

Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (Text with EEA relevance) (repealed)

CHAPTER III

THE EUROPEAN AVIATION SAFETY AGENCY

SECTION II

INTERNAL STRUCTURE

Article 19

Legal status, location, local offices

- 1 The Agency shall be a body of the Community. It shall have legal personality.
- 2 In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.
- 3 The Agency may establish its own local offices in the Member States subject to their consent.
- 4 The Agency shall be represented by its Executive Director.

Article 20

Staff

- 1 The Staff Regulations of officials of the European Communities, the Conditions of employment of other servants of the European Communities and the rules adopted jointly by the institutions of the European Communities for purposes of the application of those Staff Regulations and Conditions of employment shall apply to the staff of the Agency, without prejudice to the application of Article 33 of this Regulation to the members of the Board of Appeal.
- 2 Without prejudice to Article 30, the powers conferred on the appointing authority by the Staff Regulations, and by the Conditions of employment of other servants, shall be exercised by the Agency in respect of its own staff.
- 3 The Agency's staff shall consist of a strictly limited number of officials assigned or seconded by the Commission or Member States to carry out management duties. The remaining staff shall consist of other employees recruited by the Agency as necessary to carry out its tasks.

Status: Point in time view as at 29/03/2007.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EC) No 1592/2002 of the European Parliament and of the Council (repealed), SECTION II. (See end of Document for details)

Article 21

Privileges and immunities

The Protocol on the Privileges and Immunities of the European Communities shall apply to the Agency.

Article 22

Liability

1 The contractual liability of the Agency shall be governed by the law applicable to the contract in question.

2 The Court of Justice of the European Communities shall have jurisdiction to give judgement pursuant to any arbitration clause contained in a contract concluded by the Agency.

3 In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its servants in the performance of their duties.

4 The Court of Justice shall have jurisdiction in disputes relating to compensation for the damage referred to in paragraph 3.

5 The personal liability of its servants towards the Agency shall be governed by the provisions laid down in the Staff Regulations or Conditions of employment applicable to them.

Article 23

Publication of documents

1 Without prejudice to decisions taken on the basis of Article 290 of the Treaty, the following documents shall be produced in all official languages of the Community:

- a the safety review referred to in Article 11(4);
- b opinions addressed to the Commission pursuant to Article 14(1);
- c the annual general report and programme of work referred to in Article 24(2)(b) and (c) respectively.

2 The translation services required for the functioning of the Agency shall be provided by the Translation Centre for bodies of the European Union.

Article 24

Powers of the Management Board

1 The Agency shall have a Management Board.

2 The Management Board shall:

- a appoint the Executive Director, and the Directors on a proposal from the Executive Director in accordance with Article 30;

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[^{F1}b] the Management Board shall adopt the annual report on the Agency's activities and forward it by 15 June at the latest to the European Parliament, the Council, the Commission, the Court of Auditors and the Member States.

The Agency shall forward annually to the budgetary authority any information relevant to the outcome of the evaluation procedures;]

- c before 30 September each year, and after receiving the opinion of the Commission, adopt the Agency's programme of work for the coming year and forward it to the European Parliament, the Council, the Commission and the Member States; this programme of work shall be adopted without prejudice to the annual Community budgetary procedure and the Community legislative programme in relevant areas of aviation safety;
- d adopt guidelines for the allocation of certification tasks to national aviation authorities or qualified entities in agreement with the Commission;
- e establish procedures for making decisions by the Executive Director as referred to in Articles 43 and 44;
- f carry out its functions relating to the Agency's budget pursuant to Articles 48, 49 and 52;
- g appoint the members of the Board of Appeal pursuant to Article 32;
- h exercise disciplinary authority over the Executive Director and over the Directors, in agreement with the Executive Director;
- i give its opinion on the fees and charges regulation as referred to in Article 53(1);
- j establish its Rules of Procedure;
- k decide on the linguistic arrangements for the Agency;
- l complement, where appropriate, the list of documents mentioned in Article 23(1);
- m establish the organisational structure of the Agency and adopt the Agency's staffing policy.

3 The Management Board may advise the Executive Director on any matter strictly related to strategic development of aviation safety, including research as defined in Article 17.

4 The Management Board shall establish an advisory body of interested parties, which it shall consult prior to making decisions in the fields referred to in paragraph 2(c), (e), (f) and (i). The Management Board may also decide to consult the advisory body on other issues referred to in paragraphs 2 and 3. The Management Board shall not be bound by the opinion of the advisory body.

Textual Amendments

- F1** Substituted by [Regulation \(EC\) No 1643/2003 of the European Parliament and of the Council of 22 July 2003 amending Regulation \(EC\) No 1592/2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency.](#)

Article 25

Composition of the Management Board

1 The Management Board shall be composed of one representative of each Member State and one representative of the Commission. To this effect, each Member State and the Commission shall appoint a member of the Management Board as well as an alternate who will represent the member in his/her absence. The duration of the terms of office shall be five years. This term of office shall be renewable.

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2 Where appropriate, the participation of representatives of European third countries and the conditions thereof shall be established in the arrangements referred to in Article 55.

Article 26

Chairmanship of the Management Board

1 The Management Board shall elect a Chairperson and a Deputy Chairperson from among its members. The Deputy Chairperson shall ex-officio replace the Chairperson in the event of his/her being prevented from attending to his/her duties.

2 The term of office of the Chairperson and Deputy Chairperson shall expire when their respective membership of the Management Board ceases. Subject to this provision, the duration of the terms of office of the Chairperson or Deputy Chairperson shall be three years. These terms of office shall be renewable.

Article 27

Meetings

1 Meetings of the Management Board shall be convened by its Chairperson.

2 The Executive Director of the Agency shall take part in the deliberations.

3 The Management Board shall hold at least two ordinary meetings a year. In addition it shall meet at the instance of the Chairperson or at the request of at least one third of its members.

4 The Management Board may invite any person whose opinion can be of interest to attend its meetings as an observer.

5 The members of the Management Board may, subject to the provisions of its Rules of Procedure, be assisted by advisers or experts.

6 The secretariat for the Management Board shall be provided by the Agency.

Article 28

Voting

1 Without prejudice to Article 30(1), the Management Board shall take its decisions by a two-thirds majority of its members. At the request of a member of the Management Board, the decision referred to in Article 24(2)(k) shall be taken by unanimity.

2 Each member shall have one vote. The Executive Director of the Agency shall not vote. In the absence of a member, his/her alternate shall be entitled to exercise his/her right to vote.

3 The rules of procedure shall establish the more detailed voting arrangements, in particular, the conditions for a member to act on behalf of another member as well as any quorum requirements, where appropriate.

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Article 29

Functions and powers of the Executive Director

1 The Agency shall be managed by its Executive Director, who shall be completely independent in the performance of his/her duties. Without prejudice to the respective competencies of the Commission and the Management Board, the Executive Director shall neither seek nor take instructions from any government or from any other body.

2 The European Parliament or the Council may invite the Executive Director of the Agency to report on the carrying out of his/her tasks.

3 The Executive Director shall have the following functions and powers:

- a to approve the measures of the Agency as defined in Articles 13 and 15 within the limits specified by this Regulation, its implementing rules and any applicable law;
- b to decide on inspections and investigations as provided for in Articles 45 and 46;
- c to allocate certification tasks to National Aviation Authorities or qualified entities according to guidelines set by the Management Board;
- d to undertake any international functions and technical cooperation with third countries pursuant to Article 18;
- e to take all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the functioning of the Agency in accordance with the provisions of this Regulation;
- f to prepare each year a draft general report and submit it to the Management Board;
- g to exercise in respect of the staff the powers laid down in Article 20(2);
- h to draw up estimates of the revenues and expenditure of the Agency pursuant to Article 48, and implement the budget pursuant to Article 49;
- i to delegate his/her powers to other members of the Agency's staff subject to rules to be adopted in accordance with the procedure referred to in Article 54(2);
- j with the consent of the Management Board, to take a decision regarding the establishment of local offices in the Member States in accordance with Article 19(3).

Article 30

Appointment of senior officials

1 The Executive Director of the Agency shall be appointed on grounds of merit and documented competence and experience relevant for civil aviation, or dismissed by the Management Board on the proposal of the Commission. The Management Board shall take its decision by a three-quarters majority of its members.

2 The Executive Director may be assisted by one or more Directors. If the Executive Director is absent or indisposed, one of the Directors shall take his/her place.

3 The Directors of the Agency shall be appointed, on the grounds of professional competence relevant for civil aviation, or dismissed by the Management Board on the proposal of the Executive Director.

4 The term of office of the Executive Director and of the Directors shall be five years. This term of office shall be renewable.

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Article 31

Powers of the Boards of Appeal

- 1 Within the Agency, there shall be one or more Boards of Appeal.
- 2 The Board or Boards of Appeal shall be responsible for deciding on appeals against the decisions referred to in Article 35.
- 3 The Board or Boards of Appeal shall be convened as necessary. The number of Boards of Appeal and the work allocation shall be determined by the Commission according to the procedure referred to in Article 54(3).

Article 32

Composition of the Boards of Appeal

- 1 A Board of Appeal shall consist of a Chairperson and two other members.
- 2 The Chairperson and the two members shall have alternates who will represent them in their absence.
- 3 The Chairperson, the other members and their respective alternates shall be appointed by the Management Board from a list of qualified candidates adopted by the Commission.
- 4 Where the Board of Appeal considers that the nature of the appeal so requires, it may call up to two further members from the aforesaid list for that case.
- 5 The qualifications required for the members of each Board of Appeal, the powers of individual members in the preparatory phase of the decisions and the voting conditions shall be determined by the Commission according to the procedure referred to in Article 54(3).

Article 33

Members of the Boards of Appeal

- 1 The term of office of the members of the Boards of Appeal, including their Chairperson and their respective alternates, shall be five years. This term shall be renewable.
- 2 The members of the Boards of Appeal shall be independent. In making their decisions they shall not be bound by any instructions.
- 3 The members of the Boards of Appeal may not perform any other duties in the Agency. The function of the members of the Boards of Appeal may be a part-time function.
- 4 The members of the Boards of Appeal may not be removed either from office or from the list during their respective terms, unless there are serious grounds for such removal and the Commission, after obtaining the opinion of the Management Board, takes a decision to this effect.

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Article 34

Exclusion and objection

1 Members of the Boards of Appeal may not take part in any appeal proceedings if they have any personal interest therein, or if they have previously been involved as representatives of one of the parties to the proceedings, or if they participated in the decision under appeal.

2 If, for one of the reasons mentioned in paragraph 1 or for any other reason, a member of a Board of Appeal considers that he/she should not take part in any appeal proceedings, he/she shall inform the Board of Appeal accordingly.

3 Members of the Boards of Appeal may be objected to by any party to the appeal proceedings on any of the grounds mentioned in paragraph 1, or if suspected of partiality. An objection shall not be admissible if, while being aware of a reason for objecting, the party to the appeal proceedings has taken a procedural step. No objection may be based on the nationality of members.

4 The Boards of Appeal shall decide as to the action to be taken in the cases specified in paragraphs 2 and 3 without the participation of the member concerned. For the purposes of taking this decision, the member concerned shall be replaced on the Board of Appeal by his/her alternate.

Article 35

Decisions subject to appeal

1 An appeal may be brought against decisions of the Agency which have been taken pursuant to Article 15, 46 or 53.

2 An appeal lodged pursuant to paragraph 1 above shall not have suspensory effect. The Agency may, however, if it considers that circumstances so permit, suspend the application of the contested decision.

3 An appeal against a decision which does not terminate proceedings as regards one of the parties may only be made in conjunction with an appeal against the final decision, unless the decision provides for separate appeal.

Article 36

Persons entitled to appeal

Any natural or legal person may appeal against a decision addressed to that person, or against a decision which, although in the form of a decision addressed to another person, is of direct and individual concern to the former. The parties to proceedings may be party to the appeal proceedings.

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Article 37

Time limit and form

The appeal, together with the statement of grounds thereof, shall be filed in writing at the Agency within two months of the notification of the measure to the person concerned, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

Article 38

Interlocutory revision

1 If the Executive Director considers the appeal to be admissible and well founded, he/she shall rectify the decision. This shall not apply where the appellant is opposed to another party to the appeal proceedings.

2 If the decision is not rectified within one month after receipt of the statement of grounds for the appeal, the Agency shall forthwith decide whether or not to suspend the application of the decision pursuant to the second sentence of Article 35(2), and shall remit the appeal to the Board of Appeal.

Article 39

Examination of appeals

1 If the appeal is admissible, the Board of Appeal shall examine whether the appeal is well founded.

2 When examining the appeal, the Board of Appeal shall act expeditiously. It shall as often as necessary invite the parties to the appeal proceedings to file observations on notifications issued by itself or on communications from the other parties to the appeal proceedings, within specified time limits. Parties to the appeal proceedings shall be entitled to make oral presentations.

Article 40

Decisions on appeal

The Board of Appeal may exercise any power which lies within the competence of the Agency, or it may remit the case to the competent body of the Agency. The latter shall be bound by the decision of the Board of Appeal.

Article 41

Actions before the Court of Justice

1 An appeal may be brought before the Court of Justice against decisions of the Boards of Appeal on the terms and conditions laid down in Article 230 of the Treaty.

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2 Should the Agency fail to take a decision, proceedings for failure to act may be brought before the Court of Justice on the terms and conditions laid down in Article 232 of the Treaty.

3 The Agency shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

Article 42

Direct appeal

Member States and the Community institutions may lodge a direct appeal before the Court of Justice against decisions of the Agency.

Status:

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Changes to legislation:

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