



**European Network
of
Civil Aviation
Safety Investigation Authorities**

ANNUAL REPORT

2011

Foreword

Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC (Regulation 996) has established the European Network of Civil Aviation Safety Investigation Authorities (ENCASIA).

This Regulation aims to improve aviation safety by ensuring a high level of efficiency, expediency, and quality of European civil aviation safety investigations, **the sole objective of which is the prevention of future accidents and incidents without apportioning blame or liability, including through the establishment of ENCASIA (Article 1).**

ENCASIA's goal consists of further improving the quality of investigations conducted by safety investigation authorities and to strengthen their independence.

This report summarizes the first year of ENCASIA's activities. According to Regulation No 996/2010 provisions it will be transmitted by the European Commission to the European Parliament and the Council.

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INTRODUCTION

Regulation No 996/2010 established the European Network of Civil Aviation Safety Investigation Authorities (ENCASIA) and has put strong emphasis on the coordination role of Safety Investigation Authorities and its reinforcement in a European context, in order to generate real added value in aviation safety. This is to be achieved by building upon the already existing cooperation between such authorities and the investigation resources available in the Member States. Safety Investigation Authorities should be able, in each Member State, to conduct efficient and independent investigation and participate in the prevention of accidents through their activities. ENCASIA seeks to recognise and reinforce Safety Investigation Authorities with a well-defined role and tasks.

ENCASIA is composed of the heads of the Safety Investigation Authorities in each of the Member States and/or, in the case of a multimodal authority, the head of its aviation branch, or their representatives, including a chairman chosen among these for a period of three years.

This report summarizes ENCASIA's first year of functioning. It first explains how ENCASIA started, then describes the work programme and the other activities that took place in 2011. In accordance with the legislation, ENCASIA is a European entity whose activities are conducted in a transparent manner.

1) SETTING UP ENCASIA

1.1) Adoption of Rules of procedure

Shortly before the entry into force of Regulation No 996/2010, the Belgium Presidency organized a meeting in Brussels on 18 November 2010 to elaborate the Rules of Procedure to formally initiate ENCASIA for the next meeting. It was particularly important to have provisions for the election of the Chairman and Deputy Chairman. These rules were drafted within the scope of the Regulation and the adopted Rules of procedure are at Appendix 1.

1.2) Election of Chairman and Deputy Chairman

On 19 January 2011, the Rules of Procedure were formally approved to formalise the election process. As a result of that process, Mr **Ulf Kramer**, head of the German Safety Investigation Authority and Mr **Keith Conradi**, his counterpart from the United Kingdom, were respectively elected Chairman and Deputy Chairman.

1.3) Setting up relations with ACC and other safety stakeholders

Next to ENCASIA, there are other groups dedicated to accident investigation matters but within a broader geographical scope. In particular the European Civil Aviation Conference (ECAC) has established for many years the group of experts in accident/incident investigation (ACC).

In 2011 Mr. Jurgen Whyte (Ireland) succeeded to Mr. Paul-Louis Arslanian (France) as the Chairman of ECAC ACC Group. The relationship between ENCASIA and ACC is viewed by the two chairmen as follows:

- ENCASIA has competencies that are defined within Regulation No 996/2010 and is working within this specific legislative framework notably through its working groups;
- ACC, with its wider membership and many observers, has the ability to reach out and bring a more international dimension to its discussions and activities. ACC is a working body able to adopt broad general positions, rather than a decision-making entity.

ENCASIA and ACC complement each other's actions through careful coordination to prevent duplication in their activities. Aviation safety is enhanced through this cooperation and the establishment of improved accident investigation procedures.

The ENCASIA Chairman also established contacts with other organizations when he participated to the ICAO-COPAC Regional Seminar held in Madrid on 25 March 2011 related to data protection and the relationship between safety investigation and judicial authorities.

Mr. Kramer also presented ENCASIA activities during the 2011 Seminar of the European Society of Air Safety Investigators (ESASI) held in Lisbon, Portugal on 7-8 April 2011.

Through collaboration with all these entities, ENCASIA aims at participating in the exchange of information and best practices for safety purposes and, while remaining the core working body on accident investigations in Europe, aims at ensuring complementary work and good cooperation with already existing groups.

2) ENCASIA's work programme

ENCASIA adopted its 2011 work programme during its meeting of 14 April 2011 which included the establishment of four working groups in addition to listing the Safety Investigation Authorities resources and clarifying the origin of European products according to Article 10(2) of Regulation No 996/2010.

2.1) Inventory of resources available in each Safety Investigation Authority

Member States completed a draft questionnaire that dealt with resources. It ranged from human to technical resources with particular reference to specialisations. This data have been made available to the Member States through the ENCASIA CIRCA web pages, which is an Intranet system that facilitates the sharing of documents. This inventory of resources represents an important tool for working group 3, whose aim is to develop procedures for requesting and providing help.

2.2) Establishment of list of EU products according to Article 10(2) of the Regulation

According to Article 10-2 of the Regulation, *"Accredited representatives for the State of Design shall be appointed by the safety investigation authority of the Member State in the territory of which the principal place of business of the certificate holder for the type design of the aircraft or power plant is located."*

The "principal place of business" has been considered as the Type Certificate Holder address place. For example, for an entity like Airbus, which is spread over several Member States, this place is France (Toulouse).

From a practical standpoint, the easiest way to interpret and to use Article 10.2 consists of referring to the Type Certificate Sheet that EASA has on its website:

<http://easa.europa.eu/certification/type-certificates/type-certificates.php>

This site offers a database of Type Certificate datasheets. Consequently, if an aircraft is involved in an accident, the Safety Investigation Authority of the Member State that is mentioned on the cover page of the EASA Type Certificate datasheet shall appoint an accredited representative to participate in the investigation.

Note: When the aircraft type is not present in the database of Type Certificate datasheets, one can refer to the State that first issued a type certificate or to the State where the manufacturer is/was established. This is the case for aircraft not eligible to a Type Certificate in accordance with Commission Regulation (EC) No 1702/2003 (Specific Airworthiness Specifications or Annex II aircraft), which was later amended by Commission Regulation (EC) No 1194/2009.

2.3) Creation and management of working groups:

2.3.a) Working Group 1 (WG1): "Network Communication and Internet Presence"

The first working group deals with network communication and Internet presence. Its goal is twofold:

1) to facilitate internal communication between ENCASIA Members and

2) to make ENCASIA and its safety related activities more visible to the public through a website.

With regard to internal communication, ENCASIA will continue to use the CIRCA platform previously mentioned.

The future ENCASIA website will be hosted on the European Commission website (Europa). Further work needs to be done with regard to the form and the content of the website. WG1 intends to make progress on these aspects in 2012 with the Commission providing the website technical management part.

2.3.b) Working Group 2 (WG2): "Inventory of best practices of investigation in Europe"

Article 7 paragraph 2 of Regulation No 996/2010 stipulates that *"The Network shall seek to further improve the quality of investigations conducted by safety investigation authorities and to strengthen their independence. In particular, it shall encourage high standards in investigation methods and investigator training"*.

Paragraph 3 adds the following: *"In order to achieve the objectives set out in paragraph 2, the Network shall be responsible, in particular, for: [...] promoting best safety investigation practices with a view to developing a common Union safety investigation methodology and drawing up an inventory of such practices"*.

WG2 has started listing the items in relation with common investigation methods. The group developed a questionnaire, which aims at listing references and practices used by national Safety Investigation Authorities. The objective consists of using ICAO documentation as a starting point and complementing it when needed. Several areas, especially when dealing with the collection of facts, are already well documented. For example, most of the work on the accident site is already described by best practices. On the other hand, the following domains have not been harmonized yet: analysing and identifying causes, report writing, submitting draft reports for comments and appending them (or not) to the report, etc.

The "most wanted practices or methods" will be dealt with in priority.

2.3.c) Working Group 3 (WG3): "Procedures for asking and providing help"

In accordance with EU Regulation No 996/2010, WG3 shall prepare procedures for requesting and providing help among ENCASIA Member States. This should allow each safety investigation authority to fully perform an investigation, with the assistance of other Member States where relevant.

The guidance should be largely based on EU Regulation No 996/2010, ICAO Annex 13 and the ECAC Code of conduct¹. WG3 suggested it should mainly deal with four different cases:

i) Case of an emergency situation:

- Definition of emergency situations
- Which entity should be called?
- By which mean send an emergency request?
- Which pieces of information are to provide in an emergency situation?
- Time, means or ways to respond to an emergency situation.

ii) Case of technical assistance request:

- Definition of technical assistance
- Which entity should be called?
- Time, means or ways to respond to technical assistance request.

iii) Case of staff assistance request:

- Definition of staff assistance
- Which entity should be called?
- Status of investigator/ State providing help.
- Type of staff.
- Time, means or ways to respond to staff assistance request.

iv) Case of request for advices:

- Acquisition of new technical equipment
- Sharing experience during accident investigations

This group will also consider cost issues and provide practical tools such as resource inventories to facilitate contacts on a 24/7 basis between the relevant persons depending on the situations and the needs.

2.3.d) Working Group 4 (WG4): "Training of investigators"

In accordance with Article 7 of Regulation No 996/2010, ENCASIA shall seek to improve the quality and effectiveness of safety investigations in the European Union by encouraging a high standard of investigation methods and investigator training. In this context, WG4 will propose for adoption by ENCASIA agreed European training standards and guidance material regarding investigator training, and common skills for European safety investigators.

The group will also provide detailed information relating to the availability of appropriate training courses specific to the role of safety investigation. For example, courses such as, interviewing techniques, photography, media training, hazard awareness, site safety and use of personal protection equipment (PPE's) for bio-

¹ The ECAC Code of Conduct on cooperation in the field of civil aviation accident/incident investigation had 31 signatories as of the 1st of December 2009
https://www.ecac-ceac.org//publications_events_news/ecac_documents/codes_of_conduct

hazards, among others will be considered. Hazard awareness and site safety is particularly relevant to the safety of investigators and gaining access to accident sites both within Europe and internationally.

In presenting its work, WG4 will be mindful of the following:

- (1) That within Europe there are both large Member State Safety Investigation Authorities and small investigative authorities staffed with only one or two persons;
- (2) Some Safety Investigation Authorities have very limited training resources and facilities, if any;
- (3) That a significant amount of guidance material is already available on investigator training, in particular at ICAO level;
- (4) That a number of institutions around the world can provide appropriate investigator training;
- (5) There are specific in-house expertise and facilities in a number of Member State Safety Investigation Authorities.

WG4 will consider developing specific guidance material on the following topics:

- Standards for European Aviation Safety Investigators
- Standards for European Aviation Safety Investigator training:
 - o Initial professional qualifications and background experience
 - o Initial investigator training
 - o On-the-job training
 - o Basic training
 - o Advanced courses and speciality training
 - o Recurrent training
- Exchange programmes and on-the-job training between Safety Investigation Authorities
- European/ENCASIA sponsored and organised training courses
- Financial support
- List of recognised training organisations or facilities

Such work will ultimately lead to harmonized standards for training for European safety investigators.

3) Update on other 2011 activities

3.1) Advising the European Commission on the revision of Directive 2003/42 on occurrence reporting in civil aviation

According to 7(3) of Regulation 996, ENCASIA shall be responsible, in particular, for *“preparing suggestions to and advising Union institutions on all aspects of*

development and implementation of Union policies and rules relating to safety investigations and the prevention of accidents and incidents.”

On 2 June 2011, the Commission sent a letter to ENCASIA's Chairman, requesting ENCASIA's advice and opinion about the ongoing consultation process on Directive 2003/42/EC of the European Parliament and of the Council of 13 June 2003 on occurrence reporting in civil aviation. ENCASIA's position will be included in the Impact Assessment which will be presented by the European Commission together with the legislative proposal.

ENCASIA expressed strong support to the revision process of Directive 2003/42. The response letter sent by Mr. Kramer to the Commission is available in Appendix 2. In summary, the key aspects for ENCASIA are:

- Unrestricted and straightforward access to data to enlarge the evidential basis.
- Independence of the safety investigation leading to effective safety actions and safety recommendations.

3.2) Preparatory work on Peer Reviews

According to Article 7 of the Regulation, ENCASIA shall be responsible for *“coordinating and organising, where appropriate, ‘peer reviews’, relevant training activities and skills development programmes for investigators”*.

The concept of Peer Reviews represents a positive way to ensure a proper application of the legislation, in particular, to allow that the means referred to in Article 4 will be provided to Safety Investigation Authorities. It should enable States to improve the situation of Safety Investigation Authorities at the national level. Peer Reviews will be an essential tool to help achieve the legislative goal of all 27 Safety Investigation Authorities being able to perform independent investigations to high standards. ENCASIA needs to establish together with the European Commission a programme to conduct Peer Reviews activities that could be based on and adapted from similar experience in this domain. Another Working Group is intended to be set up to deal with Peer Reviews. The European Commission, France, Spain and the United Kingdom have experience in this area that they offered to share in 2012.

3.3) Update on advance arrangements

According to Article 12 (3): *“Member States shall ensure that safety investigation authorities, on the one hand, and other authorities likely to be involved in the activities related to the safety investigation, such as the judicial, civil aviation, search and rescue authorities, on the other hand, cooperate with each other through **advance arrangements**”*. For a majority of Member States, these advance arrangements are either in the process of being updated or contacts with other

authorities have been made. However, the establishment of such arrangements is often difficult, in particular when dealing with judicial authorities and confidentiality aspects. To facilitate the sharing of information in this area, the Commission committed to translate the arrangements it receives into English and to make them available to other Member States. ENCASIA suggests notably focusing in this area for 2012 and should help Member States to make progresses in the establishment of the advance arrangements.

CONCLUSIONS (THE WAY FORWARD)

After its first year of functioning, ENCASIA has become an established European entity that started working in accordance with Regulation No 996/2010. ENCASIA is a collective entity that needs the involvement of all Member States to maintain successful and meaningful inputs for aviation safety. ENCASIA has already accomplished several preliminary tasks. It has also taken an active role in the preparation of future legislation on occurrence reporting.

Regarding its role of ensuring high standards of investigation methods within all Member States, ENCASIA fully recognises that this is a long term task and that further work needs to be done in the following years.

The ENCASIA 2012 work programme aims at complementing the 2011 work programme and integrating peer reviews into its core activities. The exchange of safety recommendations through the integration of relevant data into the European Safety Recommendations Database and work on the establishment of advance arrangements will also be a high priority in 2012.

Now firmly established as an aviation safety entity, ENCASIA can look forward to taking a more prominent role in developing accident investigation on a global level.

APPENDIX 1: ENCASIA RULES OF PROCEDURE

Rules of Procedure for the European Network of Civil Aviation Safety Investigation Authorities (ENCASIA)

The civil aviation safety investigation authorities of the Member States of the European Union,

having regard to:

- 1) the Regulation (EU) No **996/2010** of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC ('the Regulation'), which requires the Member States of the European Union to ensure that their national civil aviation safety investigation authorities ('safety investigation authorities') establish between them a European Network of Civil Aviation Safety Investigation Authorities ('the Network');
- 2) the need to further strengthen and develop cooperation between the European safety investigation authorities, by building upon the work performed so far by the Council of European Aviation Safety Investigation Authorities;
- 3) the need to be able to conduct investigations entirely independently and to possess the financial and human resources required for this;
- 4) the tasks and functions of the Network, as defined in the above-mentioned regulation;

having consulted the European Commission;

have adopted the following rules of procedure:

Article 1: Purpose

The purpose of the Network established by the safety investigation authorities of the Member States with the active support of the Commission is to enable the Member States' safety investigation authorities to cooperate, to further improve the quality of safety investigations and to strengthen their independence. The Network shall, in particular, develop common approaches in the field of investigation methods and investigator training.

Article 2: Membership and Participation

1. Each safety investigation authority of a Member State of the European Union shall designate a Member to the Network, who shall be either the head of the national civil aviation safety investigation authority and/or in the case of a multimodal authority the head of its aviation branch, or their representatives. The Members of the Network may be accompanied by experts when appropriate. In accordance with the work programme and meeting agenda of the Network, the Members shall be authorised to discuss, agree and vote upon their mandate and their best judgement to achieve the tasks and responsibilities of the Network as foreseen in Article 7, paragraph 2 and 3, of the Regulation. Only Members have voting rights. Each Member of the Network shall have one vote.
2. The Network may invite safety investigation authorities of third countries to appoint representatives to participate, as observers, at the discretion of the Chairman, in the work of the Network. The Network may also, in the same way, invite experts to attend its meetings when appropriate.

3. The European Commission will be informed about the meetings of the Network and may attend them.
4. EASA may be invited, as appropriate, to appoint an observer to meetings of the Network.
5. The Members, European Commission and, at the discretion of the Chairman, observers may submit proposals to the Network that they wish to be considered.

Article 3: Chairman and Deputy Chairman

1. Candidates for the Network chairmanship shall send their candidacy to the secretariat. The names of the candidates shall be communicated to all Members and the European Commission one month prior to the election meeting.
2. At least two-thirds of the Network's Members must be present during the election meeting. The Members shall elect a Chairman amongst candidates, through a secret ballot with a simple majority of the Members.
3. The Chairman shall hold office for a period of 3 years. The Chairman shall conduct his or her functions until his or her successor has been elected.
4. The Deputy Chairman will be elected following the election of the Chairman in the same way.
5. The Chairman organises and chairs the meetings of the Network. The Chairman shall draw up the agenda for the Network's meetings.
6. The Chairman executes all other functions attributed to him/her by the Regulation or delegated to him/her by the Members of the Network.
7. The Deputy Chairman shall automatically take the place of the Chairman, if the Chairman is unable to attend to his/her duties. If both the Chairman and Deputy Chairman are absent or unable to attend a meeting, the meeting shall designate a Member to preside.
8. The Chairman will coordinate with the European Commission on the financial aspects in relation to the Network's costs, such as reimbursing expenses incurred directly.

Article 4: Meetings and Subgroups

1. Meetings of the Network shall be convened by the Chairman twice a year or more frequently as deemed appropriate.
2. The Network may establish subgroups to work on specific issues it would like to address within the scope its mandate, preferably by correspondence. The subgroups shall report back to the Network. Once the subgroup has fulfilled the task assigned to it, it will be disbanded.

Article 5: Deliberations

1. The Network may take decisions (except those regarding the Rules of Procedure, Work Programme and Annual Report) if at least a half plus one of the Members of the Network are present.
2. The Chairman and other Members shall endeavour to achieve consensus on all issues as far as possible. If consensus cannot be achieved, the matter may be decided by an open vote with a simple majority (a half plus one) of the Network Members.
3. The Network shall amend rules of procedure, if at least two thirds of the Members of the Network are present, with a simple-majority of the Network Members.

Article 6: Work programme and reporting

1. In close consultation with the Members of the Network and in consultation with the European Commission when appropriate, the Chairman shall draw up an annual work programme for the Network, as provided for in Article 7, paragraph 1, of the Regulation. The work programme may cover activities with a time-span of more than one year. This work programme will set priorities and targets related to the tasks and responsibilities of the Network.
2. The work programme shall be transmitted by the European Commission to the European Parliament and the Council.
3. The Network shall prepare, with the support of the European Commission, an annual report covering its activities. The report shall be transmitted to the European Parliament and the Council by the European Commission, and be made public.
4. The European Commission shall be closely associated to the work of the Network and may request that the Network provides it with information and assistance on matters related to accident investigation and prevention.
5. The work programme and the annual report shall be agreed by vote if at least two thirds of the Members of the Network are present, with a simple-majority of the Network Members.

Article 7: Attendance list

At each meeting, the Chairman will ensure that there is an attendance list specifying the participants' names, their government authority, organisation or the body that they belong to. The attendance list will be circulated to all attendees at the end of the meeting and before any ballot.

Article 8: Minutes of meetings

1. Minutes, reflecting the salient points of the meeting, shall be drafted under the responsibility of the Chairman, for circulation among Members, the European Commission and Observers.
2. Following a vote, dissenting Members have the right to have their position noted in the minutes.
3. The draft minutes of the meeting shall be circulated. The minutes will be formally approved at the following meeting.
4. The approved minutes shall be the only official record of the meeting.
5. Any supporting technical documentation agreed during the meeting may also be appended to the minutes and made available through correspondence.

Article 9: Confidentiality

1. In its work and deliberations the Network will respect the national and EU legislation concerning data protection, and confidentiality of information. When the Chairman, a Member of the Network, the European Commission or an observer informs the Network that a certain item on the agenda or a question raised or a document is of confidential nature, the Members of the Network and any other participant shall be under obligation not to disclose information which came to their knowledge through the Network. The Chairman may restrict the attendance only to the Members of the Network when necessary.
2. The discussions of the participants of the Network are confidential.

Article 10: Final provisions

1. These rules of procedure are available to the public.
2. Pending the election of the Network's Chairman in accordance with the provisions of these rules of procedure, the meetings of the Network shall be provisionally chaired by the presiding Chairman of the Council of European Safety Investigation Authorities (CEASIA), and the CEASIA secretariat shall perform all the secretarial work for the purpose of Article 3.
3. These rules of procedure shall be applicable from the 19th of January 2011 when they were endorsed by all safety investigation authorities of all the Member States of the European Union present or represented during the Network's constitutive meeting held that day in Brussels.

APPENDIX 2: ENCASIA OPINION CONCERNING THE REVISION OF DIRECTIVE 2003/42/EC



ENCASIA OPINION CONCERNING THE REVISION OF DIRECTIVE 2003/42/EC

Introduction

On 27 June 2011, the European Commission sent a letter to the ENCASIA Chairman to ask for the Network's opinion on the revision of Directive 2003/42/EC of the European Parliament and of the Council of 13 June 2003 on occurrence reporting in civil aviation. This revision process will probably lead to a new Regulation of the European Parliament and of the Council on occurrence reporting.

The Network Members went through the same process as ENCASIA stems from the revision of Directive 94/56/EC on accident investigations. This led to Regulation (EU) No 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC. The upcoming revision of Directive 2003/42/EC has been anticipated by Regulation 996 as mentioned in its third recital: "*Reporting, analysis, and dissemination of findings of safety related incidents are fundamentally important to improving air safety. Therefore the Commission should bring forward a proposal to revise Directive 2003/42/EC of the European Parliament and of the Council of 13 June 2003 on occurrence reporting in civil aviation before 31 December 2011.*"

Directive 2003/42/EC is referred to several times in Regulation 996, especially through Recitals 11 and 12, which deal with the exchange and analysis of safety information. The Regulation has enlarged the role of safety investigation authorities by defining the concept of safety investigations in Article 2(14). It formally deals with proactive data. It is therefore crucial that safety investigators have access to incidents and occurrence databases to encourage safety action and safety recommendations based on all types of occurrence for the prevention of air accidents. Hence, the right balance must be found so that the future Regulation on occurrence reporting will be complementary in the overall European safety scheme.

The ENCASIA opinion will discuss the following topics that are deemed critical in performing its safety mission: 1) Notification of incidents; 2) Incident selection and investigation; 3) Access to databases; 4) National and European environment.

1) Notification of incidents

Safety investigation authorities are tasked to investigate serious incidents. The guidance to define a serious incident can be summarized in the Appendix of Regulation 996 and in Annex 13, Attachment C, paragraph 2: *“The incidents listed are typical examples of incidents that are likely to be serious incidents. The list is not exhaustive and only serves as guidance to the definition of serious incident.”*

This important paragraph provides flexibility to safety investigation authorities to select serious incidents. To carry out such a selection, the safety investigation authorities must be aware of all incidents immediately in order to start an investigation and to preserve key evidence.

Article 9 of Regulation 996 already states that: *“Any person involved who has knowledge of the occurrence of an accident or serious incident shall notify without delay the competent safety investigation authority of the State of Occurrence thereof.”* Presently, the notification of incidents is organized at the level of each Member State in line with Articles 4 and 5 of Directive 2003/42/EC. Therefore, the future Regulation on occurrence reporting should ensure that the provisions related to collecting, evaluating, processing and storing occurrences will maintain safety investigation authorities in the loop so that they can start an investigation without delay. It will be necessary to establish a mechanism that will strike a balance between:

- having access to all incidents and
- setting up a selection process at the level of the operators and regulators to avoid data overflow.

It is indeed the prerogative of the safety investigation authority to determine if the incident needs to be investigated or not, in accordance with the Article 5 (4) of Regulation 996 “Safety investigation authorities may decide to investigate incidents other than referred to in paragraphs 1 and 2 in accordance with the national legislation of the Member States, when they expect to draw safety lessons from them”.

2) Incident selection and investigation

The incident selection process is not an easy one, as it can be influenced by other factors such as resources and workload. Regarding the treatment of incidents, the European Civil Aviation Conference will organize a workshop on the treatment of incidents in May 2012 in Denmark. This workshop will mainly deal with the issues around the handling of incidents, including their selection for investigation and the lessons they held. Its outcome should be very useful for guiding the selection process for ENCASIA Members.

The following paragraphs offer brief and provisional guidance on how incidents could be dealt with by being broken down into three levels:

Level 1: Basic

Preliminary evidence shows that the existing safety nets (procedures, systems, etc.) worked as per design. A “basic” incident illustrates successful mitigating actions and provides feedback on previous remedial measures that appeared to be right. A basic investigation can be quickly closed but it is important to store the successful actions in a database in order to have data and some indicators on the resilience of the system. As a matter of fact, the next release of the ECCAIRS database (ECCAIRS 5) will include a new module to code positive factors. This concrete emphasis on what went right should also encourage more reporting.

Level 2: Standard

A local investigation can be undertaken by industry when:

- deficiencies are identified whilst applying a given procedure,
- an aviation professional works beyond its field of expertise or its prerogatives.

This type of investigation leads to safety measures that improve the safety management system of an operator. A “standard” incident can be disseminated locally through a short report and stored into a database so that the effectiveness of the remedial measures can be evaluated.

Level 3: In-depth investigation (serious incidents)

If the incident meets the criteria of Regulation 996, then a full investigation should be started by the safety investigation authority as “*the difference between an accident and a serious incident lies only in the result*”. We can also say that if the consequences appear to be merely a matter of favorable circumstances, meaning that no safety barriers or mitigations were identified, then the occurrence should be investigated in depth. This loops back with the positive factors that are part of ECCAIRS.

3) Access to Databases

From a technical standpoint, data can be exchanged using the ECCAIRS database. As stated previously, the implementation of release 5 will bring along new modules of high interest for safety investigation authorities such as safety recommendations, positive factors and new features to customize the end-user’s interface. In summary, ECCAIRS represents an effective technical solution that covers all types of occurrences and provides increasing flexibility for civil aviation and safety investigation authorities. The recurrent challenge is related to the extensive resources required to implement the new functionalities and to process vast numbers of occurrences in a consistent way with high quality standards.

The various feedback loops at national levels have been organized in accordance with Article 5 of Directive 2003/42/EC that covers the collection and storage of information. It is crucial that the new legislation will ensure easy legal and practical access to all repositories for safety investigation authorities. Access to the safety recommendation database mentioned in Article 18(5) is already included. As an imperative, ENCASIA needs unconditional access to all incidents and occurrences for more effective safety investigations. This also includes access to the central repository established under Commission Regulation (EC) No 1321/2007 of 12 November 2007.

Accident and incident reports are more effective if they reference similar cases which may then support safety recommendations. This independent compilation of events also provides more validated data for the risk analysis subsequently performed by regulators.

In addition, Regulation 996 (Recital 28; Article 2(15); Article 17(2)) stipulates that safety recommendations can be released after a safety study, thus having a greater evidential basis leading to safety actions.

4) National and European Environment

Regulation 996 already provides a sound environment for independent and effective safety investigations. The revision process that will take place shall strengthen the independence of each national safety investigation authority as well as ENCASIA's independence. The Regulation also contains important provisions on protection of sensitive safety information (Article 14 and 15).

The protection of safety information from inappropriate use is essential in ensuring its continued availability, as the use of safety information for other than safety-related purposes may inhibit the future availability of such information, with an adverse effect on safety. ICAO has recently started an ad-hoc task force whose mandate is to enhance guidance on safety information protection. This work will certainly enhance existing ICAO documentation on the protection of sensitive safety information. This could be of interest for the revision process. For ENCASIA, it is important that the revision process as well as the work carried out by the ICAO multidisciplinary taskforce do not blur or bring doubts on the information that is protected under Regulation 996, especially under Article 14(1).

The revision of Directive 2003/42/EC will probably have an effect on the State Safety Programmes (SSPs). An SSP requires the coordination of multiple authorities within a State, to identify safety deficiencies requiring action, to determine mitigation strategies in response to these deficiencies, to implement these strategies and to monitor their implementation and effectiveness. The distribution of those responsibilities, as part of a State Safety Programme, shall maintain the independence of the safety investigation authority with regard to the oversight of NAA functions, as service provider. This shall be the same environment for the European Safety Plan coordinated by EASA.

Conclusions: Opinions of ENCASIA Members

In Article 2(1) of Directive 2003/42/EC, an occurrence means “*an operational interruption, defect, fault or other irregular circumstance that has or may have influenced flight safety and that has not resulted in an accident or serious incident, hereinafter referred to as ‘accident or serious incident’, as defined in Article 3(a) and (k) of Directive 94/56/EC*”. The ICAO definition encompasses accidents, serious incidents, incidents and all types of reportable events. This revision process should also enhance this definition, which is often confusing when the term “occurrence” is mentioned. It is important to better define the scope of the future Regulation on incidents that also deals with safety so that it is complementary with Regulation 996 and both will be well-understood by the civil aviation industry.

From an editorial standpoint, Regulation 996 refers to Directive 2003/42/EC several times through its recitals and articles. There will also be a practical need to update these provisions when Directive 2003/42/EC will be repealed.

In summary, the key aspects for ENCASIA are:

- Unrestricted and straightforward access to data to enlarge the evidential basis.
- Independence of the safety investigation leading to effective safety actions and safety recommendations.

The revision process should take into account the practical experience gained with Directive 2003/42/EC and should aim at setting up a system that would clarify the various reporting channels while producing feedback to encourage more effective safety reporting.

For the reasons previously mentioned, ENCASIA Members strongly support the revision of Directive 2003/42/EC. A new Regulation on incident reporting will complement Regulation 996, which is already a key pillar of the European civil aviation safety system, and will strengthen this system.

- SIGNED -

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