

**ESARR ADVISORY MATERIAL/GUIDANCE DOCUMENT
(EAM/GUI)**

EAM 1 / GUI 5

**ESARR 1 IN THE CERTIFICATION
AND DESIGNATION OF SERVICE
PROVIDERS**

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<p>This deliverable has been prepared by the Safety Regulation Commission (SRC) to provide guidance and recommendations to National Supervisory Authorities (NSAs) when considering the implementation of safety oversight arrangements within a certification context in a manner consistent with ESARR 1.</p> <p>More specifically, this guidance identifies the basic principles, actions, inputs and outputs of a model process intended to harmonise the safety oversight actions required in ESARR 1, in the context of a certification scheme such as the one established in Regulation (EC) 550/2004.</p>		
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F.3 DOCUMENT APPROVAL

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Note: For security reasons and to reduce the size of files placed on our website, this document does not contain signatures. However, all management authorities have signed the master copy of this document which is held by the SRU. Requests for copies of this document should be e-mailed to: sru@eurocontrol.int.

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F.4 DOCUMENT CHANGE RECORD

The following table records the complete history of this document.

EDITION NUMBER	EDITION DATE	REASON FOR CHANGE	PAGES AFFECTED
0.01	05-Sep-05	Creation.	All
0.02	19-Sep-05	SRU quality control and review. Further development of the document by SRU in the light of discussions held at the SRC 'Certification Task Force' and comments received.	All
0.03	20-Sep-05	Further internal development by SRU, including new Appendices 1, 2 & 4.	All
0.1	22-Sep-05	Document status amended to 'Draft Issue' and sent to SRC consultation. No change to document contents.	-
1.0	14-Nov-05	Minor amendments to document as a result of SRC consultation (RFC No. 0527). Removal of the 'Comments/Rationale/Reference' column. Document formally released.	All
1.1	06-Feb-06	Revision to include outputs from the Development Plan on certification matters agreed by SRC24 (categorisation of non-conformities and criteria for assessment of compliance). Minor modifications to ensure consistency with SESIS material released by EUROCONTROL. Working draft set for comment and review.	Sections 2.5.2 (Note), 2.8.6, 2.10.4, 2.10.5, Appendix 5, Appendix 6.
1.2	03-Mar-06	New version produced after SRC consultation (RFC No. 602).	11, 20, 38, 39
2.0	06-Apr-06	Document formally released following SRC consultation and approval (RFC No. 0606).	-

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F.6 EXECUTIVE SUMMARY

This deliverable has been prepared by the Safety Regulation Commission (SRC) to provide guidance and recommendations to National Supervisory Authorities (NSAs) when considering the implementation of safety oversight arrangements within a certification context in a manner consistent with ESARR 1.

This document does not include binding provisions. It only provides recommended practices forming a comprehensive approach for possible use by NSAs.

The initial draft of EAM 1 / GUI 5 was developed by the Safety Regulation Unit (SRU) for discussion at the SRC's 'Certification Task Force' which was set up to address the safety-related aspects of the certification process established in the Single European Sky (SES) Regulations and to support NSAs in the implementation of an harmonised approach for certification.

More specifically, this guidance identifies the basic principles, actions, inputs and outputs of a model process intended to harmonise the safety oversight actions required in ESARR 1 in the context of a certification scheme such as the one established in Regulation (EC) 550/2004.

Due to its significance, that model process is actually defined in relation to the certification scheme applicable in EU Member States in accordance with:

- i) Regulation (EC) 550/2004 of the European Parliament and of the Council, dated 10th March 2004, on the provision of air navigation services in the Single European Sky (the Service Provision Regulation),
- ii) Commission Regulation (EC) 2096/2005 of 20th December 2005 laying down common requirements for the provision of air navigation services

This document also intends to provide EUROCONTROL with a major input to the overall activities undertaken by the Agency to support the certification of service provider organisations against SES Common Requirements. Accordingly, this material has been designed to maximise its use as regards non-safety related aspects in the certification process, to minimise the additions and modifications needed to address non-safety requirements, and facilitate an integrated approach to certification whilst ensuring the implementation of effective safety oversight in the certification process.

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1. INTRODUCTION

1.1 Purpose

- 1.1.1 The main purpose of this document is to provide NSAs with guidance and recommendations to support the harmonised implementation of safety oversight arrangements consistently with ESARR 1 requirements in those situations where a certification scheme is established in the applicable legal framework to recognise the capability of an organisation to provide ATM services.
- 1.1.2 This document does not include binding provisions. It only provides recommended practices forming a comprehensive approach for possible use by NSAs.
- 1.1.3 This guidance may be of particular interest to European Union (EU) Member States, where Regulation (EC) 550/2004 (the Service Provision Regulation) has established that the provision of all air navigation services shall be subject to certification. In these States, a certificate will signify the capability of an organisation to provide specific air navigation services.
- 1.1.4 In addition, it may also be of use to EUROCONTROL Member States who are not EU Members as regards the implementation of national certification schemes.
- 1.1.5 The document also provides guidance on the safety oversight arrangements to be undertaken wherever, in accordance with the applicable legal framework, an organisation holding a valid certificate is to be designated to provide services in a specific block of airspace. This situation will exist in EU Member States in accordance with the provisions on the designation of ATS and MET service providers established in Regulation (EC) 550/2004.
- 1.1.6 It should be noted that this guidance has been developed with a view of making safety oversight and the verification of non-safety related requirements compatible in the context of an overall certification activity. The contents of this document are intended to support the definition of an integrated approach to the certification of service providers against the Common Requirements established in the SES framework. Such integration should ensure that safety oversight is in place to address safety-related aspects in accordance with ESARR 1.

1.2 ESARR 1 in the Certification of Service Providers

- 1.2.1 ESARR 1 'Safety Oversight in ATM' was approved by the EUROCONTROL Commission for its incorporation and implementation into the regulatory frameworks of all EUROCONTROL Contracting Parties.
- 1.2.2 The provisions of ESARR 1 establish the minimum arrangements to be implemented by an NSA to operate an efficient safety oversight function as part of the supervision of requirements applicable to ATM services.

1.2.3 It should be noted that ESARR 1 does not require the establishment of a certification and/or designation scheme in EUROCONTROL Member States. However, ESARR 1 defines the minimum safety oversight arrangements needed in a wide range of situations, which explicitly include the:

- a) Issuance or renewal of a certificate by the NSA, recognising the capability of an organisation to provide ATM services.
- b) Designation by the State, or its renewal, of an organisation holding a certificate to provide ATM services within specific airspace blocks.

1.2.4 In both cases, ESARR 1 requires the verification of compliance with “applicable safety regulatory requirements” by means of specific safety oversight processes.

1.2.5 It should be noted that these two situations have existed in EU Member States since the entry into force of Regulation (EC) 550/2004 (the Service Provision Regulation). Similar schemes may exist, or be established at national level by other EUROCONTROL Member States. The ESARR 1-related processes, fully compatible with SES, support their implementation and provide the basis for the practical application of the notion of supervision in various situations, including certification, wherever safety is the subject under consideration.

1.3 Scope of Applicable Requirements

1.3.1 In the case of the certification scheme established by Regulation (EC) 550/2004, a set of Common Requirements (CRs) constitute the reference against which certification takes place.

1.3.2 According to Article 6 of the Service Provision Regulation, CRs shall be established as regards:

- a) Technical and operational competence and suitability
- b) Systems and processes for safety and quality management
- c) Reporting Systems
- d) Quality of Services
- e) Financial strength
- f) Liability and insurance cover
- g) Ownership and organisational structure, including the prevention of conflicts of interest
- h) Human resources, including adequate staffing plans
- i) Security

1.3.3 Verification of compliance by the NSA will be required as regards these categories before issuing a certificate.

1.3.4 In accordance with ESARR 1, safety oversight will be exercised by the NSAs in order to verify compliance with the “applicable safety regulatory requirements”. These are defined in ESARR 1 as:

*“The requirements for the provision of ATM services, applicable to the specific situation under consideration, and established through the existing rulemaking framework, concerning, *inter alia*:*

- i) Technical and operational competence and suitability to provide ATM services*
- ii) Systems and processes for safety management*
- iii) Technical systems, their constituents and associated procedures.”*

1.3.5 In order to identify the “applicable safety regulatory requirements” whose verification must conform to ESARR 1 arrangements within the overall certification of a provider against the Common Requirements, it is important to note the correspondence between the first two bullets of both lists above (i.e. Sections 1.3.2 a) & b) and 1.3.4 i) & ii)).

1.3.6 In particular, ICAO standards related to the provision of ATS services, notably those included in ICAO Annexes 2, 10 and 11 should be considered as “applicable safety regulatory requirements” wherever they are subject to verification of compliance. This is the case of the certification of ATS service providers against SES Common Requirements.

1.3.7 Wherever other categories of service providers (e.g. CNS, AIS) are subject to certification, the NSA may decide to apply, fully or partially, the ESARR 1 provisions required for the safety oversight of ATM services. In this situation, the applicable ICAO standards should be considered as “applicable safety regulatory requirements” if they relate to the three points of Section 1.3.4 above.

1.3.8 Additionally, the use of the term “*inter alia*” in the ESARR 1 definition provides the basis for considering other categories of common requirements as “applicable safety regulatory requirements”, wherever a clear link exists with safety.

1.3.9 In that regard, nothing prevents an NSA from adopting various principles in ESARR 1 and its associated guidance material in order to address the verification of compliance with common requirements not specifically considered as “applicable safety regulatory requirements” in the sense of the ESARR 1 definition.

1.3.10 An integrated certification process, covering safety and non-safety related requirements, is recommended to address the certification of service provider organisations under SES rules. Accordingly, the certification process outlined in Section 2 of this document is intended to maximise the possibility of integrating safety oversight with the activities intended to address non-safety related requirements, in order to support an approach capable of addressing all SES Common Requirements.

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1.4 ESARR 1-Related Processes

- 1.4.1 In the context of the certification of service providers, ESARR 1 requires NSAs to establish a process to verify compliance with applicable safety regulatory requirements prior to the issue or renewal of a Certificate recognising the capability of an organisation to provide ATM services.
- 1.4.2 ESARR 1 also requires that the process verifies the implementation of safety-related conditions associated with the Certificate.

NOTE: a safety-related condition is defined in ESARR 1 as a specific objective or measure, identified consistently with safety regulatory requirements, whose implementation is found necessary to ensure safety.
- 1.4.3 More specifically, the verification process shall base the confirmation of compliance on the use of safety regulatory audits. ESARR 1 establishes the minimum requirements to be met by safety regulatory audits.
- 1.4.4 Safety regulatory audits constitute the basic means by which NSAs obtain objective evidence regarding the compliance by service providers with applicable safety regulatory requirements. They are the means identified in ESARR 1 to implement, wherever safety is the aspect subject to verification, “proper inspections and surveys” required under the SES regulations.
- 1.4.5 Extensive advisory material has been developed by the Safety Regulation Commission to provide NSAs with comprehensive guidance on the management and conduct of safety regulatory audits.
- 1.4.6 More specifically, EAM 1 / GUI 3 ‘Guidelines for Safety Regulatory Auditing’, sets out the stages of the audit process and, in particular, describes details specific to safety regulatory auditing which NSAs are required to follow in order to meet the requirements of ESARR 1.
- 1.4.7 In addition to guidance on conducting audits, EAM 1 / GUI 3 also contains guidance to NSA senior and middle management on the activities which are necessary to support safety auditing and its associated activities. This material is fully applicable in the context of the audits to be conducted in relation to a certification process. Accordingly, references to EAM 1 / GUI 3 have been included in this document wherever details are needed regarding the management, planning, execution and follow-up of audits related to the certification of service providers.

1.5 Abbreviations and Terminology Used in this Document

- 1.5.1 The following specific abbreviations are used in this guidance:

APMF	-	Applications Management Function
CTL	-	Certification Team Leader
CTM	-	Certification Team Member

- 1.5.2 Definitions included in ESARR 1, Section 1 (Definitions) and EAM 1 / GUI 3, Section 3 (Terms and Definitions) are also applicable to the text of this document, unless specifically indicated otherwise.

2. CERTIFICATION PROCESS

2.0.1 This section identifies the basic principles, actions, inputs and outputs of a model process intended to harmonise the safety oversight actions required in ESARR 1, in the context of a certification scheme such as the one established in Regulation (EC) 550/2004.

2.0.2 Due to its significance, the model process is actually defined in relation to that specific certification scheme applicable in EU Member States in accordance with:

- i) Regulation (EC) 550/2004 of the European Parliament and of the Council, dated 10th March 2004, on the provision of air navigation services in the Single European Sky (the Service Provision Regulation),
- ii) Commission Regulation (EC) 2096/2005 of 20th December 2005, laying down common requirements for the provision of air navigation services

2.0.3 The process encompasses various safety principles intended to ensure an appropriate implementation of ESARR 1 within the overall certification activity.

NOTE: These safety principles are shown in grey throughout this document.

2.0.4 The process could be adapted to integrate further actions and principles required in relation to those common requirements not considered as “applicable safety regulatory requirements” in accordance with ESARR 1. In addition, various criteria proposed in relation to safety could also be adopted to support non-safety-related areas.

2.1 Establishment of Procedure

2.1.1 Prior to the implementation of the certification process by the NSA, a documented procedure should be developed and promulgated by the appropriate authority.

NOTE: The status of the procedure and its promulgation may vary depending upon the case (e.g. internal NSA working procedure, secondary legislation, etc.).

2.1.2 The procedure should describe how the NSA will handle the certification of a service provider organisation against the set of common requirements established in the SES framework.

2.1.3 It should normally cover all the steps, principles and practices recommended in this model process.

2.1.4 The procedure should:

- a) Deal with the common requirements applicable to an applicant in an integrated manner, whilst ensuring priority to the verification of compliance with the applicable safety regulatory requirements in the overall certification process.
- b) Ensure that the applicable safety regulatory requirements, i.e. the common requirements identified as safety-related, are verified in a manner which meets the provisions of ESARR 1.
- c) Be made available to all service provider organisations operating under the responsibility of the NSA and any other organisation wishing to apply for certification.

- d) Include all relevant forms for use by the applicant organisation. These forms should be widely published and should normally be aligned with the contents and model forms proposed in this document.

2.2 Application for Certification

- 2.2.1 Applicants should use the application form specifically defined in the documented procedures.
- 2.2.2 The application form should be based on “Model Form 1” included in Appendix 2 of this document. It should always include the scope of services for which certification is requested.
- 2.2.3 It should be submitted with an organisation exposition showing how the applicant intends to comply with the common requirements applicable to the services for which certification is requested.
- 2.2.4 The organisation exposition should contain the following information, whilst making use of existing documentation and data to the maximum extent possible:
 - a) A statement signed by the Chief Executive Officer (or equivalent position) confirming that the organisation exposition and any associated referenced documentation defines the organisation’s compliance with the common requirements and that they will be complied with at all times; and agreeing to supply any information needed for its evaluation,
 - b) The organisation’s safety policy established to meet the provisions of Annex II, Section 3.1.1 of the Common Requirements, wherever that annex is applicable to the organisation,
 - c) The title(s) and name(s) of the organisation’s senior managers,
 - d) The duties and responsibilities of the senior managers as regards the implementation of the Common Requirements. In particular this will include:
 - i) A complete description of the safety management function with organisational responsibility for the development and maintenance of the safety management system in accordance with Annex II, Section 3.1.2 of the Common Requirements, wherever that annex is applicable to the organisation.
 - ii) Duties, responsibilities and arrangements established to ensure that senior management is actively involved in ensuring the management of safety in accordance with Annex II, Section 3.1.2 of the Common Requirements, wherever that annex is applicable to the organisation.
 - e) An organisation chart showing the chains of responsibility in the areas covered by the Common Requirements,
 - f) A general description of manpower resources,
 - g) A general description of the organisation’s facilities,

- h) A complete description of the means and arrangements established by the organisation to meet the Common Requirements, including detailed references to the main documents and manuals which document them and appropriate cross-references to the Common Requirements.

NOTE: further guidance with regard to the organisation exposition is included in Appendix 4 of this document.

- 2.2.5 The organisation exposition should be amended by the applicant as necessary in order that it remains a current description of the organisation. Consequently, the NSA and applicant should agree on a procedure for updating the organisation exposition.
- 2.2.6 In addition to the organisation exposition, the NSA may decide that a complementary questionnaire also needs to be completed.

NOTE: a model questionnaire is being developed and will be included in Appendix 5 of this document in due course for possible use by an NSA after appropriate customisation.

- 2.2.7 The organisation exposition and any complementary questionnaire are primarily intended to support:
 - a) A first assessment of the eligibility of the organisation according to the Common Requirements (see 2.2.13 and 2.2.14 below),
 - b) The technical investigations for initial and on-going oversight intended to verify compliance with applicable requirements, including any safety regulatory requirements.

- 2.2.8 The organisation exposition and any complementary questionnaire should not be considered as sole and exclusive proof of compliance with applicable requirements, notably in the case of the applicable safety regulatory requirements. Any claim made by an applicant in their exposition or the completed questionnaires will potentially be subject to further investigation by means of auditing in order to confirm the accuracy of the claim and its effective implementation.

- 2.2.9 Applications should be sent to an Applications Management Function (APMF) identified within the NSA to act as the focal point with responsibility for the management of applications. The APMF may be combined with other functions and responsibilities within the NSA if appropriate.
- 2.2.10 The APMF should acknowledge receipt of all applications within ten working days of its receipt by the NSA.
- 2.2.11 The APMF should check all applications. Where incorrect or incomplete information is supplied, the APMF should notify the applicant in writing as soon as possible detailing the omissions and errors.
- 2.2.12 For any technical issues raised by the application, the APMF should consult appropriate NSA experts or experts working for the NSA.
- 2.2.13 The APMF, supported by appropriate NSA experts or experts working for the NSA, should make a first assessment of the documentation received. The APMF should determine how to proceed with the application. This should be communicated to the applicant within two months following receipt of the correct application.

2.2.14 When eligibility has been assessed, the APMF should inform the applicant (copied to the appropriate NSA departments and, where applicable/identified, the certification team to be involved in the technical investigations), of the following:

- a) Whether the application has or has not been accepted for further investigation, and if accepted;
- b) The details of the certification team leader (CTL) who will perform the technical investigation for initial oversight. If no CTL has been selected, the APMF should notify the applicant of the anticipated timescale for when such resources are expected to be available.

2.2.15 Wherever an applicant is already providing services prior to certification, eligibility for the services provided may be assumed by the NSA.

2.2.16 In cases of the refusal of an application, the NSA should notify this decision in writing to the applicant, together with the reasons.

2.3 Allocation of Certification Tasks

2.3.1 Certification Team

2.3.1.1 A certification team should be established by the NSA.

2.3.1.2 The certification team should consist of a team leader (CTL) and team members (CTMs). Where the extent of the investigation does not justify the need for a team, one person may perform the full investigation task.

2.3.1.3 Prior to the implementation of the initial oversight audits foreseen in Section 2.4.2 below, the certification team will be formed by the CTL and, if appropriate, a number of CTMs appointed to support the review of the service provider's documentation.

2.3.1.4 After reviewing the service provider's documentation as foreseen in Section 2.4.1 below, a final determination of the certification team's resources needed for the initial audits (measured in man-days) should normally be made by the CTL.

2.3.1.5 In order to determine the composition and size of the certification team, the following considerations should be taken into account the:

- a) Size of the applicant's organisation,
- b) Number of sites covered by the certificate,
- c) Nature of the service(s) provided by the organisation and their direct impact upon aviation safety,
- d) Various criteria provided in Section 2.4 below as regards the review of the service provider's documentation and the implementation of initial oversight audit visits.

2.3.1.6 Within the team, specific responsibilities should be allocated as regards the activities intended to verify compliance with the "applicable safety regulatory requirements" included in the common requirements relevant to the case.

2.3.1.7 Both the CTL and CTMs should be trained in auditing techniques and have suitable knowledge of the applicable requirements and procedures. There should be no conflict of interest with the application to be investigated.

2.3.1.8 In addition, the CTL and the CTMs involved in verifying compliance with “applicable safety regulatory requirements” should meet the specific qualification criteria established by the NSA in accordance with ESARR 1, Section 9, point c). These criteria should normally have been developed by the NSA in accordance with the guidance and recommendations included in EAM 1 / GUI 3, Section 5.7 (Auditor Selection and Competency Issues).

2.3.1.9 For specific investigations, the basic team can call upon the assistance of appropriate technical experts.

2.3.2 Use of Recognised Organisations

2.3.2.1 CTLs and/or CTMs may be NSA staff or personnel from a recognised organisation(s) commissioned to conduct investigation tasks, fully or partly, on behalf of the NSA or who provides personnel to the NSA under specific arrangements.

2.3.2.2 Before involving recognised organisations or their personnel in activities to verify compliance with “applicable safety regulatory requirements”, the NSA shall apply the provisions established in ESARR 1, Section 8 (Recognised Organisations and Notified Bodies).

2.3.3 Panels of Experts

2.3.3.1 Panels of experts may be established by the NSA in order to provide the NSA's management and certification teams with:

- a) Advice on general organisation and compliance with requirements,
- b) Opinions on the technical interpretation of the Common Requirements,
- c) Opinions on the conclusions and recommendations of final certification reports.

Their opinions should not be binding on the NSA.

2.3.3.2 Wherever established, these panels should:

- a) Be formed by experts with extensive technical knowledge of the disciplines necessary for the certification of a service provider,
- b) Base their opinions on the technical interpretation of the common requirements related to EUROCONTROL Safety Regulatory Requirements (ESARRs), using the associated ESARR Advisory Material (EAM) wherever available.

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2.4 Investigations for Initial Oversight

2.4.0.1 Initial oversight investigations should be conducted by the Certification Team to gain objective information to enable an NSA decision on the recognition of the applicant organisation as capable of providing specific services.

2.4.0.2 For that purpose, the certification team, under the co-ordination of the CTL, should make direct arrangements with the applicant for the assessment of documentation, meetings and investigations at the relevant location(s).

2.4.0.3 As a result of the initial oversight investigations, the NSA may terminate the certification process if it appears that it cannot be completed due to the lack of resources within the applicant's structure, or its lack of commitment to comply with the applicable requirements. Such a decision should be notified to the applicant together with the reasons.

2.4.0.4 The certification team should maintain records of all documents generated and received during the initial oversight investigations.

2.4.1 Review of the Service Provider's Documentation

2.4.1.1 The certification team should undertake a review of the documentation which the service provider has put in place to describe, communicate and operate its arrangements for providing the services for which it has applied in accordance with the applicable requirements.

2.4.1.2 As regards safety oversight:

- a) The certification team should look for evidence that the applicable safety regulatory requirements, and any safety-related conditions derived consistently from them, have been understood and there are clear indications that processes and disciplines have been developed to meet them.
- b) The review should not be confined to the documentation intended to implement a safety management system and/or meeting the ESARR-related common requirements. The review may, in particular, need to include:
 - i) Operational documentation (e.g. OPS manuals, etc.),
 - ii) Technical systems documentation (e.g. arrangements related to the installation and maintenance of equipment, etc.), and
 - iii) Depending upon the case, various documentation in the areas of quality, quality of services, human resources, staffing plans and security.
 in order to fully assess the organisation's arrangements against the applicable safety regulatory requirements, identify perceived areas of weakness or concern and enable sufficient understanding of the organisation and its management of safety.
- c) The review should not necessarily be confined to those documents referenced by the applicant in its organisational exposition.

- d) If the document review indicates possible areas of weakness or concern regarding the service provider's arrangements to manage safety, then such areas should be the subject to on-site audit in accordance with Section 2.4.2 below.

2.4.1.3 In the event that the documentation review reveals serious concerns about the applicant's level of understanding of the applicable safety regulatory requirements or processes that may have been put in place to meet them, the CTL should not proceed with the initial oversight audit visits foreseen in Section 2.4.2 below. The matter should be referred to the NSA's management for a decision on further action to be taken.

2.4.2 Initial Oversight Audit Visits

2.4.2.1 Once the documentation review has been performed, the certification team should verify that the arrangements described in the documentation are indeed being used and are effectively implemented within the organisation.

2.4.2.2 This verification should involve a series of on-site audit visits to the relevant site(s) of the organisation. At least one on-site audit visit should be conducted, even in the case of a small organisation.

NOTE: Depending upon the case, on-site audit visits may focus on a specific aspect or address various applicable requirements.

2.4.2.3 Based upon the information obtained during the documentation review, the CTL should identify areas of the service provider's organisation and specific processes to be audited in order to test the applicant's compliance with a selected set of common requirements. In addition, the implementation of the applicant's arrangements in line with the identified intentions set out in the documentation reviewed should also be audited.

2.4.2.4 The sampling of requirements in each area of the organisation:

- a) Should depend upon the processes being verified and the level of confidence obtained by the certification team from the documentation review. It should not exclusively cover those areas highlighted by the documentation review.
- b) May take into account the results from audits, inspections or surveys conducted by the NSA in the 24-month period prior to the entry into force of the Common Requirements in order to identify areas where sufficient level of confidence exists as regards management practices already implemented by the organisation.

2.4.2.5 As regards safety oversight:

- a) The sampling of requirements and the scheduling of the initial oversight on-site audits should be done in a manner which ensures that:
 - i) All applicable safety regulatory requirements are reviewed at least once in an area of functional relevance of the organisation,
 - ii) All areas of functional relevance are reviewed with regards to some applicable safety regulatory requirements.

NOTE: according to EAM 1 / GUI 1 'Explanatory Material on ESARR 1 Requirements', the expression "areas of functional relevance" should be interpreted as meaning the technical, operational and managerial functions needed by the service provider organisation to provide a safe operational ATM service and related to the requirements under consideration. In practical terms, the areas of functional relevance may be identified by considering the different departments, units, sites, etc. in relation to the functions they perform within the organisation.

- iii) All ANS services for which the applicant asks certification are reviewed in relation to some applicable safety regulatory requirements

NOTE: See Appendix 3 to this document as regards the scope of services which certification can be requested

- iv) In larger applicant organisations, sufficient operational sites are covered by the series of on-sites audit visits. The percentage of operational sites covered will be determined by the CTL depending upon the level of confidence acquired in the documentation review. As a minimum, it is recommended to visit at least 10% of the applicant's operational sites. When this minimum percentage is applied, the resulting figure should always be rounded-up.

NOTE: 'operational site' should be interpreted as a location where all the functions and elements of a final ATM service are integrated into a final service delivered to aviation (e.g. a tower, an ACC, etc).

- b) In application of Section 2.4.2.4 point b) above, the CTL may decide to use the results from safety audits conducted in a 24-months period prior to the entry into force of the Common Requirements to reduce the scope of the initial oversight audit visits in areas already audited, provided that:
 - i) Those safety audits were conducted in accordance with a standard equivalent to ISO-19011;
 - ii) The documentation review does not identify weaknesses as regards the applicable safety regulatory requirements related to the areas and/or requirements which were verified in those audits.
 - iii) The applicable safety regulatory requirements audited at that time are equivalent to those established in the Common Requirements, and the NSA documents the relation between them by means of a specific assessment.
 - iv) Wherever an audit took place against ESARR requirements, the equivalence with the corresponding Common Requirements may be assumed by the NSA.
- c) The on-site audits which include the verification of compliance with applicable safety regulatory requirements should be part of the NSA's programme of safety regulatory audits established in accordance with ESARR 1.
- d) These on-site safety audit investigations should be conducted following safety regulatory audit methodologies compliant with ESARR 1 and consistent with the practices described in EAM 1 / GUI 3.

e) Roles and responsibilities of the CTMs taking part in the on-site audit should be consistent with the practices described in EAM 1 / GUI 3.

NOTE: Complementary guidance on audit techniques may also be found in ISO 19011 and other related ISO standards and materials.

f) For the purpose of the certification process, the CTL may assume the role of the “designated point of responsibility” which ESARR 1, Section 6.6 b) requires to be appointed within the NSA, provided that they are part of the NSA’s personnel. This should not be applicable in cases where the CTL is appointed from a recognised organisation.

2.4.2.6 Wherever on-site audits combine safety regulatory auditing and activities to verify the compliance with non-safety related common requirements, the CTL should establish appropriate working arrangements to ensure that investigations in each area are only conducted by the CTMs with sufficient expertise and qualifications needed to address that area.

2.4.2.7 Wherever an on-site audit includes safety regulatory auditing, the audit report should meet the requirements of ESARR 1, Section 6.6. In this situation, the development of the report and its use should follow the practices recommended in EAM 1 / GUI 3.

2.5 Criteria to Assess Compliance

2.5.1 Compliance will be assessed against the Common Requirements established with regard to the services for which the applicant has requested certification.

2.5.2 When assessing the compliance with applicable safety regulatory requirements throughout the certification process:

- a) As a general principle, compliance with ESARRs and their acceptable means of compliance formally assessed and recognised by the SRC or the NSA, should be considered sufficient to meet the safety-related common requirements specifically intended to transpose ESARRs into Community law.
- b) In relation to the obligations established in the last paragraph of Annex II, Section 3.1.2 of the Common Requirements with regards the reporting and assessment of safety occurrences, full compliance with all the provider’s obligations derived from the national implementation of ESARR 2, Council Directive 94/56/EC and Directive 2003/42/EC should be considered sufficient to meet those obligations.
- c) In relation to the obligations established in the first requirement of Annex II, Section 3.1.2 of the Common Requirements with regards to ensuring personnel are properly licensed if so required and satisfy applicable medical requirements, full compliance with all the provider’s obligations established in ESARR 5 Sections 5.1 and 5.2 should be sufficient to meet those obligations.

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d) An NSA may consider using the panels of experts referred to in Section 2.3.3 above to seek advice on additional criteria to assess the compliance with those applicable safety regulatory requirements not intended to transpose ESARRs into Community law.

NOTE: the ESARR Advisory Material (EAM) deliverables available for ESARRs 2, 3, 4 and 5 may be of assistance for certification teams and expert panels. Guidance on Criteria for Assessment of Compliance with ESARRs 2, 3, 4 and 5 is respectively included in EAM 2 / GUI 7, EAM 3 / GUI 3, EAM 4 / GUI 2, EAM 5 / GUI 2 and EAM 5 / GUI 4.

In addition, EAM 1 / GUI 7 includes Guidance on the Criteria for the Assessment of Compliance with ICAO Annex 11 Standards.

These materials are presented in the form of tables containing:

- Indications about evidences that can be expected to be found to show compliance with the requirement.*
- Guidance about possible ways to assess these evidences.*

2.6 Non-Conformities, their Resolution and Follow Up

NOTE: In the safety oversight field, this whole section assumes that, for the purpose of the certification process, the CTL may be the “designated point of responsibility” required in ESARR 1. See Section 2.4.2.5 point f) above. However, it should be noted that the ESARR 1 “designated point of responsibility” is in the NSA and, therefore, cannot be a person working for a recognised organisation. Wherever the CTL is personnel provided by a recognised organisation, a “designated point of responsibility” will have to be appointed at the NSA to receive the audit findings and manage their resolution.

2.6.1 Non-conformities will only be raised in relation to the Common Requirements applicable to the services for which certification has been requested. The relationship should always be made explicit wherever a non-conformity is determined.

2.6.2 Once an on-site audit is completed, a report should be forwarded to the organisation, including, as a minimum, the following information:

- General information about the audit including date, auditor(s), observer / specialists accompanying the auditors, objectives and scope of the audit and audit schedule,
- Details of non-conformities, including their perceived significance,
- Initial feedback from the service-provider to non-conformities identified during the audit,
- A request for the determination of corrective actions and their subsequent implementation, including a timeframe identified on the basis of the significance and impact on safety of the audit findings,
- Considerations for further investigations wherever applicable (relating to auditor(s) general observations),
- Intended audit follow-up actions,
- Conclusions of the audit as regards the overall certification process.

NOTE: It is usual auditing best practice to forward the report within 14 days following the completion of the on-site audit.

- 2.6.3 The organisation should normally be responsible for determining and initiating the corrective actions needed to rectify the non-conformity or its cause.
- 2.6.4 The NSA should assess the proposed corrective actions and accept them if they are deemed sufficient to address the non-conformities found in the audit.
- 2.6.5 Corrective actions and any subsequent follow-up audits should be completed by the applicant organisation within a time period agreed by the NSA.
- 2.6.6 The NSA should record details of all non-conformities, agreed corrective actions, closure of non-conformities and recommendations.
- 2.6.7 The organisation should modify the organisation exposition referred to in Section 2.2.3 above to incorporate the resolution of non-conformities found in the initial oversight investigations.

2.7 Issue of a Certificate

- 2.7.1 For initial oversight investigations, all non-conformities should be satisfactorily addressed prior to the issue of a certificate.
- 2.7.2 When the full investigations of the initial oversight for compliance with the Common Requirements have been satisfactorily determined, the CTL should produce a certification report to support the final decision made by the NSA about the certificate and the conditions attached to it.
- 2.7.3 The certification report should include, as a minimum, the following information:
 - a) General information about the investigations for initial oversight, including the:
 - i) Date(s) of the initial oversight audit(s),
 - ii) Name(s) of the audit team members and the initial oversight audits in which they participated,
 - iii) Names and addresses of all sites audited.
 - b) The assessed scope of certification, including references to the applicable requirements considered,
 - c) References to the main service provider documents reviewed,
 - d) Details concerning the non-conformities found, corrective actions determined by the applicant organisation and accepted by the CTL as sufficient to address them, their implementation and closure,
 - e) Conclusions and recommendations based upon the findings of the initial oversight process, including if applicable, proposals for any conditions to be attached to the certificate and the initial plan of audits for on-going oversight referred to in Section 2.10.1,
 - f) Copy of the applicant's updated organisational exposition following the initial oversight investigations.
- 2.7.4 The NSA should ensure that the final decision on the certificate and the conditions attached to it are made by a person or persons different from those who formed the certification team.

- 2.7.5 The NSA may use the panels of experts, referred to in Section 2.3.3 above, to obtain an opinion on the conclusions and recommendations of the final certification report.
- 2.7.6 Certificates should be signed by the NSA's most senior manager (e.g. Director General, Executive Director or similar). Negative decisions should also be endorsed by the same authority.
- 2.7.7 The Certificate should be based on "Model Form 2" included in Appendix 2 of this document.
- 2.7.8 The Certificate should be issued in the official language(s) of the Member State and English.

NOTE: The issue of the Certificate in English may not be necessary wherever derogations are granted in accordance with Article 4 of the Common Requirements.

2.8 Validity of the Certificate¹

- 2.8.1 The Certificate should be valid for either two, four or six years in association with the on-going safety oversight cycles of 24 months established in accordance with Section 2.10 below. The exact period will be determined on a case-by-case basis by the NSA.
- 2.8.2 After completion of the validity period, the NSA should normally issue a new certificate, equivalent to the one previously held by the organisation, providing that the holder has requested it six months in advance and the on-going oversight activity does not reveal an unsafe situation, major lack of compliance or a lack of commitment to comply with the applicable requirements.
- 2.8.3 When a certificate is renewed, the NSA may decide to reduce or extend the validity period within the margins established in Section 2.8.1 above, if it is found appropriate in the light of the results from the on-going safety oversight activity.
- 2.8.4 The certificate is only valid whilst the organisation remains compliant with the applicable Common Requirements and any conditions attached to it. The validity period may exceptionally be reduced by the NSA if objective evidence reveals a critical safety issue.

¹ The rationale of this section is based on the following points:

- ESARR 1 requires an NSA to conduct sufficient on-going safety oversight actions to complete a full review of compliance within a 24 month period. At the end of each 24 month cycle, the NSA will be in an optimal position to consider safety in the renewal of a certificate. This is the reason for using even numbers to define the validity period.
- Regarding the maximum validity period of 6 years, a maximum is needed to ensure that the results from the 24-month safety oversight cycles are appropriately taken into consideration in all cases. If a longer validity period was adopted, the first on-going oversight cycles could become irrelevant in some situations. The political and managerial changes shaping the daily operation of most service providers take place in relatively short periods of time. Current managers should be prevented from thinking that the results of current on-going safety oversight actions are just a problem for future managers.
- There is also a need to balance very long designation periods (20 or 30 years are being considered in some States) which could give the impression that the provision of services is granted irrespective of any mechanism established to check compliance with applicable requirements .
- Six years is ideal to encompass two ISO cycles (36 month cycle for the re-certification of management systems) and three ESARR 1 cycles (24 month cycle in line with EASA practices).
- In each renewal, the next validity period may be reconsidered in the light of the results from the safety oversight cycles. On the other hand, if no serious safety issues are raised in the on-going oversight cycles, the renewal should be almost automatic but the need for this step should still exist.

- 2.8.5 As a general principle, the introduction of changes to the organisation in accordance with Section 2.9 below would not modify the validity period of an extant certificate, unless the change requires a full initial oversight investigation which leads to the issue of a new certificate.
- 2.8.6 In the case of a newly established service provider, the NSA may decide to allow a period for verification of the effective implementation of the ANSP arrangements after issuing an initial certificate in order to confirm the assessment under which the certificate was granted. That period should not be longer than one year of operations. If that verification is successful, the process should lead to a certificate with validity defined in accordance with 2.8.1.

2.9 Changes within the Organisation

- 2.9.1 Any change in the organisation which modifies the terms of its organisation exposition should require the submission to the APMF of an application form conforming to “Model Form 1” included in Appendix 2 of this document.

NOTE: this may take place as part of the notification of planned changes to the provision of services established in Article 5(2) and 5(3) in the case of a certified provider, or as a result of changes needed following the investigations for initial oversight in the case of an applicant organisation.

- 2.9.2 If the Certificate has been issued, the provisions of Sections 2.2.9 to 2.2.13 above should apply and the first assessment referred to in Section 2.2.13 above should conclude whether the proposed change is accepted without further verification, or if additional investigations by a certification team are required.
- 2.9.3 If the change is proposed before the certificate is issued, the APMF should refer the application and any associated documentation to the CTL for appropriate action.
- 2.9.4 In any case, the/a CTL should determine the extent of any subsequent review, including, if required, a full investigation for initial oversight, according to the impact of the proposed changes to the organisation and/or its exposition.
- 2.9.5 When the investigation for initial oversight of the change has been satisfactorily completed, the NSA shall carry out a review of all applicable documents appertaining to the change, including the certificate.
- 2.9.6 When a change to the certificate is required, Section 2.7 above should be used.

2.10 On-going Oversight

- 2.10.1 An initial plan of audits for the on-going oversight of the organisation should be developed by the CTL, taking into consideration the follow-up of corrective actions and accepted internally within the NSA.
- 2.10.2 The initial plan of audits should be communicated by the NSA to the organisation.

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2.10.3 As regards safety oversight:

- a) The audits foreseen in the initial plan which include the verification of compliance with applicable safety regulatory requirements should become part of the NSA's programme of safety regulatory audits to be established in accordance with ESARR 1.
- b) Accordingly, the safety auditing activity initially planned by the CTL may be subject to modifications as foreseen in ESARR 1, Section 6.4.
- c) The on-site safety audit investigations should be conducted following safety regulatory audit methodologies compliant with ESARR 1 and consistent with the practices described in EAM 1 / GUI 3.
- d) The provisions of Section 2.6 above should apply in cases of on-going oversight audits.
- e) Sufficient safety regulatory audits should be conducted over a 24-month period to review the compliance of the organisation as regards applicable safety regulatory requirements in all areas of functional relevance.

2.10.4 The NSA should categorise the non-conformities against applicable safety regulatory requirements, in a manner consistent with EAM 1 / GUI 3, Section 5.6.

NOTE: EAM 1 / GUI 3 recommends the use of two basic categories of safety-related non-conformities: 'level 1' for those which significantly hazard the safety of aircraft and 'level 2' for those which may possibly hazard the safety of aircraft. Appendix 6 provides additional guidance on the categorisation of safety-related non-conformities. Although this document refers to the categorisation and its related guidance in the context of this section, nothing prevents an NSA from using them with regard to initial oversight audits if appropriate.

2.10.5 As established in Article 5(4) of the Common Requirements, wherever corrective actions have not been properly implemented within the agreed timescale, the NSA should take appropriate enforcement measures in accordance with Article 7(7) of Regulation (EC) 550/2004 and Article 9 of Regulation 549/2004, whilst taking into account the continuity of services.

2.10.6 Wherever the holder of a Certificate is providing cross-border services, the NSA who issued the Certificate should establish co-operative arrangements with the NSA(s) of the States concerned in order to ensure an appropriate on-going oversight activity, notably as regards the verification of compliance with applicable safety regulatory requirements related to the Certificate.

NOTE: EAM 1 / GUI 3, Section 6.5 provides guidance and examples on situations where NSAs undertake audits on behalf of other NSAs, or joint audits are conducted by NSAs.

2.11 Possible Derogations

2.11.1 Prior to the implementation of its certification procedure, the NSA should establish a policy in relation to the possible granting of derogations in accordance to Article 4 of the Common Requirements. This policy should:

- a) Identify those specific requirements for which derogations may be established for applicants:
 - i) Falling under the categories of service providers described in Article 4(1) of the Common Requirements.

- ii) Who provide or intend to provide AFIS by operating not more than one working position in aerodromes.
- b) Ensure additional safety regulatory actions wherever it is found necessary to implement further international obligations in relation to the services for which derogations have been granted.

2.11.1 In order to deal with applications requesting certification under the provisions of Article 4 of the Common Requirements, wherever the NSA policy allows that option, the certification procedure should be implemented with the following modifications:

- a) The application form and the certificate should contain the information relevant to this situation which is included in "Model Form 1" and "Model Form 2" in Appendix 2 of this document.
- b) The organisation exposition referred to in Section 2.2.3 above should document the relevant evidences which demonstrate that the applicant qualifies to be certified under the provisions of Article 4.
- c) The assessment conducted by the APMF in accordance with Section 2.2.13 above should determine whether the organisation qualifies to be certified under the provisions of Article 4.
- d) When informing the applicant about the acceptability of its application in accordance with Section 2.2.14 above, the APMF should also inform the applicant of the:
 - i) Set of common requirements which will be applicable to its services in accordance with the NSA's policy established as regards possible derogations in the framework of Article 4.
 - ii) Fact that a certificate issued under Article 4 does not allow the organisation to provide cross-border services and that they will not benefit from the right of mutual recognition of certificates within the Single European Sky
- e) The request for a new certificate made six months prior to the end of the validity of the certificate, which is described in Section 2.8.2 above, will include relevant information documenting that the organisation continues to qualify for the derogations.
- f) Wherever an organisation certified under the provisions of Article 4 applies to introduce changes to provide services for which no derogations are possible, the NSA should assess whether a complete initial oversight process will have to be performed to certify the organisation under the general procedures established by the NSA.
- g) The NSA should establish mechanisms to monitor whether service providers certified under the provisions of Article 4 continue to qualify for the derogations.

2.12 Document Confidentiality

All documents and information received by the NSA relating to the certification process should be subject to protection from disclosure in accordance with applicable national legislation and Article 18 of Regulation (EC) 550/2004.

3. DESIGNATION OF SERVICE PROVIDERS

- 3.0.1 Article 8 of the Service Provision Regulation establishes that EU Member States shall provide ATS services on an exclusive basis within specific airspace blocks under their responsibility. For this purpose States shall designate an ATS service provider holding a valid certificate issued by an EU Member State.
- 3.0.2 It should be noted that, according to the Service Provision Regulation, designation on an exclusive basis is mandatory for ATS service providers and possible in relation to MET service providers. Designation does not apply for CNS and AIS services.
- 3.0.3 Article 8 of the Service Provision Regulation also establishes that EU Member States shall:
 - i) Define the rights and obligations to be met by the designated service providers;
 - ii) Have discretionary powers in choosing a service provider organisation, provided that it holds a valid certificate.
- 3.0.4 As a result of Article 8, EU Member States are in a position to define conditions related to the provision of ATS services in local operational environments associated to the airspace blocks under their responsibility.
- 3.0.5 Indeed, the certification step is related to the demonstration by an organisation of its capabilities to provide services. Such capabilities will have to be actually used in relation to specific airspace blocks with local operational environments. As a result, local conditions may exist in relation to the designation of a service provider organisation to operate in an airspace block.
- 3.0.6 EU Member States should define the local safety-related conditions which are necessary to operate ATS services in their airspace blocks in order to meet their obligations as regards the safe provision of services as Contracting Parties to the Chicago Convention. This should be done consistently with the Common Requirements, ICAO SARPs and other internationally recommended practices.
- 3.0.7 The implementation of such local safety-related conditions, together with other local conditions where applicable, should be defined as an obligation of the designated service provider in accordance with Article 8 of the Service Provision Regulation.

3.1 ESARR 1 in the Designation of Service Providers

- 3.1.1 Wherever local safety-related conditions are defined in relation to the designation of a service provider, their effective implementation will be critical to ensuring the safe operation of ATS services.
- 3.1.2 Accordingly, ESARR 1 requires NSAs to establish a process in order to verify:
 - a) Compliance with additional applicable safety regulatory requirements, if any, prior to the designation, or its renewal, of an organisation holding a certificate to provide ATM services within specific airspace blocks.
 - b) The implementation of local safety-related conditions associated with the designations referred to, such as those related to tolerable levels of safety in the ATM services provided within specific airspace blocks.

- 3.1.3 The process required in ESARR 1 follows the same basic principles defined for the certification case and should be based on the use of safety regulatory audits in accordance with ESARR 1 and the associated guidance and recommended practices of EAM 1 / GUI 3.
- 3.1.4 It should be noted that this verification does not intend to repeat the one conducted in relation to the certification step. Indeed, requiring a systematic repetition would not be easily established from a legal perspective due to the mutual recognition of certificates required in the Service Provider Regulation.
- 3.1.5 Accordingly, ESARR 1 includes specific provisions (specifically Section 5.2 e)) to limit the verification activity to the local safety-related conditions and applicable safety regulatory requirements not previously verified in relation to the issuance of the certificate by an NSA.
- 3.1.6 It should also be noted that responsibility for designation rests with the State in accordance with the Service Provision Regulation, whilst ESARR 1 requires the NSA to perform verification activities. This implies that the State authority with capacity to designate the service provider should normally make arrangements with the NSA to ensure that appropriate verification takes place prior to the designation. The result of the NSA's safety oversight activity should then be taken into consideration by that Authority. This approach would be consistent with the obligations which EUROCONTROL Member States have as regards the implementation of ESARR 1 in accordance with Decision 103 of the EUROCONTROL Permanent Commission, dated the 5th November 2004.

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APPENDIX 1 – REFERENCES

The following documents have been taken into consideration in the development of this draft:

1. Documents defining the regulatory framework applicable

- ESARR 1, Safety Oversight in ATM, Edition 1.0, 5 November 2004
- Regulation (EC) 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the Single European Sky (the framework regulation)
- Regulation (EC) 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the Single European sky (the service provision regulation)
- Commission Regulation (EC) 2096/2005 of 20th December 2005 laying down common requirements for the provision of air navigation services

2. Other regulations considered

- Commission Regulation (EC) 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in those tasks (notably the drafting has considered Annex II, "Part-145")

3. Documents establishing best practices for the certification or approval of organisations

- EASA Organisations Certification Procedure, adopted on 3 February 2004 by means of the EASA Management Board Decision 3-2004 concerning the general principles related to certification procedures to be applied by the EASA Agency for issuing certificates for organisations.
- EASA Internal Working Procedure for Maintenance Organisation Approval (MOAP), Issue 1, 20 December 2004
- EASA Internal Working Procedure for Type Certification (TCP), issue 1, 20 December 2004
- EASA Internal Working Procedure for Certification support for Validation of EASA Certificates in third countries (CSV) and test witnessing /conformity inspections, Issue 1, 23 August 2005.
- ISO/IEC Guide 62:1996, General requirements for bodies operating assessment and certification/registration of quality systems. First Edition, 1996
- ISO/IEC Guide 66:1999, General requirements for bodies operating assessment and certification/registration of environmental management systems. First Edition, 1999
- IAF Guidance on the Application of ISO/IEC Guide 62, Issue 3, December 2003
- IAF Guidance on the Application of ISO/IEC Guide 66, Issue 2, December 2001

4. Other documents

- ESARR 1 Advisory Material, Guidance 3 (EAM 1 / GUI 3), Guidelines for Safety Regulatory Auditing, Draft, Edition 0.1, 1 August 2005
- UK Civil Aviation Authority, Proposed Methodology for the Certification and Designation of Air Navigation Service Providers required in accordance with European Legislation. 6 June 2005.

APPENDIX 2 – MODEL FORMS

The procedures applied by the NSA should define all relevant forms to be used by the applicant organisation, as well as the certificate to be issued at the end of the process.

Harmonising the application form (the main input to the process) and the certificate (the main output from the process) is an essential element to harmonising the overall certification process. It is therefore recommended to use the following Model Forms to the maximum possible extent.

The forms and certificates determined in the applicable procedures should normally include all the contents of the Model Forms which are relevant to the case under consideration. Nevertheless, it is recognised that some customisation may be necessary at national level to add contents addressing specific aspects (e.g. certification fees wherever applicable).

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1. Model Application Form for the Certification of an ANSP (Model Form 1)

APPLICATION FOR THE CERTIFICATION OF AN AIR NAVIGATION SERVICE PROVIDER ORGANISATION		Model Form 1 - Page 1/3
Name and Address of the Competent National Supervisory Authority		Application for Initial Certification <input type="checkbox"/> Application for Change <input type="checkbox"/> (tick as appropriate)
<p>1. Registered Name of Applicant</p> <div style="border: 1px solid black; height: 1.2em; width: 100%;"></div> <p>2. Trading Name (if different)</p> <div style="border: 1px solid black; height: 1.2em; width: 100%;"></div> <p>3. Address</p> <div style="border: 1px solid black; height: 3.5em; width: 100%;"></div> <p>4. Contact Details</p> <p>Name <div style="border: 1px solid black; height: 1.2em; width: 100%;"></div></p> <p>Tel <div style="border: 1px solid black; height: 1.2em; width: 100%;"></div></p> <p>Fax <div style="border: 1px solid black; height: 1.2em; width: 100%;"></div></p> <p>e-mail <div style="border: 1px solid black; height: 1.2em; width: 100%;"></div></p> <p>5. Scope of Services for which Certification is Requested in Accordance with the Provisions of Regulation (EC) 550/2004</p> <p style="text-align: center;"> <input type="checkbox"/> ATS <input type="checkbox"/> CNS <input type="checkbox"/> AIS <input type="checkbox"/> MET </p> <p style="text-align: center;">(for a detailed description, please refer to Page 3 of this application form)</p> <p>6. Name of Chief Executive Officer (or equivalent position within the organisation)</p> <div style="border: 1px solid black; height: 1.2em; width: 100%;"></div> <p>7. Signature of the Chief Executive Officer (or equivalent position within the organisation)</p> <div style="border: 1px solid black; height: 3.5em; width: 100%;"></div> <p>8. Place and Date</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="border: 1px solid black; height: 1.2em; width: 45%;"><p>(place)</p></div> <div style="border: 1px solid black; height: 1.2em; width: 45%;"><p>(Date)</p></div> </div>		

**APPLICATION FOR THE CERTIFICATION
OF AN AIR NAVIGATION SERVICE PROVIDER ORGANISATION**

Model Form 1 - Page 2/3

9. Organisation Exposition (tick as appropriate)

Application for Initial Certification

Three copies of the organisation exposition are forwarded together with this application form.

Application for Changes

Three copies of the pages modified in the previous organisation exposition are forwarded together with this application form.

10. Questionnaires (tick if appropriate)

Questionnaires defined in the NSA certification procedures are forwarded together with this application form.

Notes:

- 1) Only applicable wherever required by the NSA in the case of initial certification.
- 2) Questionnaires may be forwarded at a later date depending on the procedures established by the NSA.

11. Derogations (if applicable)

To be completed only if the organisation applies for specific derogations in accordance with Article 4 of Commission Regulation (EC) xxx/2005, dated xx October 2005 and such derogations have been determined as appropriate by the NSA.

(tick as appropriate)

the applicant is aware that under Article 4 the certificate will not allow for the provision of cross-border services and that they will not benefit from the right to mutual recognition within the Single European Sky.

the applicant intends to provide ATS services only with respect to one or more of the following categories:

general aviation

aerial work

commercial air transport limited to aircraft with less than 10 tonnes of maximum take off mass or less than 20 seats

commercial air transport with less than 10.000 movements per year (counted as the sum of take-offs and landings), regardless of the maximum take off mass and the number of aircraft seats used, the number of movements being calculated as the average over the previous three years

the applicant is an air navigation service provider other than a provider of air traffic services and has a gross annual turnover of 1.000.000 EUR or less in relation to the services it provides or intends to provide.

the applicant provides, or intends to provide, AFIS services by operating regularly not more than one working position at any aerodrome where this service is provided.

the applicant has documented the relevant evidences of all the above in its organisation exposition.

APPLICATION FOR THE CERTIFICATION OF AN AIR NAVIGATION SERVICE PROVIDER ORGANISATION

Model Form 1 - Page 3/3

12. Detailed Description of the Scope of Services for which Certification/Change is Requested

- a) Use as many attached pages as necessary to complete the table.
- b) Use the types of services, their parts and sub-parts as they appear in the table provided by the NSA to describe the scope of services for which certification can be requested/granted.
- c) Complete only the boxes relevant to the application.
- d) The '*conditions proposed by the applicant*' should include all those conditions and limitations identified by the organisation in relation to the services for which certification is requested. The conditions proposed should be clearly formulated and fall under the categories of possible conditions to be attached to certificates in accordance with Annex II of Regulation (EC) 550/2004.
- e) Wherever necessary, the conditions can be described by means of references to documents attached to this application form or other relevant documentation.

2. Model Certificate for the Provision of ANS (Model Form 2)

Model Form 2 - Page 1/2

[Name of the National Supervisory Authority]

**NATIONAL SUPERVISORY
AUTHORITY OF [NAME OF THE
MEMBER STATE], EUROPEAN UNION**

CERTIFICATE

Reference : [Number of the Certificate Assigned by the NSA]

**Pursuant to Regulation (EC) 550/2004 of the European Parliament and
of the Council and Commission Regulation (EC) 2096/2005 for the
time being in force and subject to the conditions specified in this
certificate, the [name of the NSA] hereby certifies:**

[Applicant Organisation Name]

**as an air navigation service provider organisation compliant with the
Common Requirements applicable to the services listed in the
attached schedule and, therefore, capable of providing them.**

General Conditions

1. This certificate requires compliance with the procedures and other arrangements specified in the organisation exposition,
2. This certificate is valid whilst the organisation remains compliant with the applicable Common Requirements; and the specific conditions identified for the services included in the certificate schedule.
3. Subject to the continuous compliance with the conditions of this Certificate, which may be verified by the NSA at any time, this Certificate shall remain valid for a _____ year period and be renewed if requested by the organisation six months prior to the end of that period.

(Enter the validity period as appropriate. The period will either be 2, 4 or 6 years and will be determined on a case-by-case basis by the NSA).

Place & Date of Issue: _____, _____, 20____

Signed:

[signature of the Director General, Executive Director or equivalent position]

CERTIFICATE SCHEDULE

Organisation Name: [Applicant Organisation Name]

Reference: [Number of the Certificate Assigned by the NSA]

Services	Type of service to be provided	Part of the service to be provided	Sub-part of the service to be provided	Conditions Identified
ATS				
CNS				
AIS				
MET				

Date of Issue: _____, 20____

Signed:

For the National Supervisory Authority

Note - when completing the certificate schedule, the NSA should:

- a) Use the table defining the scope of services included in Appendix 3 of this document.
- b) Use as many attached pages as necessary to complete all the boxes related to the services for which the applicant organisation obtains its certificate,
- c) Complete only the boxes relevant to the certificate,
- d) Include as 'conditions identified' all those conditions and limitations identified in the investigations of the certification process in relation to the services for which certification is granted. The conditions should be clearly formulated and fall under the categories of possible conditions to be attached to the certificate in accordance with Annex II of Regulation (EC) 550/2004,
- e) Wherever necessary, describe the conditions by means of reference to documents attached to the Certificate or other relevant documentation.

USE OF MODEL FORM 2 (CERTIFICATE) WHEREVER DEROGATIONS ARE GRANTED

Wherever the NSA chooses to grant derogations in accordance with Article 4 of the Common Requirements, the NSA should specify the nature and scope of the derogation in the conditions attached to the certificate indicating its legal basis. Accordingly, the Model Form should be modified as follows:

On Page 1, the “General Conditions” should state the following:

1. *This certificate has been issued under the provisions of Article 4 of Commission Regulation (EC) 2096/2005, dated 20th December 2005 laying down common requirements for the provision of air navigation services and, therefore, does not entitle the holder to provide services in another European Union Member State.*
2. *This certificate requires compliance with the procedures and other arrangements specified in the organisation exposition.*
3. *This certificate is valid whilst the organisation remains compliant with:*
 - a) *The Common Requirements applicable to the organisation within the scope defined by the derogations identified in certification schedule,*
 - b) *The qualifying criteria to be certified under the provisions of Article 4,*
 - c) *The specific conditions identified in the certificate schedule.*
4. *Subject to continuous compliance with the foregoing conditions, which may be verified by the NSA at any time, this Certificate shall remain valid for a two year period and be renewed if requested by the holder six months before the end of that period and the request includes relevant information to show that the organisation continues to qualify for the derogations.*

On Page 2, the “Conditions Identified” should also refer the Common Requirements for which derogations have been granted.

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APPENDIX 3 – TABLE DEFINING THE SCOPE OF THE SERVICES FOR WHICH CERTIFICATION CAN BE REQUESTED AND GRANTED

According with Regulation (EC) 550/2004 (the Service Provision Regulation), an organisation may apply for a certificate as regards any service included in the scope of the Regulation. That scope includes ATS, CNS, AIS and MET as defined in Regulation (EC) 549/2004 (the Framework Regulation).

The table included in this annex defines the possible scopes for which certification may be requested and granted within the scope of the Service Provision Regulation.

The table is intended to harmonise the classification of services which needs to be used in the certification process. This harmonisation is indeed essential to ensure that the main input (application form) and output (certificate) of the certification process are standardised across Europe.

USE OF THE TABLE

The table, **including only** the services relevant to the service provider organisation, should be attached to:

- The application form (Model Form 1) submitted by an applicant organisation,
- The certificate (Model Form 2) issued by the NSA.

When used in **conjunction with the application form (Model Form 1)**, the conditions included should be those identified and proposed by the applicant in relation to the services for which certification is requested.

When used by the NSA **in conjunction with the Certificate (Model Form 2)**, the conditions included should be those eventually determined by the NSA as a result of the investigations conducted in the certification process. These conditions should not be necessarily confined to those proposed by the applicant.

In order to meet the provisions of Article 6.4 and Annex II of the Service Provision Regulation the conditions included in the Certificate (Model Form 2) should be confined to the following categories of possible conditions²:

- a) Non-discriminatory access to services for airspace users and the required level of performance of such service, including safety and interoperability levels;
- b) The operational specifications for the particular service;
- c) The time by which the services should be provided
- d) The various operating equipment to be used within the particular services;
- e) Ring-fencing or restriction of operation of services other than those related to the provision of air navigation services
- f) Contracts, agreements and other arrangements between the service providers and a third party and which concern the service(s);
- g) Provision of information reasonably required for the verification of compliance of the services with the common requirements, including plans, financial and operational data, and major changes in the type and/or scope of the air navigation services provided;
- h) Any other legal conditions which are not specific to air navigation services, such as conditions relating to the suspension or revocation of the certificate.

² These eight categories have been taken from Annex II of the Service Provision Regulation,

i) It should be noted that **safety-related conditions³** may be identified in relation to any of those eight categories of potential conditions. The implementation of safety-related conditions should always be subject to the safety oversight arrangements established in accordance with ESARR 1.

TABLE DEFINING THE SCOPE OF SERVICES

The table is based on the description of services and terminology used in ICAO Annexes 10, 11 and 15 unless a different reference is indicated.

SERVICES	TYPE OF SERVICE TO BE PROVIDED	PART OF THE SERVICE TO BE PROVIDED	SUB-PART OF THE SERVICE TO BE PROVIDED	CONDITIONS IDENTIFIED
Air Traffic Services (ATS)	Air Traffic Control (ATC)	Area Control Service	N/A	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
		Approach Control Service	N/A	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
		Aerodrome Control Service	N/A	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
	Flight Information Service (FIS)	HF Operational Flight Information Service (OFIS) Broadcasts	N/A	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
		VHF Operational Flight Information Service (OFIS) Broadcasts	N/A	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
		Voice-Automatic Terminal Information Service (Voice-ATIS) Broadcasts	N/A	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
		Data Link Automatic Terminal Information Service (D-ATIS)	N/A	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
		VOLMET Broadcasts and/or D-VOLMET Service	N/A	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
		Alerting Services (AL)	N/A	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
	Advisory Service (NOTE: not referred to in ICAO Annex 11)	N/A	N/A	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
	Aerodrome Flight Information Service (AFIS) (Combination of FIS and AL in an aerodrome with no ATC services)	N/A	N/A	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.

³ ESARR 1 defines a safety-related condition as a specific objective or measure, identified consistently with safety regulatory requirements, whose implementation is found necessary to ensure safety.

SERVICES	TYPE OF SERVICE TO BE PROVIDED	PART OF THE SERVICE TO BE PROVIDED	SUB-PART OF THE SERVICE TO BE PROVIDED	CONDITIONS IDENTIFIED
CNS	Communications (C)	Aeronautical Mobile Service (air-ground communications)	For flight information service	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
			For area control service	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
			For approach control service	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
			For aerodrome control service	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
	Aeronautical Fixed Service (ground-ground communications)	N/A		As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
				As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
	(SES definition: <i>Navigation services means those facilities and services that provide aircraft with positioning and timing information</i>) (NOTE: the service may include the generation of aeronautical radio navigation signal-in-space, and its subsequent distribution and processing up to the delivery for its use by aircraft)	Navigation (N)	Provision of NDB signal-in-space	N/A
			Provision of VOR signal-in-space	N/A
			Provision of DME signal-in-space	N/A
			Provision of ILS signal-in-space	CAT I
				CAT II
				CAT III a
				CAT III b
				CAT III c
			Provision of MLS signal-in-space	CAT I
				CAT II
				CAT III a
				CAT III b
				CAT III c

SERVICES	TYPE OF SERVICE TO BE PROVIDED	PART OF THE SERVICE TO BE PROVIDED	SUB-PART OF THE SERVICE TO BE PROVIDED	CONDITIONS IDENTIFIED
CNS	Navigation (N) <i>(SES definition: Navigation services means those facilities and services that provide aircraft with positioning and timing information)</i> <i>(NOTE: the service may include the generation of aeronautical radio navigation signal-in-space, and its subsequent distribution and processing up to the delivery for its use by aircraft)</i>	Provision of GNSS signal-in-space ⁴	GNNS Core System (GALILEO)	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
			Satellite Based Augmentation System (SBAS)	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
			Ground Based Augmentation System (GBAS)	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
	Surveillance (S) <i>(SES definition: Surveillance services means those facilities and services used to determine the respective positions of aircraft to allow safe separation)</i> <i>(NOTE: the service may include the generation of surveillance data by means of sensors and its subsequent distribution and processing up to the delivery for use in ATM operations)</i>	Provision of data from Primary Surveillance Radar (PSR)	N/A	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
			Mode A/C	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
		Provision of data from Secondary Surveillance Radar (SSR)	Mode S	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
			ADS-C	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
		Provision of data from Automatic Dependent Surveillance (ADS)	ADS-B	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
			N/A	As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
Aeronautical Information Services (AIS)	AIS	Provision of AIS services		As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.
Meteorologic al Services (MET)	MET	Provision of MET services		As appropriate. Wherever necessary this box may refer to appendices to be attached to the table or other relevant documentation.

⁴ GALILEO is mentioned for completeness. A specific regulatory framework exists in accordance with Council Regulation 1321/2004 of 12 July 2004 setting up a GNSS Supervisory Authority in the European Union. As a result, the applicability of the SES certification scheme has not yet been established. Certification of the GALILEO operator(s) should not be considered unless applicability is officially determined by the appropriate European Union institutions.

APPENDIX 4 – GUIDANCE ON THE ORGANISATION EXPOSITION

PURPOSE

Section 2.2 of this guidance recommends the use of an organisation exposition as part of the documentation to be forwarded by a service provider as part of its application for certificate.

The purpose of using the organisation exposition is to harmonise the relevant evidence that applicants are required to provide at the request of the NSA in accordance with Article 5(1) of the Common Requirements to demonstrate compliance with the applicable common requirements. The organisation exposition is also a harmonised means to allow the presentation by the applicant of all the existing data to the maximum extent possible.

The organisation exposition provides the NSA and the applicant with a basic reference to facilitate the whole certification process and the ongoing oversight actions.

CONTENTS

The organisation exposition should describe the means and arrangements established by the organisation to meet the Common Requirements, including detailed references to the main documents and manuals which document them. Its level of detail should be sufficient to ensure that compliance with its contents assures compliance with the applicable common requirements.

Existing data and/or documentation may be used or referred to to the maximum extent possible.

Section 2.2.4 of this guidance describes the minimum points to be covered in any organisation exposition.

Management Part

Points a) to g) in Section 2.2.4 constitute the ‘management’ part of the organisation exposition and therefore could be produced as one document. The persons mentioned in point c) should be reasonably familiar with its contents.

Within that part, points b), d) i) and d) ii) describe fundamental elements of a safety management system implemented in accordance with the common requirements intended to transpose ESARR 3 into Community law. According with the guidance contained in ESARR 3 Advisory Material (EAM 3 / GUI 1, Explanatory Material on ESARR 3 Requirements, and EAM 3 / GUI 3 ESARR 3 related Safety Oversight) in relation to these points the applicant should be expected to describe arrangements covering the following points:

- In relation to point b), clear policy statements signed by the top management of the organisation covering the principles defined in the ESARR 3 requirements and transposed into the Common Requirements as regards ‘safety management’, ‘safety responsibility’, ‘safety priority’ and ‘safety objective’.
- In relation to point d) i), the terms of reference of the safety management function appointed within the overall management team with responsibility for the development and maintenance of the safety management system. A point of responsibility should have been identified, independent of line management and accountable directly to the highest organisational level.⁵

⁵ The case of small organisations may differ from this, notably if derogations apply.

- In relation to point d) ii), a safety management review mechanism, or equivalent one, that could be based on committee(s) to involve the organisation's management team as a whole in the continuous improvement of safety. Such mechanisms should be used to review the implementation and operation of the safety management system, and address safety issues and proposals identified in relation to it.

Procedures Part

Point h) in Section 2.2.4 constitutes the part of the organisation exposition intended to describe the means, procedures and arrangements identified by the applicant to meet the Common Requirements applicable to the services for which certification is requested. It could be produced by attaching or referencing documentation such as manuals, procedures and other relevant documents. Personnel should be expected to be reasonably familiar with those documents that are relevant to the work they carry out.

It is recommended that all the documents attached and/or referenced are presented in the form of a table including cross-references with the Common Requirements related to them.

Any description taking the form of such a table or any other means should follow the categories of common requirements defined Regulation (EC) 550/2004 and the Common Requirements themselves:

ARRANGEMENTS TO MEET THE GENERAL REQUIREMENTS FOR THE PROVISION OF ANS SERVICES

(Annex I of the Common Requirements)

- Technical al operational competence and capability
- Organisational structure and management
 - Organisation structure
 - Organisational management
- Safety and quality management
 - Safety management
 - Quality management system
- Operations manuals
- Security
- Human Resources
- Financial Strength
- Economic and financial capacity
- Financial audit
- Liability and insurance cover
- Quality of services
- Open and transparent provision of services
- Contingency plans
- Reporting

ARRANGEMENTS TO MEET THE SPECIFIC REQUIREMENTS FOR THE PROVISION OF ATS

(Annex II of the Common Requirements if applicable to the services for which certification is requested)

- Ownership
- Open and transparent provision of services
- Safety of services (it may refer to the ‘management’ part for those SMS elements sufficiently described there)
- Working methods and operating procedures

ARRANGEMENTS TO MEET THE SPECIFIC REQUIREMENTS FOR THE PROVISION OF MET

(Annex III of the Common Requirements if applicable to the services for which certification is requested)

- Technical and operational competence and capability
- Working methods and operating procedures

ARRANGEMENTS TO MEET THE SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIS

(Annex IV of the Common Requirements if applicable to the services for which certification is requested)

- Technical and operational competence and capability
- Working methods and operating procedures

ARRANGEMENTS TO MEET THE SPECIFIC REQUIREMENTS FOR THE PROVISION OF CNS

(Annex V of the Common Requirements if applicable to the services for which certification is requested)

- Technical and operational competence and capability
- Safety of services (it may refer to the ‘management’ part for those SMS elements sufficiently described there)
- Working methods and operating procedures

Any description should be clear, as concise as possible, confine its contents to explaining the specific arrangements established to meet each one of the Common Requirements, and identify the relevant manuals, procedures and documents which document these arrangements.

Any description should also identify and explain the conditions proposed by the applicant in its application form as regards the services for which certification is requested (see table included in Model Form 1 in Appendix 2 of this guidance)

Case of Derogations

Wherever the applicant applies for a certificate under the provisions of Article 4 of the Common Requirements, the organisation exposition should include relevant evidence (or appropriate references) to demonstrate that the organisation meets the qualifying criteria to be certified in accordance with Article 4.

APPENDIX 5 – MODEL QUESTIONNAIRE

Certain NSAs (e.g. UK CAA SRG) have developed specific questionnaires to support the certification process.

Section 2.2.6 of this guidance mentions the possible use of questionnaires.

This customisation of the material made available by UK is being considered by SRC for inclusion in future editions of this document.

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APPENDIX 6 – CATEGORISATION OF NON-CONFORMITIES

EAM 1 / GUI 3, Section 5.6, recommends the establishment of procedures to react immediately to a major safety issue if an audit reveals an unsafe situation. In order to define these mechanisms, it is particularly important for the NSA to categorise the non-conformities which could be raised against applicable safety regulatory requirements.

Accordingly, EAM 1 / GUI 3 recommends the following basic principles regarding the categorisation of non-conformities:

- Classification of the non-conformities into two basic categories associated with levels of safety significance as follows:
 - a) Category 'level 1' should include any non-compliance with the applicable safety regulatory requirements which lowers the safety standard and **significantly** hazards the safety of aircraft.
 - b) Category 'level 2' should include any non-compliance with the applicable safety regulatory requirements which lowers the safety standard and **may possibly** hazard the safety of aircraft.
- If appropriate, further sub-categories may be defined by the NSA within these two basic levels. This may assist the NSA in defining specific actions in relation to a more refined categorisation.
- Guidance material for auditors should be produced by the NSA to illustrate, preferably with examples, the type of non-compliances which fall under the 'level 1' and 'level 2' categories.

This appendix has been developed to provide NSAs with guidance to support the implementation of these principles.

Use of the Categorisation

Section 2.10.4 of this guidance recommends that non-conformities raised against applicable safety regulatory requirements are categorised as level 1 or level 2 consistently with the principles of EAM 1 / GUI 3, Section 5.6, in the context of the ongoing oversight process.

Nothing prevents a NSA from considering the use of this categorisation or an alternative one in the initial certification process. However, it should be noted that the notions of level 1 and level 2 are:

- Intended to identify the need for immediate intervention by the NSA. They are not intended to define criteria classifying the non-conformities in the decision making process leading to the issue, or not issue, of an initial certificate;
- Primarily applicable in situations where operations are effectively taking place.

Action from the NSA

In the case of level 1 non-conformities a range of immediate actions may be taken by the NSA depending upon the nature of the findings. Measures may include the imposition of sanctions, operational restrictions or any other enforcement measure applicable within the existing regulatory framework, such as the revocation or suspension of relevant approvals until successful corrective action has been taken.

In practical terms, the use of these arrangements should be exceptional and exclusively justified on the need to react in serious situations to ensure aviation safety in the public interest. An abusive use of these arrangements would jeopardise the safety regulatory process implemented by the NSA.

NOTE: EAM 1 / GUI 3, Section 5.6 provides additional guidance on the arrangements which an NSA may need to put in place to address this subject.

Period for Implementation of Corrective Actions

For level 2 findings, the corrective action period granted by the NSA must be appropriate to the nature of the finding but generally should not be more than three months. Subject to the nature of the finding the NSA may extend the three month period subject to a satisfactory corrective action plan agreed by the NSA. In any case the determination of corrective actions by the ANSP and their subsequent implementation should normally take place as soon as possible.

For level 1 findings any corrective action determined should be implemented as soon as possible. If restrictions are imposed by the NSA, they should be maintained until appropriate corrective actions are fully implemented.

Criteria to Identify Level 1 Non-Conformities

As part of their guidance material for auditors, NSAs should develop criteria to support the identification by auditors of level 1 non-conformities.

Any criteria defined by the NSAs should recognise that auditors will have to address the categorisation of non-conformities on a case by case basis. Each situation will be different and, consequently, the application of criteria should ultimately rely on expert judgement.

It is recommended that criteria identify at least the following types of possible situations as level 1 non-conformities:

- Case A - Evidence demonstrates that a service provided is not compliant with safety-related specifications although it is obtained through the systematic application of the relevant processes.
- Case B - Evidence demonstrates a lack of systematic implementation of arrangements intended to identify or eliminate a potential or actual unsafe situation.
- Case C - Evidence demonstrates a lack of systematic implementation of a safety-related operational arrangement
- Case D - Evidence demonstrates a lack of implementation of corrective actions within the agreed timescale granted by the NSA in relation to the findings of a safety regulatory audit.

The rationale of B and C is the need to preserve the safety barriers established in the ATM system in order to ensure a safe provision of services.

The rationale of A is the need to address situations where a service provided is found to be unsafe in spite of an apparently correct implementation of the safety barriers established in the ATM system.

The rationale of D is based on the provisions of Article 5(4) of the Common Requirements regarding situations where corrective actions are not properly implemented.

It is also recommended that NSAs illustrate any criteria defined by means of examples. The following table includes examples of a possible non-conformities categorisation on the basis of the four situations described above.

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EXAMPLES OF A POSSIBLE CATEGORISATION OF NON-CONFORMITIES

No	Finding	Requirement against which the non-conformity is raised	Rationale / Discussion	Category	Other Comments
<p>This table only intends to illustrate a possible practical application of the criteria suggested in this Appendix to identify level 1 non-compliances. NSAs are expected to develop their own criteria to support the work of auditors. The examples included are only illustrative and do not intend to present an exhaustive list of situations.</p>					
1	No internal investigation of reported ATM operational occurrences with significant safety implications.	<p>No internal investigation process exists. Evidences are found showing that a substantial number of safety occurrences reported were not investigated.</p> <p><i>CRs, Annex II, last bullet of Section 3.1.2 (intended to transpose ESARR 3, 5.2.7)</i></p> <p>A provider ... shall ensure that ATM operational or technical occurrences which are considered to have significant safety implications are investigated immediately,</p>	<p>One of the processes required to address unsafe situations is not systematically implemented.</p> <p>This finding fits into the 'Case B' described in the criteria.</p>	LEVEL 1	<p>Reported occurrences show the existence of an actual (not potential) unsafe situation.</p> <p>An essential safety barrier is not implemented</p> <p>In relation to the finding, expert judgement will be needed to determine what is 'substantial'</p>
2	Evidences show that a specific safety occurrence reported was not investigated. No evidences could be found about similar cases.		<p>The process is systematically implemented but for some reason it was not applied in a specific case.</p> <p>If no evidence is found about a lack of implementation in more cases, no conclusion can be reached regarding a lack of systematic implementation of the process.</p>	LEVEL 2	<p>A non-conformity should be raised and corrective action requested.</p> <p>ANSP should investigate the causes of this nonconformity and propose corrective actions to eliminate them.</p>
3	The ANSP does not implement the corrective actions from the internal investigation of safety occurrences. Evidences are found showing that a substantial number of corrective actions were not investigated.	<p><i>CRs, Annex II, last bullet of Section 3.1.2 (intended to transpose ESARR 3, 5.2.7)</i></p> <p>A provider... shall ensure that... any necessary corrective action is taken. (for occurrences with significant safety implications)</p>	<p>In spite of conducting internal investigation, no actions are taken to implement the solution identified. This shows a systematic lack of implementation of arrangements intended to eliminate an unsafe situation.</p> <p>This finding fits into the 'Case B' described in the criteria.</p>	LEVEL 1	<p>In relation to the finding, expert judgement will be needed to determine what is 'substantial'</p>

No	Finding	Requirement against which the non-conformity is raised	Rationale / Discussion	Category	Other Comments
4	No safety surveys process is in place. Evidences are found showing that none of the safety surveys planned on an annual basis in relation to an ATS unit were conducted.	<i>CRs Annex II, first bullet in Section 3.1.3</i> <i>(intended to transpose ESARR 3, 5.3.1)</i> A provider... shall ensure that safety surveys are carried out as a matter of routine, to recommend improvements where needed, to provide assurance to managers of the safety of activities within their areas and to confirm compliance with the relevant parts of the SMS.	One of the processes required to detect actual or potential unsafe situations is not systematically implemented. This fits into the 'Case B' described in the criteria.	LEVEL 1	Safety surveys are intended to detect potential or actual unsafe situations. An essential safety barrier is not implemented as regards a specific ATS unit.
5	No safety policy endorsed by the top management of the ANSP was promulgated at the time of the audit.	<i>CRs, Annex II, last bullet of Section 3.1.1</i> <i>(intended to transpose ESARR 3, 5.1.1)</i> A provider ... shall, as an integral part of the management of its services, have in place a safety management system (SMS) which ... and includes, as its foundation, a statement of safety policy defining the organisation's fundamental approach to managing safety.	Although a safety policy properly promulgated is an essential component of a SMS, its lack does not necessarily mean that the safety barriers required in a SMS do not exist.	LEVEL 2	A non-conformity should be raised and corrective action requested. When proposing corrective actions the ANSP should normally propose a way forward to define and implement an appropriate safety policy and correct the causes for its lack.

No	Finding		Requirement against which the non-conformity is raised	Rationale / Discussion	Category	Other Comments
6	When auditing an ATC unit, evidences are found showing that in a number of occasions it became apparent that additional traffic could not be accommodated within a given period of time. There were clear indications that additional traffic would exceed the declared capacity of the ATS services concerned. However, the ATC unit did not trigger the mechanisms that Annex 11 required in these situations.	Additional evidences show that the declared capacity was exceeded in a number of situations. No evidences are found about issues related to the relevant procedures.	<p><i>ICAO Annex 11, 3.7.5.1</i> Air traffic flow management (ATFM) shall be implemented for airspace where air traffic demand at times exceeds, or is expected to exceed, the declared capacity of the air traffic control services concerned.</p> <p><i>ICAO Annex 11, 3.7.5.3</i></p>	This finding fits into the 'Case A' of the criteria. The evidence shows that the service is not compliant with safety-related specifications although it is apparently obtained through the systematic application of relevant processes. Further investigation is required.	LEVEL 1	<p>The auditor must be able to find objective evidence demonstrating the non-compliance. In this case it could be difficult to demonstrate that something 'became apparent'. Declared capacity means a measure of the ability of the ATC system or any of its subsystems or operating positions to provide service to aircraft during normal activities. It is expressed as the number of aircraft entering a specified portion of airspace in a given period of time, taking due account of weather, ATC unit configuration, staff and equipment available, and any other factors that may affect the workload of the controller responsible for the airspace.</p> <p><i>(Definition from ICAO Annex 11, Chapter 1)</i></p>
7		Additional evidences show that procedures established at the ATC unit are unclear. As a result the ATC unit does not trigger the mechanisms to prevent the declared capacity from being exceeded.	<p>When it becomes apparent to an ATC unit that traffic additional to that already accepted cannot be accommodated within a given period of time at a particular location or in a particular area, or can only be accommodated at a given rate, that unit shall so advise the ATFM unit, when such is established, as well as, when appropriate, ATS units concerned. Flight crews of aircraft destined to the location or area in question and operators concerned shall also be advised of the delays expected or the restrictions that will be applied.</p>	The finding fits into the 'Case C' of the criteria. The evidence shows a lack of systematic implementation of a safety-related operational arrangement.		
8	A specific navaid is not calibrated within the intervals required.		<p><i>ICAO Annex 10 – Volume I, 2.7.1</i> Radio navigation aids of the types covered by the specifications in Chapter 3 and available for use by aircraft engaged in international air navigation shall be the subject of periodic ground and flight tests.</p> <p><i>(To note that Chapter 3 covers: ILS, Precision Approach Radar, VOR, NDB, DME, en-route VHF Marker Beacons, GNSS and MLS)</i></p>	<p>As a result of this non-compliance a service (radio navigation signal provided) could not meet the safety-related specifications required. If that is the case, the finding would fit into the 'Case A'.</p> <p>If we consider the calibration periods as safety-related specifications, then it would fit the 'Case A', even if the signal is not degraded.</p> <p>In any case, this non-compliance prevents the identification of unsafe situations if they occur (if the radio navigation signal is degraded). Therefore the finding fits the 'Case B'.</p>	LEVEL 1	

No	Finding	Requirement against which the non-conformity is raised	Rationale / Discussion	Category	Other Comments
9	No maintenance takes place with regard to the automatic system monitoring of an ILS	<i>ICAO Annex 10 – Volume I, 3.1.3.11.1 – Monitoring (regarding ILS)</i> The automatic monitor system shall provide a warning to the designated control points and...	The lack of maintenance with regard to the automatic monitoring system affects the capability of the ATM system to eliminate unsafe situations by their timely detection. Therefore this situation fits into the 'Case B'.	LEVEL 1	
10	No availability of automatic monitoring system in an ILS		The lack of automatic monitoring system prevents the identification of extremely unsafe situations. Therefore this fits into 'Case B'. If the capacity to cease or reverse to a lower category is considered as an specification of the radio navigation signal, then this finding would also fit into the 'Case A'.	LEVEL 1	
11	The official SMS manual containing a new procedure had not been updated at the time of the audit. However, evidences show that the right procedure was implemented in practice.	<i>CRs, Annex II, fourth bullet of Section 3.1.2</i> <i>(intended to transpose ESARR 3, 5.2.5)</i> A provider ... shall ensure that the SMS is systematically documented ...	This non-compliance does not necessarily mean that a safety barrier related to the procedure is removed.	LEVEL 2	A non-conformity should be raised and corrective action requested.

No	Finding		Requirement against which the non-conformity is raised	Rationale / Discussion	Category	Other Comments
12	A controller did not hold the rating needed to provide the services he was actually providing at the time of the audit. Evidences were found showing that the issue was ultimately due to an administrative problem. He had recently passed the examination to obtain the rating required. However, the administrative process had not been completed. As a result his new license had not yet been issued at the time of the audit.	After investigating the issue further, it is concluded that no arrangements are formalised to check the rating in this type of situations	<p><i>ESARR 5, 5.2.2.</i></p> <p>The provider of air traffic services at its ATC unit(s) shall ensure that:</p> <p>5.2.2.1. An air traffic controller providing an air traffic control service:</p> <p>a) holds valid rating(s), rating endorsement(s) and unit endorsement(s) appropriate to the ATC service being provided;</p> <p>...</p> <p><i>(To note that CRs require a provider of ATS (and CNS) to ensure that personnel are adequately trained and competent for the job they are required to do, in addition to <u>being properly licensed if so required</u> and satisfying applicable medical fitness requirements.</i></p> <p><i>(Recital 11 of the CRs refers to the ESARR 5 provisions on ATCOs and their intended transposition into Community law by a Directive. The recital makes clear that the expression 'if so required' implies the need for checking the provisions implemented at national level with regard to the licensing of ATCOs.)</i></p>	<p>There is a lack of sufficient means to 'ensure' that ATCOs providing ATC services hold the valid rating. The issue is systematic.</p> <p>This non-compliance fits into the 'Case B' (or 'Case C' depending on the interpretation) as it shows a lack of systematic implementation of arrangements intended to identify a potential unsafe situation (or a lack of systematic implementation of a safety-related operational arrangement if it fits into 'Case C')</p>	LEVEL 1	
13		After further investigation it is found out that the supervisor is required to monitor and check the ratings of ATCOs. In addition, it is demonstrated that the supervisor did not check the ratings as required in a number of cases.		<p>A process exists to 'ensure' that ATCOs providing ATC services hold the valid rating. However, there is a lack of systematic implementation of the process. This implies a lack of systematic implementation of arrangements intended to detect a potential unsafe situation. This fits into the 'Case B' (or into 'Case C' if the interpretation of the criteria is that the check is a safety-related operational arrangement)</p> <p>The situation does not appear to produce an 'actual unsafe situation' as the ATCO has effectively proven his/her capability to do the job he/she is doing. However, the finding reveals an issue regarding the arrangements. The problem detected could cause a lack of detection of actual unsafe situations in the future.</p>	LEVEL 1	

No	Finding		Requirement against which the non-conformity is raised	Rationale / Discussion	Category	Other Comments
14	A controller did not hold the rating needed to provide the services he was actually providing at the time of the audit. Evidences were found showing that the issue was ultimately due to an administrative problem. He had recently passed the examination to obtain the rating required. However, the administrative process had not been completed. As a result his new license had not yet been issued at the time of the audit.	After further investigation it is found out that the supervisor is required to monitor and check the ratings of ATCOs. No evidences are found showing more cases in which the supervisor did not check the ratings as required. The case detected appears to be an isolated event.		<p>There are appropriate arrangements in place and they appear to be systematically implemented.</p> <p>From the evidences found, it cannot be concluded that there is a systematic lack of implementation as the case found appears to be an isolated situation. Further investigation is required to find the causes of the problem and prevent its repetition.</p>	LEVEL 2	A non-conformity should be raised and corrective action requested.
15	Evidences are found showing that non essential maintenance works in relation to the runway were authorised by the TWR in an area close to the ILS localizer at a time at which low visibility procedures applied.	Evidences are found showing that this happened in a number of cases	<p><i>ICAO Annex 11, Section 3.8.2</i></p> <p>In conditions where low visibility procedures are in operation:</p> <p>a) persons and vehicles operating on the manoeuvring area of an aerodrome shall be restricted to the essential minimum, and particular regard shall be given to the requirements to protect the ILS/MLS sensitive area(s) when Category II or Category III precision instrument operations are in progress;</p>	Lack of systematic implementation of a safety-related operational arrangement. The finding fits into the 'Case C'.	LEVEL 1	Regarding the notion of "non-essential maintenance", let us consider the maintenance tasks could have been carried out within the next days. That postponement would have not affected any safety standard at the time at which the low visibility procedures applied.
16		No evidences are found about situations in which this occurred, apart from the isolated case detected		<p>It cannot be concluded that the finding indicates a systematic lack of implementation of safety-related operational arrangements. The case should be investigated further to find out the causes and address them to avoid a repetition.</p>	LEVEL 2	

No	Finding		Requirement against which the non-conformity is raised	Rationale / Discussion	Category	Other Comments
17	The ANSP does not implement a corrective action in relation to a level 2 nonconformity within the timescales agreed by the NSA.		<p><i>Article 5 (4) CRs</i></p> <p>Where the national supervisory authority considers that corrective action has not been properly implemented within the agreed timetable, it shall take appropriate enforcement measures in accordance with Article 7(7) of Regulation (EC) No 550/2004 and Article 9 of Regulation (EC) No 549/2004 while taking into account the need to ensure the continuity of services.</p>	This is a 'Case D' situation by definition.	LEVEL 1	<p>To note that the corrective actions could be originally related to a Level 2 non-conformity.</p> <p>To note that, in this case, the CRs do not differentiated between safety and non-safety requirements.</p>
18	Delay in the implementation of safety assurance actions	A safety survey has been postponed, but it has been planned to conduct this activity within a reasonably timescale.	<p><i>CRs Annex II, first bullet in Section 3.1.3</i></p> <p><i>(intended to transpose ESARR 3, 5.3.1)</i></p> <p>A provider... shall ensure that safety surveys are carried out as a matter of routine, to recommend improvements where needed, to provide assurance to managers of the safety of activities within their areas and to confirm compliance with the relevant parts of the SMS.</p>	This finding does not reflect a systematic problem. On the contrary, the system is capable of reacting and adapting its actions when unexpected situations arise.	NONE	<p>No non-conformity is raised. Expert judgement will be needed to identify the point at which a series of 'delays' should be considered as a significant issue in regard to the systematic implementation of the requirement. If that was concluded, a level 2 nonconformity should be raised against the requirement</p>
19		Substantial delays are taking place in most cases with regard to the schedule of safety surveys originally planned.		The arrangements are well established but the finding shows that they do not work properly, probably because of some problems in what has been arranged. Further investigation is needed to identify the cause(s) and prevent the repetition of this situation.	LEVEL 2	<p>Expert judgement will be needed to identify the point at which a series of 'delays' should be considered a systematic lack of implementation of arrangements intended to identify unsafe situations. If that was concluded, a level 1 nonconformity should be raised against the requirement (Case 'B')</p>