



**European Business Aviation
Association**

Position Paper

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Avenue de Tervuren, 13 a – Box 5
BE- 1040 Brussels, Belgium
Phone: +32 2 766 00 70
Fax: +32 2 768 13 25
www.ebaa.org

REVIEW OF EASA’S BASIC REGULATION

The European Commission (EC) launched in 2014 a policy initiative which aims to improve the performance of the European Union’s (EU) aviation system. In its Opinion No 01/2015, EASA identified ways to update Regulation (EC) No 216/2008 (the EASA Basic Regulation) so that 1) It better addresses the challenges with regard to safety but not only 2) It responds to changes in the aviation environment with a more integrated approach, meaning exploring opportunities to extend the EASA’s area of competence.

The Airspace Users community, including EBAA, elaborated on a common position with respect to how they see the revision of the Basic regulation and suggest ways forward (paper in Annex). Without prejudice to this document, EBAA wishes to address points in a more specific way, and to address the concerns of Business Aviation.

PART I – THE FIVE PRINCIPLES UNDERLYING A SUCCESSFUL REVIEW

I – A safety body as a one-stop shop: EASA to expand its scope of activities

There is no doubt the current regulatory system must be reviewed, and modernised. EBAA is very much in favour of the creation of a single European Aviation Authority (EAA) in charge of the rulemaking process for a number of areas that would go beyond pure safety and that would for the entire aeronautical industry and oversight authorities. Drones are one aspect that was recently announced as being a new area of competence for the Agency, but there can be many others, such as airports, ANSPs and other elements and sectors of the air transport value chain. And in the long run, the extension of powers could go beyond safety and touch security, etc. with some caveats obviously (cf. Annex I). Avoiding the current patchy situation with unclear responsibilities attributed to the Commission, Eurocontrol, EASA and the Member States would be an immense progress.

II – A harmonised interpretation and implementation of legislation

There would be merit in avoiding the current, often centrist, approach by having some EASA staff members physically based in the different Member States, working in EASA “representations” based at National CAAs. This would save money, and increase the availability of EASA specialists by being much more attractive for people willing to remain in their own country without being forced to move to Cologne, where expatriation allowances also have to be paid. It would also eliminate any tendencies towards the “head office” mentality. Moreover by having local experts on site there would be advantages for the industry, especially in EASA certification activities, because local manufacturers would enjoy lower costs and accelerated procedures.

Some national competent authorities are understaffed. Solutions should be found. The pool of resources can be one of them. The delegation of some national oversight functions to the Agency is another option.

III – Performance and risk assessment as benchmarks

The EASA regulatory system has so far been based on the setting-up of prescriptive rules and oversight. With its report ‘*A Harmonised European Approach to a Performance-Based Environment*’, EASA is moving away from a prescriptive rulemaking to a regulatory approach, better adapted to the needs of the aviation sector.

The performance-based approach is one that focuses on performance, as well as the desired results and outcomes. As such, it differs from the traditional, prescriptive regulatory approach in that it emphasizes what must be achieved rather than how. To be successful, it depends on:

1. The availability of relevant safety information;
2. The evaluation of and the use of relevant safety information in order to take the right decisions in the safety management process;
3. The transition to adapted oversight procedures, adequate inspectors training and the necessary tools for them to perform their tasks effectively;
4. Safety culture and its integration into existing oversight processes.
5. Reporting

This must in no way represent additional burden on the operators (e.g. data collection and risk monitoring systems). Or at the very least it shouldn’t exceed the paperwork that is required currently.

IV – Proportionality

The corollary to a sound performance-based approach is the proportionality of measures taken. Because they represent risks to the population and the number of passengers that are commensurate with their size, small structures should not be treated in the same way as major ones. In this respect, the current effort aimed at reviewing and adapting the existing regulations of General Aviation – even though restricted to date to Non-commercial other than complex operations (NCO) – is laudable in many aspects and is a welcomed step in the right direction.

V – One size does not fit all: adaptability of legislation to sector specificities

As much as possible, the legislation must also be tailored to its recipients. The rigidity of the ICAO's three-pronged definitions (commercial, GA and aerial work) is harmful as not reflecting the reality and it must be transcended in one way or another.

Whilst it is not the purpose of this paper to require a formal recognition of the sector of Business Aviation (representing around 3,500 complex jets and turboprops in Europe), some degree of understanding about the specificities of the sector, which straddle two, if not the three above-mentioned categories, is long overdue and necessary for the good conduct of safe operations. The International Business Aviation Council (IBAC) proposed its own definition, which reads:

“That sector of aviation which concerns the operation or use of aircraft by companies for the carriage of passengers or goods as an aid to the conduct of their business, flown for purposes generally considered not for public hire and piloted by individuals having, at the minimum, a valid commercial pilot license with an instrument rating.”

PART II – SPECIFIC NEEDS OF A SPECIFIC SECTOR

Were these five principles applied as a result of the review of Regulation 216/2008, the whole European air transport value chain would be equitably and appropriately legislated, and as a consequence the second part of this paper would probably be called for. The fact is that the majority of these principles are aspirational goals, and even with the best intentions EASA and the European Commission would struggle to have them effectively in place before several years at best, let alone at the closing of the review process of Regulation 216/2008.

The general review process should in no way be construed as impeding immediate action on the items below. If possible, it should to the extent possible actually cater for them:

I – Flight and Duty Time Limitations

Pilots fatigue has been one of the major preoccupations of JAR-OPS and EU-Ops for years now. EASA has crafted its own FTL rules back in 2014. All these rules took as a benchmark the flight duty period of line pilots, and came up with a number of safeguards tailor-made for operations conducted by airlines. Business aviation pilots fly on average from 2 to 3 times less than their airlines peers, and hence warrant a different set of rules.

In 2015, FRMSc, an independent and well-recognised British specialised company, conducted a study that confirmed that there are significant differences in patterns of work between Air Taxi and EMS operations and other CAT operations. For Air Taxi and EMS the rates of working are relatively low. Based on the diary data, the average hours of flight time per year are fewer than 750 for EMS

operations and 500 for Air Taxi. The actual number of hours is likely to be lower still, as the diaries concentrated on periods of continuous work and did not cover long periods of time off or leave. Over two-thirds of the FDPs are single or two-sector and, on average, approximately 50% of the duty time is spent on the ground before or between flights.

Other features of the operations are the predominance of daytime work and the frequency of rest days, with nearly three-quarters of runs of consecutive flight duties lasting no longer than two days. The nature of these operations is such that there is little or no evidence of the development of cumulative fatigue. When asked to score the extent of their recovery on a 10-point scale, over 70% of the EMS crews and over 80% of the AT crews rate themselves as 'one' (fully recovered). Equivalent levels of recovery in CAT operations are around 30%. Moreover levels of fatigue don't increase significantly over consecutive duty days.

The rationale for a Business Aviation FTL set of rules different to other commercial rules is that Business Aviation operations are genuinely and significantly different from schedule models in terms of aircraft utilisation, mission profiles and crew utilisation. In the Business Aviation sector, each leg is a new mission whilst all the missions are planned once per season in the airline industry.

II – Runway Performance

The difference in the runway factor between commercial and non-commercial operators remains a major issue for Business Aviation. Some regional airports in Europe commonly used for and by Business Aviation, are affected by the OPS Commercial Air Transport (CAT) regulation stating for decades that landing on dry runways for jets must be within 60% of the landing distance available and 70% for turboprops, whilst there is no such restriction for Part-NCC.

All commercial aircraft whose calculated landing mass exceeds the one that allows to land without the prescribed percentage limits of the LDA are de facto excluded from operations on that particular runway. This limitation often causes impediment for the aircraft operator with the consequent impossibility of using that particular airport for its normal commercial operations. This situation is also a fertile ground for, and leads to, the multiplication of non-compliant flights.

In 2014, an NLR study demonstrated that an equivalent level of safety with landing dispatch factors higher than those stated in EASA CAT.POL.A.230 can be achieved. It concluded that when the appropriate mitigating measures (e.g. no tailwind landings, no landings on contaminated runways, use of reverse thrust when fitted, reduced unstable approaches, limited floating) are applied, an equivalent level of safety compared to the landing factor of 60% for business jets is achieved at a landing factor similar, or close to the FAA 14 CFR part 135.4 which allows up to 80% of the runway use.

About EBAA:

The European Business Aviation Association (EBAA) was founded in 1977 to defend the interests of business aviation. Today, more than 800 business aviation companies (direct members or members of associate organisations) rely on the EBAA to protect their business interests. It is the only voice to represent business aviation among the European institutions. For more information, visit www.ebaa.org.

For more information please contact:

Razvan Prunean, Manager Safety, Rulemaking & Operations at
Email: rprunean@ebaa.org, phone: +32 2 766 00 74

ANNEX I

Forthcoming Revision of EASA's Basic Regulation Joint Comments from AEA, EBAA, ELFAA, ERA, EEA, IACA and IATA on EASA's Opinion

In its opinion No 01/2015, EASA supports a European Commission (EC) policy initiative which aims to improve the performance of the European Union's (EU) aviation system. To this end, the Opinion tries to identify ways to update Regulation (EC) No 216/2008 (the EASA Basic Regulation) so that it best responds to changes in the aviation environment from a global perspective, and better addresses the challenges with regard to safety.

The associations welcome EASA's aim to better enable the Agency to meet the needs and expectations of Member States, the European Commission and European citizens. However, the associations agree that EASA also puts forward some proposals that need further refinement or that industry does not support.

➤ EASA funding

The associations agree that regulatory activity should be funded by the EU and Member States. In light of this, the associations strongly oppose the EASA proposal to create additional revenue sources via a ticket tax or route charges.

➤ Safety

Training: the associations are convinced that proper training for National Aviation Authorities' staff on the intent of rules would significantly reduce the number of different interpretations and improve the standardisation between Member States

Performance-based approach: the associations welcome EASA's commitment to a performance-based approach.

Strengthening European Aviation Safety Plan (EASp), safety analysis and reporting: the associations support the establishment of the EASp in close coordination with the industry.

Common Repositories for organisations and licenses: whilst the associations have no objection to a common repository for licensing, we do have concerns about associated costs and fees arising from the implementation of the system.

General Aviation Roadmap: the associations welcome the improved awareness of the potential impact of current regulations; regulations and oversight need to be based on identified risks. Therefore, the associations welcome any initiative designed to assess the current regulations to make them more proportionate.

➤ Operations

EASA Contribution to Single European Sky (SES)

The associations support EASA's contribution to the SES initiative and insist that full consultation with stakeholders is needed to ensure that all of the safety aspects are fully in place in time to ensure and effective deployment of SESAR.

➤ Security

The associations agree that rather than giving EASA more responsibility for a limited number of security requirements, there should be a stronger interface between EASA and the EC. The EC has established a professional, qualified and experienced team of Member State (Aviation Security Committee) and industry representatives (Stakeholders Advisory Group) to address aviation security requirements, including compliance monitoring. EASA's interface with this proven system should be further formalised.

➤ Environment

The associations welcomed a stronger role for EASA in the REACH process as the REACH legislation has a significant impact on safety. However, the associations have doubts than an expanded role for EASA is necessary in the context of issues such as cabin air quality, climate change resilience, alternative fuels or KPIs for stakeholders to measure their environmental effectiveness. There are also questions about EASA's engagement in aviation-related environmental research and the European Aviation Environmental Plan which appears to mirror the ongoing work on the "European Aviation Environmental Report" that is currently being drafted by the European Commission, Eurocontrol, EASA and the European Environment Agency.

Moreover, the associations strongly agree that EASA should not go beyond internationally agreed ICAO standards in environmental certification.

➤ Ground handling

The associations do not support the inclusion of Ground Handling Services in a review of the Basic Regulation.

As detailed in the Opinion, existing industry practices, including the adoption of industry standards and of robust Safety Management Systems (SMS), provide the required level of safety; therefore unnecessary and overly prescriptive regulation is not required. The associations would welcome further consultation with stakeholders prior to proposing any regulatory option or guidance material.