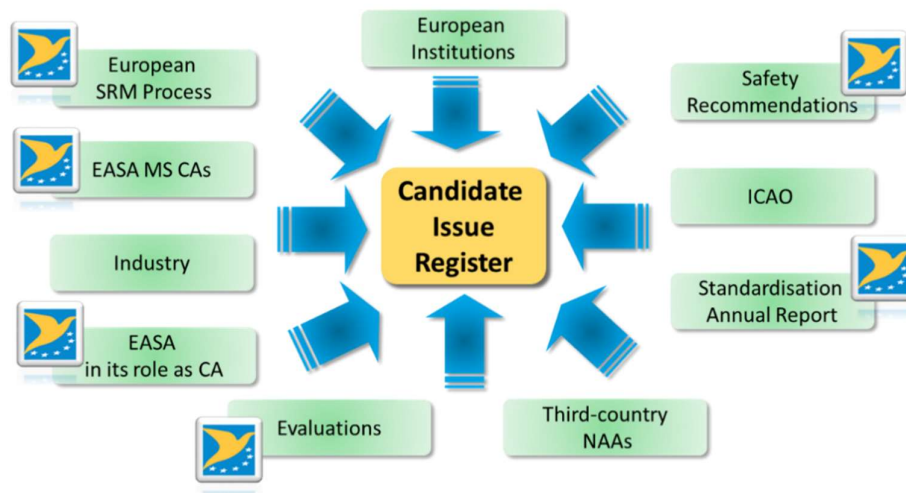


Figure 2: EPAS inputs



An initial review of the received candidate issues is carried out in order to allow for initial prioritisation. Candidate issues are clustered according **to the four EPAS drivers**, as follows:



Safety:

- The actions in this category are driven by the need to increase or maintain the current level of safety in the aviation sector.

The main sources for safety candidate issues are the European SRM process and SRs addressed to the Agency following the investigation of accidents and serious incidents. The Standardisation process provides an additional source.

The European SRM process, shown in Figure 4 below, includes the following main steps:

- Identification of candidate safety issues, preliminary assessment;
- Development of domain-specific safety risk portfolios (SRPs), with the advice from the European NoAs and the CAGs;
- Formal assessment of each identified safety issue within the domain SRPs, to identify potential actions for EPAS;
- Potential actions for EPAS are then further processed as explained in **Paragraphs 3.2 and 3.3**; and
- EPAS implementation is monitored as explained in **EPAS Volume I Section** Error! Reference source not found. and **EPAS Volume I Section** Error! Reference source not found.. This serves two purposes, firstly to monitor the changes that have resulted from the implementation of safety actions. Secondly, it also serves to monitor the aviation system so that new safety issues can be identified.

A detailed description of the European SRM process is provided in the ASR⁴ (see ASR 2020 — Introduction).



⁴ https://www.easa.europa.eu/sites/default/files/dfu/easa_asr_2020.pdf



Figure 3: European SRM process



Efficiency/proportionality:

The actions in this category are primarily driven by the need to ensure that rules are cost-effective in achieving their objective, as well as proportionate to the risks identified. Having included an action in this category by no means signals that there are no related safety objectives; however, the effects on efficiency and proportionality prevail over those on safety.

Main sources for efficiency and proportionality issues are feedback from industry and NAAs, channelled through the ABs, as well as the results of evaluations.



Level playing field:

The actions in this category are mainly driven by the need to ensure that all players in a certain segment of the aviation market can benefit from the same set of rules, thereby promoting innovation, supporting fair competition and ensuring free movement of persons and services. This is particularly important for technological or business advancements where common 'rules of the game' need to be defined for all actors. Level playing field may either relate to ensuring standardisation within EASA Member States or address the need to harmonise with the rules of main EASA counterparts, such as the Federal Aviation Administration (FAA), Transport Canada Civil Aviation (TCCA) or Agência Nacional de Aviação Civil (ANAC) Brazil, in order to ensure fair competition or facilitate the free movement of goods, persons and services. Actions in this category will directly contribute to maintaining or even increasing the current level of safety. Main sources for level playing field actions are feedback from EASA Standardisation, feedback from industry and NAAs, as well as rulemaking coordination with the main EASA counterparts.



Environment:

The actions in this category are driven by the need to improve the current environmental performance of the aviation sector, while striving to ensure a level playing field globally. Main sources for environmental candidate issues are the ICAO SARPs and the European Aviation Environmental Report (EAER)⁵ (refer to **EPAS Volume I Section** Error! Reference source not found.).

These four drivers should be understood as *main* drivers. A number of actions could well fall under several of these drivers, but only the most relevant one will be indicated for each EPAS action.

3.2 Initial prioritisation

The initial prioritisation intends to generate a ranked list of issues/actions considering a number of prioritisation criteria, including:

- legal obligation to act;
- the link with the EPAS strategic priorities (refer to **EPAS Volume I Section 3.1**);
- potential safety, economic, social and environmental consequences, if the action proposed is not endorsed; and
- workload at EASA, Member States and industry level to develop the action.

⁵ www.easa.europa.eu/eaer



Strategic priorities get a higher ranking when setting rulemaking priorities. However, the timing of the related actions often needs to consider other parameters, in addition to the strategic priority ranking. Prioritisation is done across domains but also within a domain; for instance, if an issue is small in absolute terms (across domains) but fundamental for a specific domain to be resolved, it is then considered as key.

The resulting list of issues/actions is then reviewed and endorsed internally by EASA and a decision is made on which issues/actions are further assessed through in-depth BIS.

Actions decided without a BIS may be directly integrated in the draft EPAS subject to consultation. For instance, the above initial prioritisation step does not apply to EVT or RES actions that follow a separate process for initial prioritisation, nor to MSTs, which mainly commit resources at Member State level. Proposals for new MSTs or changes to existing MSTs are discussed and agreed at the level of the TeBs (domain TeBs for operational issues and SM TeB for systemic issues).

3.3 Best Intervention Strategies (BIS)

Further to the initial prioritisation, and when a BIS is decided, the retained actions are grouped per topic and then related issues are analysed and impacts assessed, to propose the BIS. A list of BIS topics and their status is available in Appendix D.

Available evidence is included to support the analysis performed. For safety issues, this is normally provided through the related safety issues assessment (SIA) performed as part of the European SRM process (see **Paragraph 3.1** and **Figure 3**).

Stakeholders are considered throughout the analysis, not only focusing on the ones mostly and directly affected, but also taking a wider view on other stakeholders.

The assessment of impacts is proportionate to the extent of the impacts and the controversial elements considered. The bigger and/or the more controversial the issue is, the more detailed will the assessment be.

For RMTs, during the development of the BIS, the Agency will also assess the suitability for a performance-based rule, based on the following criteria:

- measurability;
- need for flexibility;
- impact on innovation;
- impact on bilateral agreements;
- impact on level playing field;
- efficiency gains (through a performance-based solution); and
- need for interoperability.

One example, where the Agency has decided that rules need to be assessed, and where necessary amended, in line with PBR principles is General Aviation (GA). EASA committed to develop simpler, proportionate, lighter and better rules for GA. To this end, EASA created in 2013 the GA Roadmap⁶ in partnership with the EC and stakeholders by addressing the recognised importance of GA and its contribution to the European economy

⁶ Available on EASA website: <https://www.easa.europa.eu/newsroom-and-events/news/easa-ga-roadmap>.



and a safe European aviation system. At the end of this project, the Agency decided that further work was still required to achieve the intended goals for GA and created The GA Roadmap 2.0 in March 2019⁷.

Current developments

In line with Article 89 of the Basic Regulation, EASA shall take into account, in its decision-making, the interdependencies between civil aviation safety and socio-economic factors. Investing resources in a thorough assessment of the risks, impacts and possible side effects of proposed actions, before they are confirmed in EPAS, is expected to increase efficiency. These early assessments shall be carried out in partnership with the Member States and the industry stakeholders who have to be prepared to support EASA with their expert knowledge already during the planning phase.

Accordingly, EASA gives much importance to social impacts in its impact assessments and is working to further improve its methodology in this regard. The social impact assessment methodology being developed will enable a more precise assessment of the social impacts of future EASA activities, more specifically in the case of RMTs. This methodology will be progressively improved throughout its implementation, based on feedback received from stakeholders.

3.4 BIS output for EPAS

A BIS report is drafted summarising the main findings of the impact assessment and proposing actions ('intervention strategy'). The BIS report is consulted with the ABs and AB comments are considered when finalising the BIS. Following consultation and feasibility check from the resource point of view, the actions are considered in subsequent EPAS planning cycles (refer to **Figure 2**).

The output of the BIS could be any one or a combination of the following types of EPAS actions:

- RMTs;
- SPTs;
- RES; and
- MSTs.

The BIS is reviewed on a regular basis in order to monitor the evolution of the identified issues/problems and envisaged actions. In case there are new issues/priorities to be addressed in the BIS, the BIS cycle (assessment of issues/new actions) needs to be completed and the updated BIS is consulted with the ABs.

⁷ <https://www.easa.europa.eu/document-library/general-publications/ga-roadmap-2019-update-%E2%80%93-making-ga-safer-and-cheaper>



3.5 How priorities were established for the 2021-2025 edition

In the previous EPAS edition, the rulemaking activities were prioritised to take into consideration the need to make resources available to tackle Basic Regulation responsibilities (not only related to rulemaking), as explicitly requested by the EASA MB back in April 2018. The Basic Regulation roadmap (see **EPAS Volume I Section 3.3**) identifies the areas where work was planned to start within the 2019-2021 range.

In 2020, within the existing strategic priorities, the need to alleviate the effects of the COVID-19 pandemic, both for authorities and industry, and support the safe return to operations, constituted the main input to establishing EPAS priorities for the 2021-2025 edition, with particular focus on rulemaking, being the EPAS action type with the most significant impact on stakeholders.

The following elements were considered in the COVID-19-related prioritisation exercise, which was coordinated with the SAB and the MAB:

COVID-19 impact on the development of the rule:

- type of stakeholder involvement foreseen (e.g. full NPA consultation, focused consultation) and ability to consult considering the current circumstances
- availability of EASA experts and external experts to process the task
- factors outside COVID-19 that induce a delay
- dependencies with other RMTs

Effect of the rule once adopted on stakeholders:

- effect on industry: scope of the envisaged rule changes, type of burden created or alleviations provided
- effect on competent authorities (CAs): type of burden created or alleviations provided, e.g. by introducing more flexibility
- effect on international harmonisation
- relevance of the rule post COVID-19

Following the assessment of each RMT in accordance with the above criteria, a list of RMTs to be delayed or put on hold was drawn up. Rulemaking projects for which an Opinion publication was foreseen in 2020 and in early 2021 were excluded from this list and these have progressed as planned considering their advanced stage. The option to defer the applicability date of the future rules may be proposed for those projects.

The prioritisation principles and adapted rulemaking priorities for 2020-2021 were presented to and endorsed by the EASA MB in its June 2020 meeting.

Since then, as the COVID-19 crisis continued to unfold, further changes were required to the initial rulemaking planning, both to consider new external developments and as an effect of the deployment of internal resources to support the RNO project.

EPAS Volume II contains the full list of EPAS actions that are programmed for the next 5 years as per the current planning assumptions, identifying those that are delayed as a result of the COVID-19 prioritisation exercise in the 'status' field.

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3.6 Regular updates

The aviation industry is complex and rapidly evolving. The corresponding rules need to be updated regularly to ensure that they are fit for purpose, cost-effective, can be implemented in practice, and are in line with the latest ICAO SARPs. The vehicle to address these miscellaneous issues of non-controversial nature are systematic rulemaking projects called regular updates, in accordance with Article 3 point 5 of the EASA Rulemaking Procedure (EASA Management Board Decision 18-2015⁸).

The EPAS 2021-2025 edition includes 28 regular-update RMTs, with about half of them relating to the update of relevant Certification Specifications (CS).

3.7 Evaluation

In line with the Better Regulation principles, EASA assesses the performance of the rules and non-rulemaking actions. Evaluations (EVTs) are used to assess if aviation regulations and related initiatives (e.g. SPTs) are delivering the expected results at minimum cost.

These EVT intend to conclude whether the existing rules/non-rulemaking actions are fit for purpose and whether/in which areas improvements are needed. An EVT will draw conclusions on whether the rules/actions continue to be justified or whether they should be modified to improve their effectiveness and/or eliminate excessive burden.

The EVT is intended to answer the following questions:

- Is the rule/action useful to the stakeholders? — criterion ‘relevance’
- Have the objectives been reached with the results? — criterion ‘effectiveness’
- Are the spent resources proportionate to the achieved results? — criterion ‘efficiency’
- Are the rules/actions consistent with others which are interrelated to them? — criterion ‘coherence’
- Does the EU regulatory framework provide an added value compared to the national system? — criterion ‘EU added value’.

In addition, a standard feature of any EVT of existing rules is to assess the potential for introducing more performance-based elements following a thorough assessment. The outcome of the EVT includes a list of recommendations that are then further analysed in the BIS for the issues identified, which may lead to new EPAS actions, e.g. RMTs.

Several criteria are taken into account to decide on future EVT to be conducted by EASA:

- Legal obligation to undertake an evaluation of the rules;
- Feedback on the controversy, complexity of the rules/non-rulemaking actions, whether they generate safety risks and/or regulatory inefficiencies. This feedback is gained by analysing the flexibility provisions (Basic Regulation Article 71), requests for alternative means of compliance (AltMoC), requests from stakeholders, feedback by the ABs on regulatory gaps/inefficiencies, recurrent findings from EASA Standardisation, etc.;

⁸ <https://www.easa.europa.eu/sites/default/files/dfu/EASA%20MB%20Decision%2018-2015%20on%20Rulemaking%20Procedure.pdf>



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- Rules/non-rulemaking actions have reached a level of implementation to enable an evaluation based on sufficient evidence (sufficient time, e.g. 5 years elapsed after the adoption of the rules/non-rulemaking actions).

The result of the analysis is reflected in the list of EVT's as included in EPAS.

It should be noted that the EVT concept is equally applicable to rules and non-rulemaking actions. In this regard, EASA initiated a first EVT project on safety promotion activities related to European operators flight data monitoring (EOFDM) coordination, paving the way for more assessments of this kind.

Evaluation reports are published on EASA's website⁹.

⁹ https://www.easa.europa.eu/document-library/general-publications?publication_type%5B%5D=2481