

GUIDANCE MATERIAL

REGULATION (EU) No 376/2014 ON THE REPORTING, ANALYSIS AND FOLLOW-UP OF OCCURRENCES IN CIVIL AVIATION

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SECTION 1
INTRODUCTION

1. How will Regulation (EU) No 376/2014 contribute to enhance aviation safety?

The European Union and its Member States are committed to ensure a high level of aviation safety and to protect the European citizens by better preventing aircraft accidents (*Recital 1 of Regulation (EU) No 376/2014*).

While air transport remains one of the safest forms of travel, the expected air traffic growth foreseen for the next decades puts the European Union confronted to a significant challenge if it wants to prevent air accidents from increasing (*Recital 2*).

However, the current aviation safety system is mainly a reactive and prescriptive safety system, in which safety improvements are essentially resulting from technological progresses, compliance with prescriptive regulations and lessons learned from aircraft accidents. Therefore additional actions should be taken to avoid an increased number of fatalities and accidents (*Recital 5*). In that perspective, the European Union and its Member States have started the transition towards a more proactive, evidence-based, risk and performance oriented safety system (*Recital 5*). Such system requires a systematic and continuous collection of safety information in view for safety hazards to be identified, assessed and addressed. It requires to work continuously to ensure that any new hazards or risks are rapidly identified and that mitigation actions are suitable and where found ineffective are revised (*Recital 6*).

As it is highlighted in the Commission Communication on "*Setting up an Aviation Safety Management System for Europe*"¹, the collection, analysis and follow-up of occurrences is a central element of such safety system. This is also reflected at international level, where ICAO rules puts incidents reporting and analysis systems at the heart of safety management².

In this context, on the basis of a Commission proposal from December 2012³, the European Parliament and the Council have adopted, on 3rd April 2014, a new legislation: Regulation (EU) No 376/2014 on the reporting, analysis and follow up of occurrences in civil aviation⁴ (hereinafter called 'Regulation 376/2014').

The objective of Regulation 376/2014 is to ensure that the necessary safety intelligence is available to support the safety management efforts of the whole European Aviation Community. The information provided by occurrence reports collected and analysed under this Regulation will allow the industry and regulators to be informed about the risks they are facing and to make choices supported with relevant knowledge and information.

The Regulation establishes a framework, across aviation domains and at each level, to ensure that the best possible safety occurrence data is collected and then analysed to support the full

¹ COM/2011/0670 final: Communication from the Commission to the Council and the European Parliament "*Setting up an Aviation Safety Management System for Europe*".

² Annex 19 "*Safety Management*" to the Chicago Convention.

³ COM/2012/0776 final - 2012/0361 (COD): Proposal for a Regulation of the European Parliament and of the Council on occurrence reporting in civil aviation amending Regulation (EU) No 996/2010 and repealing Directive No 2003/42/EC, Commission Regulation (EC) No 1321/2007 and Commission Regulation (EC) No 1330/2007.

⁴ Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007; OJ L 122, 24.4.2014, p. 18.

spectrum of safety management activities, including the adoption of mitigation actions where relevant.

This Regulation complements other existing reporting, analysis and follow-up requirements. In that perspective, it may increase the amount of safety-related information captured by organisations and authorities, never the contrary.

The mandatory and voluntary reporting systems as well as analysis and follow-up tasks established by the Regulation shall be understood as part of existing Safety Management processes for those organisations and authorities that are required to implement them under other European rules.

2. Why developing guidance material for Regulation 376/2014?

European legislations are the result of political compromise between the co-legislators, i.e. the European Parliament and the Council (representing the Member States). Furthermore, legal provisions red without a clear understanding of the intended purpose of the text might lead to differing and even sometimes diverging implementation.

Regulation 376/2014 introduces a number of new legal requirements and impacted stakeholders expressed the need to benefit from guidance material supporting the implementation of the Regulation. Furthermore, Article 7(8) of the Regulation requires the Commission and EASA to develop guidance material to support the implementation of certain provisions of the legislation.

In addition, the interaction between Regulation 376/2014 and occurrences reporting, analysis and follow-up related requirements contained in other existing European legislations should be explained to ensure the proper implementation of this Regulation and to allow it to fully achieve its objectives.

This paper explains intended purpose of Regulation 376/2014 provisions, in the spirit of the agreement found between co-legislators, and, where relevant, proposes possible means of compliance and examples of good practices, with a view to contribute to its harmonised and appropriate implementation across the EU.

It has been prepared by the services of the European Commission, with the support of the European Aviation Safety Agency.

3. When will Regulation 376/2014 become applicable?

The Regulation was adopted on 3rd April 2014. However it will only become applicable on 15 November 2015. All relevant stakeholders can benefit from this 18 months period to adapt to the changes required under the Regulation. A roadmap to support the industry and the Member States in this preparatory work has been prepared by the Commission, with the support to the EASA. These guidelines are part of the various initiatives included in the roadmap.

4. Is the application of Regulation 376/2014 compulsory?

Regulation 376/2014 is a Regulation and therefore, in accordance with Article 288 of the Treaty on the Functioning of the European Union (TFEU), it is binding in its entirety and directly applicable in all Member States.

It is binding in its entirety and so cannot be applied incompletely, selectively or partially.

In addition, Regulation 376/2014 is directly applicable as a national law in the Member States and no measures to incorporate it in national law are required.

This Regulation is applicable in the legal orders of the 28 EU Member States. It is also expected to be applicable in Norway, Iceland and Liechtenstein (via the Agreement on the European Economic Area) and in Switzerland (via the Agreement between the European Community and the Swiss Confederation on Air Transport) once the Regulation incorporated within these respective agreements.

5. Can Member States adopt rules in areas covered by Regulation 376/2014?

Regulation 376/2014 is different from Directive 2003/42 it replaces as it is directly applicable in the Member States as national law.

Key principle

Regulation 376/2014 does not require the adoption of national transposition legislation.

This does not mean that the Member States cannot take implementing measures. They must do so if required by the Regulation.

Example:

Article 6(3) requests each Member State to "*designate one or more competent authorities to establish a mechanism to independently collect, evaluate, process, analyse and store details of occurrences reported pursuant to Articles 4 and 5*". In this case, as well as in similar situations where the States are required to adopt measures, the Member States shall adopt implementing measures.

6. Can Member States adopt national rules which are stricter than Regulation 376/2014?

Key principle

The Member States are only allowed to go beyond the provisions of the Regulation when this possibility is specified in the Regulation.

Example:

Article 3(2) states that the Regulation "*applies to occurrences and other safety-related information involving civil aircraft, with the exception of aircraft referred to in Annex II to Regulation (EC) No 216/2008*". The paragraph continues as follows "*Member States may decide to apply this Regulation also to occurrences and other safety-related information involving the aircraft referred to in Annex II to that Regulation*". In such case, while the Regulation is only applicable to non-Annex II aircraft, the possibility is given to States to go beyond and to equally apply it to Annex II aircraft.

Similar provisions allowing to go beyond the requirements of the Regulation are included in Articles 5(6), (7) and (8); 6(2), 13(4); (5) and (12); 14(1); 16(6), (7) and (8).

Key principle

In any other situation, the Member States are not allowed to deviate from the provisions of the Regulation.

Example:

Article 4(7) requests reporters to "report occurrences within 72 hours of becoming aware of the occurrence, unless exceptional circumstances prevent this". Adopting a national legal measure requesting reporters to report occurrence within a short deadline (e.g. 36 hours) is not authorised and would go against the Regulation.

7. What type of aircraft is covered under the Regulation?

Regulation 376/2014 applies to occurrences and other safety-related information involving civil aircraft, with the exception of aircraft referred to in Annex II to Regulation (EC) No 216/2008 (*Article 3(2)*).

Member States have the possibility to extend the application of this Regulation to occurrences and other safety-related information involving the aircraft referred to in Annex II to Regulation (EC) No 216/2008 (*Article 3(2)*).

8. What type of information is covered under the Regulation?

Regulation 376/2014 applies to (*Article 3(1)*):

- occurrences i.e. any safety-related event which endangers or which, if not corrected or addressed, could endanger an aircraft, its occupants or any other person and includes in particular an accident or serious incident (*Article 2(7)*),
- and to other relevant safety-related information in that context.

Key principle

Events or information which are reported through reporting systems but which are not aviation safety-related (in the sense of pertinent to prevent an aircraft, its occupants or any other person to be endangered) are not subject to the provisions of this Regulation.

Example:

An event reported by a crew member to its operator which is about commercial or quality issue and has no safety implications, is not subject to this Regulation and there is no requirement to transfer, analyse or follow-up this information in the context of this Regulation.

SECTION 2
AVIATION PROFESSIONALS

1. Why should I report occurrences?

The reporting of aviation safety occurrences is a vital to the understanding of where safety risks lie in the aviation system and, importantly, to help decision makers in organisations and competent authorities to make the appropriate decisions on safety priorities (see also question 1 of section 1). The information and safety intelligence needed to support safety improvement in the European aviation system largely relies on individuals reporting occurrences when they happen. Without this information, the realities of aviation safety issues cannot be properly understood.

2. Am I under the legal obligation to report occurrences?

Regulation 376/2014 provides for a list of designated persons that must report occurrences in the context of mandatory reporting schemes (*Article 4(6)*).

Key principle

The list of persons that must report certain occurrences covers employees of organisations, as well as persons whose services are contracted or used by the organisation (*Article 4(6)*).

Example:

Pilots employed by a European operator as well as pilots self-employed who are pilot-in-command of aircraft used by a European operator are covered under this obligation.

These designated persons are under a legal obligation to report certain defined occurrences. Without these occurrence reports, the European Union and the organisations and competent authorities that are part of it cannot make the best decisions on safety priorities. In addition, the failure to comply with the reporting legal obligation might have consequences for those required to report (*Article 21; Recital 38*). It is therefore important to clearly identify the persons that are under the obligation to report.

Furthermore, clarification is necessary to ensure that, where relevant, natural persons already subject to an obligation to report safety occurrences under other European legislations (see also the question on interaction with Regulation No 216/2008 and its Implementing Regulations) are the same than the ones covered under this Regulation in view to prevent double reporting, as this would be contrary to the objective of Regulation 376/2014 (*Recital 4*). The list of persons who must report certain occurrences is not an exhaustive list and cannot cover every possible situation. The law has determined what person would be the most appropriate person to report certain types of occurrences.

Key principle

The obligation for designated persons to report certain occurrences does not prevent other people from reporting under the normal operation of their organisations safety management system.

Key principle

Article 4(6)(a) covers both pilots in command operating in the context of commercial air transport as well as private pilots operating on an aircraft covered by the Regulation.

In addition, Article 4(6) (a) refers to "the pilot in command, or, in cases where the pilot in command is unable to report the occurrence, any other crew member next in the chain of command of an aircraft". Situations where the pilot would be unable to report refer to cases where the pilot would not be able to report because he would not be in the physical ability to do so. The reference to "any other crew member next in the chain of command" intends to cover any configuration of the crew. For example, the any other crew member next in the chain of command is the context of a CAT operation on-board a large aeroplane would be the co-pilot whereas in the case where there is only one pilot on board it would be the cabin manager etc. These situations should be covered by and described by an organisation within its safety management system.

Key principle

Article 4(6)(b) is understood as covering persons engaged in manufacturing of an aircraft, or any equipment or part thereof under the oversight of a Member State or of the Agency, who are directly involved in the production of aeronautical items and who have the role to verify compliance with applicable design data and the responsibility to perform investigations with the holder of the type-certificate or design approval in order to identify those deviations which could lead to an unsafe condition.

This is aligned with occurrence reporting requirements in Commission Regulation (EU) No 748/2012⁵.

Example:

A person working in a production organisation being responsible of the investigation, together with the Design Approval Holder (DAH)⁶, to confirm if identified deviations of the manufactured product from design data could lead to an unsafe condition of the final certified product..

Key principle

Article 4(6)(b) is also understood as covering persons engaged in designing an aircraft, or any equipment or part thereof under the oversight of a Member State or of the Agency, who are in charge of occurrence reporting for the holder of a type-certificate, restricted type-certificate, supplemental type-certificate, ETSO

⁵ Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations; OJ L224, 21.08.2012, p.1.

⁶ Design Approval Holder (DAH) is a written convention to refer to the holder of a type-certificate, restricted type-certificate, supplemental type-certificate, ETSO authorisation, major repair design approval or any other relevant approval holder deemed to have been issued under Commission Regulation (EU) No 748/2012.

authorisation, major repair design approval or any other relevant approval deemed to have been issued under Commission Regulation (EU) No 748/2012.

This is aligned with occurrence reporting requirements in Commission Regulation (EU) No 748/2012.

Example:

A person working in a DAH having the responsibility to carry out the process to identify unsafe or potential unsafe conditions as per Part-21 requirements under Commission Regulation (EU) No 748/2012.

Key principle

Article 4(6)(b) is also understood as covering persons engaged in designing an aircraft, or any equipment or part thereof under the oversight of a Member State or of the Agency, who are in charge of occurrence reporting to the competent authority in the context of the continuing airworthiness of their products but which are not subject to any approval under the Commission Regulation (EU) No 748/2012.

Example:

A person working in a design organisation dedicated to the design of drones not certified as per Part-21 requirements or subject to an organisation approval under Commission Regulation (EU) No 748/2012.

Key principle

Finally, Article 4(6)(b) is also understood as covering persons engaged in continuing airworthiness monitoring, maintaining or modifying an aircraft, or any equipment or part thereof under the oversight of a Member State or of the Agency, and

- **who holds a valid aircraft maintenance licence; or**
- **who is authorised by its organisation and is directly involved with tasks of maintaining aircraft, including any component for installation thereto or of continuing airworthiness management; or**
- **who is a pilot-owner directly involved with tasks of maintaining aircraft.**

This is aligned with occurrence reporting requirements in Commission Regulation (EU) No 1321/2014.

Example:

A person who holds a valid Part-66 mechanic license and preforms actual maintenance work, or a person who is a postholder for the continuing airworthiness of an aircraft.

Key principle

Article 4(6)(c) is understood as applying to the person responsible for the airworthiness review performed in accordance with Annex I (Part M), M.A.710 of Regulation (EU) No 1321/2014, or the person responsible for the release to service in accordance with Annex I (Part M), M.A.801, M.A.802 or M.A.803 or Annex II (Part-145) 145.A.50 of Commission Regulation (EU) No 1321/2014.

Example:

A person that holds a valid mechanic license as per Part-66 requirements and performs the release to service of aviation products.

Key principle

Article 4(6)(d) is understood as applying to a person who performs a function which requires him to be authorised by a Member State as a staff member of an air traffic service provider entrusted with responsibilities related to air navigation services or as a flight information service officer.

Example:

An Air Traffic Controller or Flight Information Officer who holds a valid license as per Commission Regulation (EU) No 805/2011 and acting as controller or officer on duty. In situations where an occurrence involves more than one person within the same organisation, the most appropriate person should raise the report. A report is not needed from each person involved in the occurrence.

Key principle

Article 4(6)(e) is understood as applying to a person who performs a function connected with the safety management of an airport to which Regulation (EC) No 1008/2008 applies. This covers the Safety Manager of aerodromes certified under Commission Regulation (EU) No 139/2014 as well as the equivalent responsible person of those aerodromes not certified under Commission Regulation (EU) No 139/2014 but covered by Regulation (EC) No 1008/2008.

It also includes personnel and persons whose services are contracted or used by the aerodrome and who are expected to report information in the context of the safety management system of the aerodrome because of their aviation related tasks.

Key principle

Article 4(6)(f) is understood as applying to a person who performs a function connected with the installation, modification, maintenance, repair, overhaul, flight-checking or inspection of air navigation facilities for which a Member State is responsible.

Key principle

Article 4(6)(g) is understood as applying to a person who performs a function connected with the ground handling of aircraft in accordance with Directive 96/67/EC , including fuelling, servicing, loadsheet preparation, loading, de-icing and towing, at an airport covered by Regulation (EC) No 1008/2008.

3. What occurrences shall be reported?

Key principle

While for the sake of clarifying legal obligations the Regulation establishes two different reporting systems, mandatory and voluntary, it is understood that the reporting of any safety relevant occurrence should be encouraged with the view to support the principles of safety management as included in Regulation 216/2008 and its IRs and as promoted by Regulation 376/2014.

The mandatory obligation of reporting is linked with the awareness of the situation by the person subject to the reporting obligation. It is understood that "being aware" refers to situations where the individual has been directly involved in the occurrence. Therefore, while being aware of an occurrence through radio on-board the aircraft or ear say may motivate the reporting to the organisation or to the competent authority, this should not be understood as legal obligation to be discharged by the individual under mandatory reporting schemes.

i. Mandatory reporting

Occurrences to be reported in the context of mandatory reporting systems are those which may represent a significant risk to aviation safety and which fall into defined categories (*Article 4(1)*).

To facilitate the identification of those occurrences to be reported in the context of mandatory systems, the Commission is required to adopt a list classifying occurrences to be referred to (*Article 4(5)*). The occurrences to be reported will therefore be listed in the Commission Implementing Regulation No **xxxx**/2015 classifying the occurrences to be reported in the context of mandatory reporting schemes (hereinafter called "IR on occurrences").

The IR on occurrences includes occurrences falling in the four categories mentioned in the Regulation as well as those applicable to aircraft other than complex motor-powered aircraft (*Article 4(5)*) which is, where appropriate, adapted to the specificities of this that aviation sector.

Key principle

In practice it means that the occurrences to be reported in the context of mandatory systems are understood as those contained in the Commission Regulation No **XXX/2015 classifying the occurrences to be reported in the context of mandatory reporting schemes.**

The division in categories of occurrences to be reported provided for in Article 4(1) is established to allow the identification of the occurrences to be reported by the persons designated under Article 4(6). Therefore the division in the various Annexes of the IR on

occurrences intends to support the identification by reporters of the occurrences they shall report.

Key principle

It is therefore understood that, on a mandatory basis, reporters shall not report all occurrences contained in the IR on occurrences but only those relevant for their area of activities.

Reporting obligations in the context of mandatory schemes are therefore understood as follows:

Type of reporter	Occurrences to be reported
Pilot in command - Art.4(6)(a) (for detailed definition see question 6) - when flying on complex motor-powered aircraft	Occurrences related to the operation of the aircraft - Annex I of IR on occurrences
Manufacturing staff members - Art.4(6)(b) (for detailed definition see question 6)	Occurrences related to manufacturing - Annex II.1 of IR on occurrences
Design staff members - Art.4(6)(b) (for detailed definition see question 6)	Occurrences related to design - Annex II.2 of IR on occurrences
Maintenance staff members - Art.4(6)(b) (for detailed definition see question 6)	Occurrences related to maintenance and continuing airworthiness management - Annex II.3 of IR on occurrences
Airworthiness certificate reviewers - Art.4(6)(c) (for detailed definition see question 6)	Occurrences related to maintenance and continuing airworthiness management - Annex II.3 of IR on occurrences
Air traffic controllers and flight information service officer - Art.4(6)(d) (for detailed definition see question 6)	Occurrences related to related to air navigation services and facilities - Annex III of IR on occurrences
Safety manager of an aerodrome - Art.4(6)(e) (for detailed definition see question 6)	Occurrences related to related to aerodromes and ground services - Annex IV.1 of IR on occurrences
Air navigation facilities personnel - Art.4(6)(f) (for detailed definition see question 6)	Occurrences related to related to air navigation services and facilities - Annex III of IR on occurrences

Ground handling personnel - Art.4(6)(f) (for detailed definition see question 6)	Occurrences related to related to aerodromes and ground services - Annex IV.2 of IR on occurrences
Pilot in command - Art.4(6)(a) (for detailed definition see question 6) - when flying on aircraft other than complex motor-powered aircraft	Occurrences related to related to operation of the aircraft - Annex V of IR on occurrences

ii. Voluntary reporting

There is no legal obligation for individuals to report occurrences outside the ones reported through mandatory reporting systems (MOR). There is however a legal obligation for organisations and competent authorities (*Article 5*) to establish voluntary reporting systems (see also question 9).

In this context, the voluntary reporting systems notably intend to allow the reporting of (*Article 5(4)*):

- any occurrence or safety related information by individuals which are not subject to mandatory reporting (see question 6 for the detailed list of persons subject to MOR), this might include the reporting by those individuals of occurrences included in the IR on occurrences;
- any occurrence or safety related information not included in the IR on occurrences by individuals which are subject to MOR.

It should however be understood that while Regulation 376/2014 does not impose the reporting of all occurrences, its objective is to use all available safety data for the improvement of safety. Therefore the reporting of all relevant information should be strongly promoted and front-line professionals should be encouraged to share their experiences.

The legal obligation for organisations and competent authorities to establish voluntary reporting systems aims at supporting this sharing of information.

Industry organisations, the Member States and EASA are therefore encouraged to promote the reporting of any occurrence, whether or not it falls under a legal obligation to report it. The Commission intends to prepare and publish promotion material with the view to promote and encourage the reporting of occurrences.

iii. Interaction with other reporting requirements

Reporting requirements existing in other EU legislations are aligned with reporting requirements under Regulation 376/2014. This means in practice, that reporting obligations under the Basic Regulation 216/2008 and its implementing rules (IRs) and reporting obligations under Regulation 376/2014 are compatible and their obligations can be discharged by one reporting channel avoiding the establishment of two parallel systems (*Recital 4*).

4. How can I know if an occurrence is reportable?

Safety management systems rely on the collection and analysis of safety related information. Therefore, the key principle is that, anything that is perceived by the individuals as with the potential to impact or potentially impact safety should be reported.

i. Mandatory reporting

As explained under question 2 of this section, the occurrences to be reported in the context of mandatory systems are understood are those contained in the IR on occurrences.

The IR on occurrences contains occurrences which are factual events easily identifiable such as "*a collision on the ground or in the air, with another aircraft, terrain or obstacle*".

It is however recognised that it also includes situations in which a judgement has to be made by the reporter to assess whether it is a reportable occurrence such as "*Significant failure, malfunction or defect of aerodrome equipment or system considered to have endangered or which might have endangered the aircraft or its occupants*".

In such situations it is more difficult to identify whether the reporter has acted in compliance or not with the legislation, in particular if the same occurrence has been reported by a person in the context of voluntary reporting schemes (*Recital 38*).

Key principles

It is understood that if the reporter is not aware of the occurrence or if, in the cases where it is relevant, the reporter judges that the aircraft, its occupants or any other person have not been endangered or potentially endangered, and has therefore not reported the occurrence, the reporter is considered compliant with his reporting obligations under Regulation 376/2014.

It shall however be understood that in situation where the reporter is aware about the occurrence and suspects it is reportable but cannot determine with certainty, he is expected to report it.

ii. Voluntary reporting

The Regulation sets the necessary legal framework to encourage individual reporters to go beyond the strict compliance with the mandatory reporting obligations and share those issues perceived by them as a threat to the aviation system with the relevant party (organisation or competent authority, as applicable). Therefore any occurrence or safety-related information considered as safety relevant by reporters is considered as a potentially reportable occurrence under VORS.

5. Shall I report an occurrence that has happened outside the EU?

Occurrences to be reported in the context of mandatory systems covers all those involving an aircraft registered in a Member State or operated by an organisation established in a Member State, even if it happened outside the territory of that Member State (*Recital 18*).

6. If I report an accident or serious incident under this Regulation, shall I also report it to the competent safety investigation authority of the State of Occurrence?

Accidents and serious incidents, as defined within Regulation (EU) No 996/2010⁷, are subject to Regulation 376/2014 (*Article 2(7)*).

This should not interfere with the implementation of Regulation (EU) No 996/2010 and in particular, the notification of occurrences in the context of Article 9 of that Regulation (*Recital 3*).

It means a double reporting could be required in a situation where a person subject to mandatory reporting obligations in accordance with Article 4(6) has to report an accident or a serious incident listed in the IR on occurrences.

In such case, this person shall report the accident or serious incident in accordance with Article 4(6) of Regulation 376/2014 and shall also "*notify without delay the competent safety investigation authority of the State of Occurrence thereof*" in accordance with Article 9 of Regulation (EU) No 996/2010.

7. If I witness the occurrence together with another potential reporter, shall we both report it?

Situations may occur where several reporters subject to mandatory reporting obligations witness the same occurrence.

Key principle

In a situation where these reporters do not belong to the same category of reporters or are employed by different organisations, they all shall report the occurrence.

Example:

Two pilots from two different airlines, an air traffic controller, the safety manager of an airport and a ground handler are involved in or witness a collision on the ground or in the air between an aircraft and another aircraft. All of them shall report the occurrence even in the case they are working for organisations from the same EU Member State.

Key principle

In the case where the reporters belong to the same category of reporters, are employed by the same organisation and witness the occurrence together, it is understood that only one of them shall report the occurrence, in view to avoid useless duplication of reporting.

Example:

Two ground handlers working for the same organisation discover a foreign object on the

⁷ 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; OJ L 295, 12.11.2010, p. 35.

aerodrome movement area which has been considered to have endangered or which might have endangered the aircraft or its occupants. In this case the occurrence will only be reported by one of the ground handlers.

8. To what entity shall I report occurrences?

It is recognised that the Regulation gives persons subject to the MOR obligation the following reporting channels (*Article 4(6)*):

- The mandatory reporting system of the organisation which employs them or contracts or uses their services, or
- The mandatory system of the Member State of establishment or of the competent authority of their organisation, or by the State which issued, validated or converted the pilot's licence.

Key principle

It is however understood that the reporting through the reporting system of the organisation should be promoted and recognised as the normal channel of reporting for persons employed by an organisation or whose services are contracted or used by this organisation (*Article 4(6)*).

This is notably consistent with the integration of occurrence data into safety management systems of organisations.

The reporting through the system of the Member States is understood as the one to be used in the absence of any organisation or in situation where the reporter is not confident in the reporting system of his organisation.

The reporting through the mandatory system of EASA is understood as the one to be used by organisations for which EASA is the competent authority.

While the most direct reporting channel should be privileged (organisation reporting system privileged first) it is understood that the direct reporting by persons employed by an organisation or whose services are contracted or used by this organisation to report directly through to a competent authority shall not be prevented.

Indeed, situations may occur where reporters are not confident into the reporting system of their organisations and may wish to use another reporting channel. This is consistent with the objective of fostering such a 'Just Culture' which is pursued by Regulation 376/2014 and which aims, in particular, at ensuring the confidence of aviation professionals into occurrence reporting systems and encourage them to reports any relevant safety information in view of contributing to the enhancement of aviation safety and the prevention of accidents.

Off-line and on-line reporting forms are currently under development by the Commission, with the support of EASA, to facilitate the direct reporting by individuals to the competent authority (see question 14 for more information on the reporting forms). The Commission intends to develop a single European portal which will then redirect reporters to the reporting portal of the relevant competent authority.

It should be highlighted that the choice of a reporting system is exclusive and not cumulative. Indeed the use of "or" in Article 4(6) ensures that only one report will be made by a person and that an occurrence does not lead to its reporting by the same person to different authorities.

It is therefore understood that the Regulation does not allow a person to the report an occurrence to the organisation and to report it as well to a Member State and/or to EASA.

9. When shall I report an occurrence?

For those subject to mandatory reporting requirements, the Regulation requires them to report occurrences listed in the Regulation XXX/2015 within 72 hours of becoming aware of the occurrence, unless exceptional circumstances prevent this (*Article 4(7)*).

It is understood that the 72 hours period starts from the moment they learn about the occurrence, usually meaning when they witness or are involved of the occurrence.

In the case of individuals engaged design (Design Organisation Approval, DOA) or in production (Production Organisation Approval, POA), occurrence to be reported being the unsafe condition, normally done through a dedicated process in those organisations, it means that the 72 hours period starts from the identification of the unsafe condition.

It is understood that if not being aware of the occurrence, potential reporters cannot report it, even if involved in it.

10. Under what format shall I report occurrences?

The Regulation does not impose any reporting format for individual reporters.

The format used by an individual to report to their organisation can be defined by the organisation as part of their safety management system. Therefore, any organisations may define their own reporting formats to be used by their personnel.

In general, reporting forms and means should be user-friendly and not discourage its use by potential reporters. The aim is to facilitate the collection of information from the front-line individuals into the management system of the organisation or into the system of the competent authority.

11. Which type of information shall I include in my occurrence report?

The Regulation does not impose any specific information to be provided when persons are reporting an occurrence.

Obviously, the description of the occurrence is expected to be included in the report.

Good practices

Reporters are encouraged to include, in their report, as complete report as possible in terms of data. To this purpose, reporters can use the Annex I of Regulation 376/2014 as a reference of what type of information would be desired to be reported in each aviation domain.

Reporters are encouraged to include, in their report, any contributing human factors to the occurrence. Include these details should contribute to a better understanding of safety hazards and a more accurate definition of safety risks.

In addition, when reporting fatigue impacting or potentially impacting their ability to perform safely their flight duties, reporters are encouraged to include in the report, where practicable, the following information: total duty time, Flight time (including the number of sectors flown) and the hours of rest achieved by the crew on the day of the

incident and at least the two preceding days (based upon the local time of the place of reporting for duty), along with other relevant information.

12. Is my report confidential?

i. Within my organisation

Reporting to the organisation is not anonymous but the Regulation requires industry organisations to take the necessary measures to ensure the appropriate confidentiality of the details of occurrences contained in its database (*Article 15(1)*). It is recognised that a clear separation between the departments handling occurrence reports and the rest of the organisation may be an efficient way to achieve this objective (*Recital 34*).

In addition the Regulation requires organisations to process personal data only to the extent necessary for the purposes of this Regulation and in accordance with applicable personal data rules (*Article 15(1)*).

The Regulation also includes a number of provisions limiting the possibility to use the information reported and to protect the reporter (see question 13).

ii. Outside my organisation

Similar requirements on the confidentiality of information and processing of personnel data are applicable to the Member States and EASA. Recital 33 highlights the need for national rules on freedom of information to take into account the necessary confidentiality of information.

In addition the Regulation introduces an interdiction to record personal details (e.g. name of the reporter or anyone else mentioned in the report, addresses of natural persons) in the competent authority database (*Article 16(1), (2) and (3) and Recital 35*). To support this requirement, organisations are encouraged to refrain from including names and personal details when transferring occurrence reports to the competent authority.

13. Can my report be used against me or anyone mentioned in it?

Regulation 376/2014 includes a number of provisions aiming at encouraging reporting of occurrences by preventing their use against reporters and other persons mentioned in occurrence reports. These provisions protect the reporter and other persons mentioned in the report in their working environment as well as in the broader national context.

The Regulation recognises that aviation safety system based on feedback and lessons learned from accidents and incidents and that the reporting of information by front line professionals is crucial to bring safety improvements. It also highlights the need to establish an environment in which potential reporters feel confident into the existing systems and report the relevant safety information. The necessity to create such environment supports the presence of protection principles in the Regulation (limitation to information use or availability, no blame principle within organisation, no self-incrimination etc).

The balance between protection and safety is notably supported by the definition of 'Just Culture' (*Article 2*), by Article 16 and by several recitals.

Key principle

A 'just culture' should encourage individuals to report safety-related information but should not absolve individuals of their normal responsibilities (*Recital 37*). It is

defined as a culture in which front-line operators or other persons are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but in which gross negligence, wilful violations and destructive acts are not tolerated.

The protection principles do not prevent Member States and EASA from taking any action necessary for maintaining or improving aviation safety (*Article 16(5)*).

Key principles

It does however limit the possibility for States of instituting disciplinary, administrative or legal proceedings in respect of unpremeditated or inadvertent infringements of the law which come to their attention only because they have been reported pursuant to Regulation 376/2014 unless where otherwise provided by applicable national criminal law (*Article 16(6) and Recital 43*).

It also prevents that, in the cases where disciplinary or administrative proceedings have been instituted under national law, information contained in occurrence reports is used against the reporters or the persons mentioned in occurrence reports (*Article 16(7) and Recital 44*).

In addition, the Regulation includes strong protection rules for those persons in their working environment.

Key principle

Employees and contracted personnel who report or are mentioned in occurrence reports are not be subject to any prejudice by their employer or by the organisation for which the services are provided on the basis of the information supplied by the reporter (*Article 16(9)*).

In order to support this legal provision, each organisation is required to adopt internal rules describing how ‘just culture’ principles are guaranteed and implemented within that organisation (*Article 16(11)*). It is specified that staff representatives shall be consulted before the adoption of these internal rules.

The Commission, supported by EASA, has set up a group of experts from the industry (gathering representatives of organisations and staff representatives) with the view to develop a Just Culture Declaration that includes the key principles to be included in each organisation Just Culture Policy. This Declaration will be supported with relevant guidance. This initiative is expected to support a proper and harmonised implementation of this legal provision and therefore guaranteeing a similar level of protection across the European organisations.

The Regulation however recognises that all the above-mentioned protection principles are subject to limitations:

- in cases of wilful misconduct; and
- where there has been a manifest, severe and serious disregard of an obvious risk and profound failure of professional responsibility to take such care as is evidently required in the circumstances, causing foreseeable damage to a person or property, or which seriously compromises the level of aviation safety.

14. Can my report be disclosed and how could it be used?

Key principle

Information derived from occurrence reports can only be used for the purpose for which it has been collected (i.e. safety). It cannot be shared or used in order to attribute blame or liability or for any purpose other than the maintenance or improvement of aviation safety (*Article 15*).

More information on this issue is included in question 15 of section 3.

15. What can I do if I am subject to prejudice from my employer on the basis of a report?

Every Member State shall put in place an entity to receive and analyse those cases where organisations or authorities may infringe the protection principles and obligations established in Article 16 of the Regulation. The Regulation allows individuals to report to that body any alleged infringement.

The Regulation also ensures that employees and contracted personnel are not penalised for reporting alleged infringements.

SECTION 3
ORGANISATIONS

1. What is the safety benefit of reporting to the competent authority occurrences collected by the organisation?

The collection and analysis of occurrences by organisations, notably in the context of their safety management system, ensure the identification of risks and the adoption of relevant mitigation actions by the organisation.

In addition to the collection, analysis and follow-up by organisations Regulation 376/2014 requires then to transfer certain occurrences to the competent authority. One could question the safety benefit of transferring that information with the competent authority if the organisation is already addressing safety risks in the context of its SMS.

The reporting of aviation safety occurrences is a vital to the understanding of where safety risks lie in the aviation system and, importantly, to help decision makers in competent authorities to make the appropriate decisions on safety priorities and on possible changes to the rules or procedures (see also question 1 of section 1). Furthermore, this information is necessary in the context of the oversight performed by the competent authorities on their organisations.

In addition aggregating all information at European level ensures that issues are also addressed from a European perspective and may lead to including actions in the European Aviation Safety Plan (EASp).

The entire safety system and its stakeholders benefit from more data driven decision from competent authorities and decision makers.

Furthermore reporting organisations receive feedback on occurrences they have transferred in various format, such as annual safety reviews and safety bulletins. In addition, the results of analysis carried out at European level through Regulation 376/2014 are shared through the various safety processes supporting the EASp and the operation of safety management systems within aviation organisations.

2. What are the organisations subject to Regulation 376/2014?

Regulation 376/2014 contains a number of provisions applicable to "*each organisation established in a Member State*".

Furthermore, Regulation 376/2014 applies to "*any organisation providing aviation products and/or which employs, contracts or uses the services of persons required to report occurrences in accordance with Article 4(6)*" (Article 2(8)).

Key principle

It is understood that organisations which do not, on a professional basis, employ, contract or use the services of a person subject to mandatory reporting obligations are not requested to comply with the Regulation.

Example:

Organisations created with the aim of promoting aerial sport and leisure aviation, and which does not, on a professional basis, employ, contract or use the services of someone covered by Article 4(6), are understood as not being subject to the Regulation and therefore not requested to comply with it.

Key principle

The reference to "*organisation established in a Member State*" is understood as covering organisations approved or certified in a Member State, though not necessarily by a Member State, or those not having an approval or certificate, whose main seat is established in a Member State of the EU.

For those organisations approved or certified under the Regulation 216/2008 and its IRs, "*organisation established in a Member State*" is understood as organisations approved or certified in a Member State, either by the Agency or by the competent authority in the Member State.

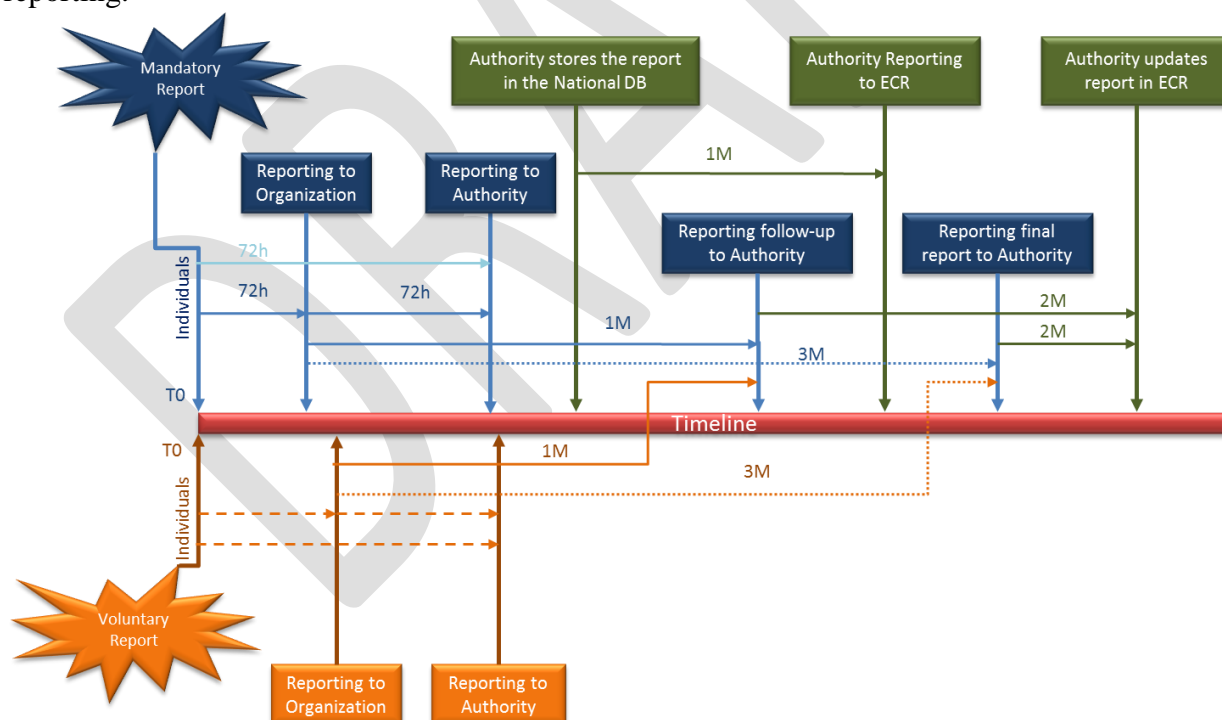
The Regulation is understood as applying to all the facilities of the organisation under its approval, regardless of their location.

3. What is the reporting flow implied by the Regulation?

The Regulation prescribes reporting obligations on certain natural persons (see question xxx for more information), organisations and competent authorities.

The information follows a reporting flow from its initial reporting until its registration in the European Central repository (ECR).

The chart below illustrates the general flow of information, main deadlines and stages of the reporting.



This reporting flow starts from the moment the occurrence is detected (T0). From this moment, the individual shall report it to the organisation or to the authority as soon as possible, but before 72 hours if it falls into the mandatory scheme. In this case, the organisation has 72 hours to report to the authority from the moment they become aware of the occurrence, meaning the moment when the occurrence is received in the organisation.

It should be understood that in certain specific situations the identification of the occurrence might require an additional stage before this reporting flow starts. For example, for Design or

Production Organisations the time start (T0) is the moment where the individuals carrying out this process in the organisation identify the unsafe condition. Therefore, these organisations will have 72 hours to report to the competent authority when this process concludes that an occurrence represents an unsafe condition as per annex Part 21 of Regulation 748/2012.

4. What are the reporting requirements applicable to organisations?

Please refer to questions 2 and 3 of section 2.

5. How does this Regulation interact with other existing reporting requirements?

Whereas the reporting of occurrences in the EU is regulated under Regulation 376/2014, there are also a number of occurrence reporting requirements contained in different European legislations. This situation is recognised by Regulation 376/2014 (*Recital 4*) and it is clarified that this should not be seen as setting up two parallel systems but to the opposite that it should be one reporting system.

It should also be understood that Regulation 376/2014 does not cover all existing reporting requirements in the European system. Other reporting requirements may in particular be contained in Regulation 216/2008 and its IRs (e.g. reporting between organisations).

For reporting requirements under Regulation 216/2008, while efforts have been made to align the list of occurrences to be reported, the list of reporters and the timeline under which occurrences shall be reported, requirements related to other aspects such as reporting formats will need further alignment. A rulemaking task has been initiated to ensure a better fit of the requirements and support the implementation of a single reporting system.

In the meantime, it is important that individuals and organisations are aware of the various reporting requirements to ensure proper discharge of their obligations.

Furthermore, while the European legislation on performance scheme for air navigation services and network functions⁸ does not impose the reporting of occurrences, it requires the reporting of certain information such as the level of occurrence reporting and the number of certain defined occurrences. Regulation 376/2014 supports a proper implementation of these rules by ensuring that the availability of the data that is necessary to provide required information.

6. What information shall be transferred to the competent authority?

i. Occurrence initial notification

The scheme below illustrates the information flow related to the occurrence initial notification.

⁸ Commission Implementing Regulation (EU) No 390/2013 of 3 May 2013 laying down a performance scheme for air navigation services and network functions; OJ L 128, 9.5.2013, p. 1.



Note: for the purpose of simplification, the scheme indicates that the reporting by individuals is made to the organisation while it is recognised by the Regulation that individuals may report directly to the competent authority. See question 12 for more information on the various reporting channels.

Key principles

Organisations are required to report to the competent authority (Article 4(8) and (9)) all mandatory reportable occurrences they have collected i.e. those contained in the IR on occurrences when reported by a person listed in Article 4(6).

Occurrences collected under VORS (not in the IR on occurrences or those reported by a person not listed in Article 4(6)) are not all reportable to the competent authority. Indeed, only those that may involve an actual or potential aviation safety risk (Article 5(5) and (6)) shall be reported to the competent authority.

It is understood that organisations shall discuss with their competent authorities to determine what type of occurrences are considered to involve an actual or potential aviation safety risk. This should ensure an alignment between the occurrences that the organisation intends to transfer from the VORS and the ones that the competent authority is expected to receive.

It is also understood that when an occurrence is reported to an organisation, this organisation might need to assess whether or not it falls under MOR or VOR and therefore what the applicable notification obligations are. In a situation where a reporter has transferred the report under VORS, the organisation can reclassify it into MOR and vice-versa.

Organisations are encouraged to include in the occurrence notification sent to the competent authority all available relevant information. This might include the indication that no further analysis and follow-up will be made on that occurrence ("closed-on-issue") or the assessment and actions on the safety risk identified from the occurrence.

Organisations should report to the competent authority the necessary information to enable a proper understanding and assessment of the occurrence. It is acknowledged that not always all essential information is known in the initial report. However, an effort should be made to gather as much information as possible, especially in the follow-up and final reports.

All occurrences reported to the competent authority (either directly or through organisations) are required to be transferred to the ECR (Article 9(1)).

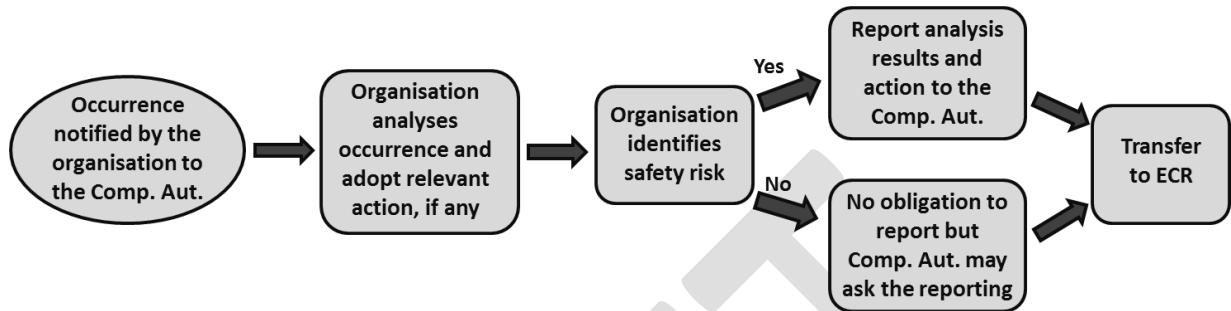
Key principles

It is also understood that an organisation shall not be accountable for not reporting

to the competent authority an occurrence which has not been reported to it (e.g. pilot not reporting or in service occurrence not reported to the organisation)

ii. Analysis and follow-up related information

The scheme below illustrates the information flow related to analysis and follow-up related information.



While all occurrences collected by the organisation (MOR and VOR) are subject to analysis and follow-up requirements (*Article 13(1) and (2)*), only those which are reportable (i.e. all MOR occurrences and the VOR occurrences which may involve an actual or potential aviation safety risk) are subject to further reporting obligations.

Key principles

Among the reportable occurrences, only those for which the analysis (of single occurrence or together with a group of other occurrences) has led to the identification of an actual or potential aviation safety risk are covered by the obligation to transfer the analysis and follow-up related information (*Article 13(4) and (5)*).

Regulation 376/2014 does not require organisations to transfer to the competent authority the analysis result and follow-up information for occurrences other than those collected under the MOR, and those collected under the VOR which may involve an actual or potential aviation safety risk.

The Regulation however gives the competent authority the possibility to require organisations to transfer information on analysis and follow-up of those other reportable occurrences (*Article 13(4) and (5)*). It is understood that the competent authority may require so on a case by case basis or by adopting a general measure requiring organisations to transfer analysis and follow-up related information of all their reportable occurrences.

In the same way as for initial notification, it is understood that organisations shall discuss with their competent authorities to determine what in which cases an actual or potential aviation safety risk is identified out of the analysis. This should ensure an alignment between the analysis and follow-up information that the organisation intends to transfer and the one that the competent authority is expected to receive. Through the Network of Analysts, a common approach will be promoted to ensure that level playing field in ensured across the EU Member States.

It is understood that the reporting of the follow-ups or final results of the analysis pertaining to single occurrences should be done in the same format than the initial report.

The mean to report the analysis and follow-up pertaining to a group of occurrences should be agreed with the competent authority of the organisation.

The European Commission, the Joint Research Centre, the Agency and the Members States participating in the ECCAIRS Steering Committee are currently assessing the technical developments to support and standardise the reporting of the analysis and follow-up of group of occurrences, notably to facilitate its integration in an ECCAIRS environment.

This understanding is aligned with the safety management processes in organisations where not only occurrences are followed in a closed-loop process but also safety issues (group of occurrences).

iii. Voluntary reporting

The Regulation sets the necessary legal framework to encourage individual reporters to go beyond the strict compliance with the mandatory reporting obligations and share those issues perceived by them as a threat to the aviation system with the relevant party (organisation or competent authority, as applicable). Therefore any occurrence or safety-related information considered as safety relevant by reporters is considered as a potentially reportable occurrence under VORS.

For organisations, as explained under question xxx, amongst those occurrences reported to it under VOR, only those occurrences which may involve an actual or potential aviation safety risk are reportable to the competent authority. This implies an assessment to be made by the organisation. As underlined under question xxx, organisations are encouraged to coordinate with their competent authority to ensure a shared understanding of the reportable occurrences in this context.

iv. Transfer of information on the reporter or other persons mentioned in the report

The Regulation forbids competent authorities to record personal details (e.g. name of the reporter or anyone else mentioned in the report, addresses of natural persons) in their database (*Article 16(1), (2) and (3) and Recital 35*). To support this requirement, organisations are encouraged to refrain from including names and personal details when transferring occurrences reports to the competent authority.

7. Under what format occurrences shall be reported to the competent authority?

The Regulation imposes requirements on organisations as well as on the competent authorities (*Article 7*). These requirements apply to all occurrences collected (MOR and VOR).

The obligations cover:

- The compatibility with the ECCAIRS software and the ADREP taxonomy
- The use of standardised formats
- Mandatory data fields
- Safety risk classification
- Data quality checking processes.

Detailed information about these issues is provided in questions xxx to xxx.

These obligations apply to the reports registered in the respective databases of the organisations and of the competent authorities.

It is recognised that some of the requested information might necessitate detailed assessment or analysis (e.g. risk classification) and might only be available after the occurrence has been analysed. It is also recognised that the period required for the notification of the occurrence might not allow the organisation to provide complete information within its initial notification. However, organisations should aim to provide the initial report as complete as possible, notably in regards to the safety assessment, as not all reports may be subject to follow-up report.

8. How to comply with the ADREP/ ECCAIRS compatibility requirement?

ADREP taxonomy compatibility is understood as a reporting which uses ADREP taxonomy as integrated in ECCAIRS. The Reduced Interface Taxonomy, which is integrated into the ECCAIRS software suite and is published by the EC and maintained by the JRC, EASA and MS, within the ECCAIRS Steering activity.

ECCAIRS software compatibility is understood as a mean of reporting which uses technical means and data formats that enables a direct upload of information in an ECCAIRS database. Organisations are expected to agree this technical solution with their competent authority.

To facilitate organisations complying with these requirements the European Commission, supported by EASA, has developed standard methods that could be used to comply with the ECCAIRS/ADREP compatibility requirement (*Article 7(4)*).

These acceptable means of compliance are the following:

- Off-line reporting form: mostly targeting small or med-size organisations which are not producing many occurrence reports a month.
- On-line reporting form: mostly targeting small or med-size organisations which are not producing many occurrence reports a month.
- E5X file format: mostly meant for large organisations which are producing a large number of occurrence reports a month.
- Use of the ECCAIRS system by an organisation, which would enable the exchange of ECCAIRS files or by the data transfer through the DINER software.

The Commission intends to develop a single European portal which will redirect organisations to the reporting portal of the relevant competent authority. This portal is expected to support the use of off-line and on-line reporting forms.

It is understood that organisations have also the possibility to agree with their competent authority any other means that provide similar levels of completeness and quality of data, and use the ADREP taxonomy.

9. How to comply with the standardised format requirement?

One of the methods for reporting provided by the European Commission will be the E5X data transfer file. This format allows the reporting of occurrences using a standard data format which gives compliance to the ADREP taxonomy and ECCAIRS software compatibility, and to the transmission of mandatory data fields detailed in Annex I of the Regulation.

Technical specifications will be made available by the competent authority in Member States and EASA. Technical assistance to organisations implementing this file format should be streamlined through the competent authority in Member State or EASA. Organisations should

agree with their competent authority the practical aspects of its implementation, such as the use of taxonomy and the data fields beyond the mandatory ones to be transmitted.

It is understood that organisations have also the possibility to agree with their competent authority any other means of electronic data transfer that provide similar levels of completeness and quality of data, and use the ADREP taxonomy.

To support the implementation of standardised formats for reporting in organisations not implementing the E5X file format, a European Occurrence Report Set has been developed that consist of the following occurrence reports: General Aviation Report, Flight Operations Report, Aerodrome Report, ATM Report, Birdstrike Report, Dangerous Goods Report, Technical Report. This European Occurrence Report Set will be available for reporting to competent authorities through a single European Reporting Portal.

10. How to comply with the mandatory data fields requirement?

Occurrence databases of organisations subject to Regulation 376/3014, as well as those of their competent authorities shall contain the mandatory data fields listed in Annex I (*Article 7(1)*).

The set of mandatory data fields to be provided includes common data fields to be provided for each occurrence (*Annex I.1*). It also includes fields which shall only be provided when relevant in the context of the occurrence (e.g. design organisations are not expected to record and complete mandatory fields related to Air Navigation Services, and vice versa).

If the information of any relevant and mandatory attribute is not known, the attribute may be transmitted with the value “Unknown” (*Annex I*). Other attributes may be relevant in specific circumstances (e.g. “Not applicable”).

The transfer of the mandatory data fields is expected to be done in an ECCAIRS/ADREP compatible format (*Article 7(4)*).

Mandatory data fields should not be left blank when they are applicable to the occurrence. This means that in cases where the organisation has no knowledge of the information to be provided in the data field, the field should be completed with the value “unknown”.

Data fields that are not relevant to the occurrence are not required to be reported. For instance, data fields listed in Annex I point 2.1 ‘aircraft related’ are not required to be provided if the occurrence does not relate to an aircraft (e.g. an engine production issue).

The Regulation foresees the possibility to amend the list of mandatory data fields based on experience.

11. What is the European Risk Classification Scheme and who shall apply it?

All organisations, Member States and EASA shall store and transmit the risk value of each occurrence received reflecting the result of the risk assessment done (*Article 7(2)*).

The requirement to use the European Risk Classification Scheme to perform this assessment is only applicable to the competent authorities (Member States and EASA).

Organisations have the possibility to use the risk methodology of their choice. When receiving the risk classification provided on an occurrence by the organisation the competent authority is required to review and if necessary amend the risk classification provided. It shall then endorse it in accordance with the common European Risk Classification Scheme.

It shall be noticed that the industry participates to the development of the European Risk Classification and that the use of this scheme by the industry organisations would support a better harmonisation of risk classification across the EU. It should therefore be encouraged.

The European Risk Classification Scheme is under development and will be published by May 2017.

The Regulation foresees that Article 7(2) will become applicable only after the adoption of relevant legislation defining and providing the implementation rules applicable to the European Risk Classification Scheme.

However, the list of mandatory data fields required under Article 7(1) includes the risk classification. It is therefore understood that organisations, the Member States and EASA shall provide this information from the application date of the Regulation. But until Article 7(2) becomes applicable the competent authority is not expected to review and endorse the risk classification transmitted by the organisation.

12. What are the data quality checks referred in Article 7(3)?

Organisations, Member States and EASA are required to ensure a minimum data quality in the information stored in and transmitted from their databases, by running regular quality checks.

It is understood that data quality checks should address four main areas:

- Errors in data entry
- Completeness of data, specially referring to mandatory data,
- Proper use of the ADREP taxonomy
- Improve data consistency, notably between the information collected initially and the report stored in the database (*Article 7(3)*).

EASA and the Commission intend to support harmonised data quality and completeness across the EU by:

- Publishing standard quality rules that could be implemented in any IT or database environment
- Developing the necessary methods in ECCAIRS environment to facilitate Member States to achieve a minimum level of quality required, and
- Providing the necessary training to Member States to facilitate the proper use of the ADREP taxonomy.

13. How to apply the occurrence analysis and follow-up requirements?

It is understood that the analysis and follow-up of occurrences required under Article 13 is taking place in the context of existing processes such as:

- management systems
- SMS
- safety processes required under EU law or similar safety processes.

It is not intended to create another system alongside the safety management system of an organisation or of a State.

It is therefore understood that occurrences collected and analysed under Regulation 376/2014 are part of industry SMS and support it by providing it with relevant occurrence information.

14. How shall the information be handled?

Information provided in an occurrence reported in accordance with Regulation 376/2014 shall only be used for safety purposes. The Just Culture principles enclosed in the Regulation applies to the handling of occurrence reports (see question 13 of section 2).

While an organisational separation with a clear separation between the department handling occurrence reports and the rest of the organisation or of the competent authority is not required, this is considered as a good way to achieve these objectives.

In any case, the privacy of the elements contained in the reports must be safeguarded. Names and personal details of reporters shall not be recorded in the databases of national authorities and of EASA. In that perspective, organisations are encouraged to refrain from including names and personal details when transferring occurrences reports to the competent authority.

15. Under what conditions can information on occurrences be used or made available?

Information about the confidentiality and handling of personal data is included in questions 12 and 13 of section 2.

Key principle

Information derived from occurrence reports can only be used for the purpose for which it has been collected (i.e. safety). It cannot be shared or used in order to attribute blame or liability or for any purpose other than the maintenance or improvement of aviation safety (Article 15).

It is understood from this principle that organisations and competent authorities can use the information with the view to maintain or improve aviation safety. This covers in particular the measures and actions foreseen under Article 13. It also includes existing procedures and actions (e.g. safety recommendations, airworthiness directives, safety information bulletin etc).

It is also understood that purpose of maintaining or improving aviation safety includes any measure necessary for safety and therefore can include the suspension of a licence or requesting a person to do additional training.

It is also understood that in a situation where safety might be endangered, sharing or using the information on occurrences in order to stop the risk to safety falls under purpose of maintaining or improving aviation safety. Therefore it is understood that sharing or using information on occurrences in the cases detailed in Article 16(10) with the view to address the risks to safety is allowed by the Regulation.

Outside the above-described situations, the Regulation prevents organisations and competent authorities to disclose or use information on occurrences that are contained in their databases.

It is therefore understood that the sharing of information on occurrences on the basis of freedom of information or similar citizens or media request is not allowed by the Regulation. Disclose information on occurrence reports to judicial authorities is similarly not allowed

unless, as explained above, safety might be endangered and that disclosing the information to judicial authorities may decrease or stop the risk to safety.

This principle is however not applicable in a situation where an investigation under Regulation (EU) No 996/2010 has been instituted (*Article 15(2)*). Regulation (EU) No 996/2010 foresees in its Article 14(2) and (3) that, in cases where Regulation 996/2010 applies (opening of a formal technical accident or incident investigation), occurrences reports shall not be made available or used for purposes other than aviation safety unless the administration of justice or the authority competent to decide on the disclosure of records according to national law decides that the benefits of the disclosure of the occurrence report outweigh the adverse domestic and international impact that such action may have on that or any future safety investigation.

The Regulation authorises the Member States to adopt or maintain in force legislative provisions ensuring a higher level of protection for reporters or for persons mentioned in occurrence reports than those described above (*Article 16 (6), (7) and (8)*).

The Regulation requires the information, cleared of any personal details, to be disseminated internally as appropriate.

16. How is the information transferred to the competent authority protected?

The information provided by organisations is stored in the competent authority database. This information is later transferred by the competent authority to the European Central Repository (ECR).

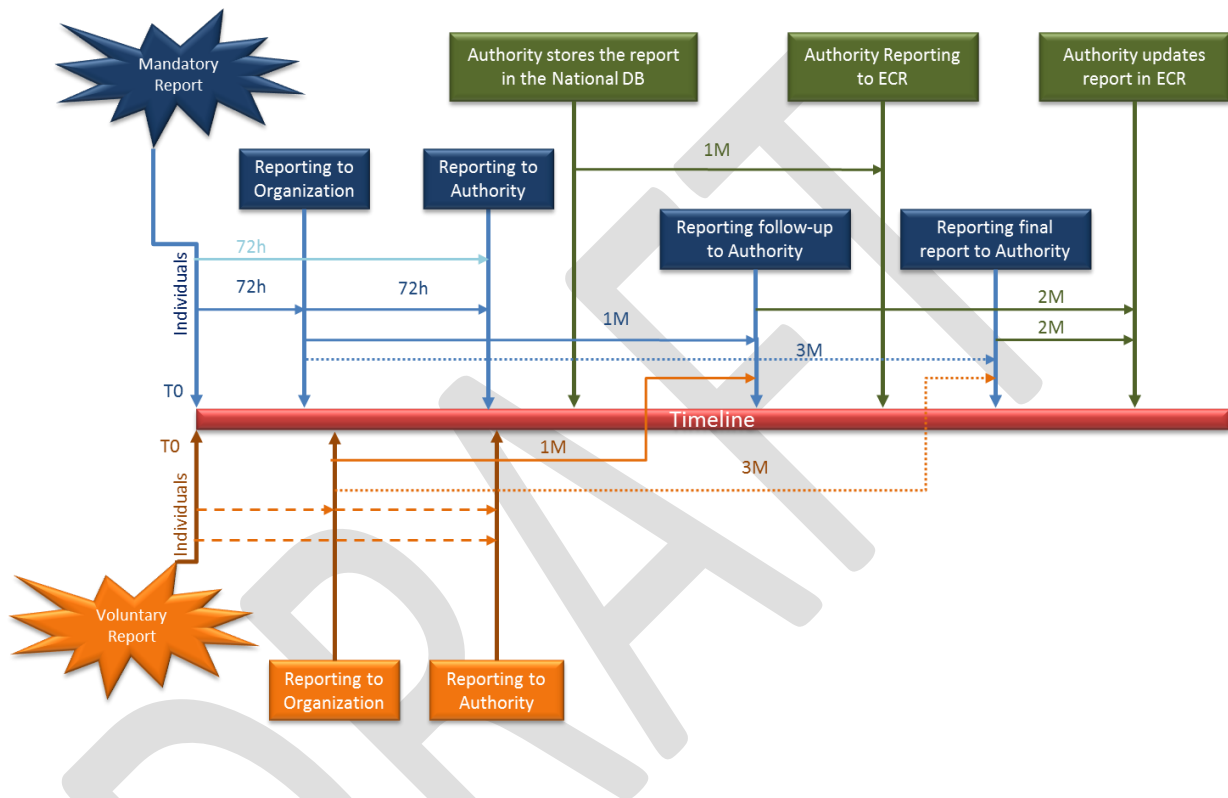
The protection applicable to national databases is detailed in question 15 of this section.

At the level of the ECR, in addition to the legal provisions to limiting the possible use of the information, the access to the ECR is restricted to regulatory and investigation authorities, to the EASA and to the European Commission. The access is granted by a controlled and restricted personal access code based on unique IP address.

SECTION 4
COMPETENT AUTHORITIES

1. What are the information flow and the timeline applicable to competent authorities?

The green boxes and lines in the figure below depicts the obligation of the competent authority (CA) in terms of reporting flow once the initial report reached the CA. From the day of the reception, the CA has 30 days to integrate that the occurrence report in the ECR. In the case of follow-up the CA has 2 months to send the updated information to the ECR from the moment the CA receives the report. This workflow and timeline is applicable to occurrences receive both in the context of the mandatory and voluntary reporting schemes of organisations.



2. What information shall be collected by the competent authority?

Please refer to question 6 of section 3.

Regulation 376/2014 differentiates between MOR and VOR with the view to clarify the obligations of reporting for the reporters as well as for the industry organisations.

Key principle

All occurrences reported by organisations to the competent authority in application of the Regulation shall be handled and addressed in the same manner by the competent authority.

In general, the Regulation does not differentiate the manner MOR and VOR shall be addressed by the competent authority.

All information collected from organisations, whether it was reported in application of Article 4 or of Article 5, is subject to similar handling by the competent authority. Similarly, all information directly reported by individuals to the competent authority, whether it was

reported in application of Article 4 or of Article 5, is subject to the same analysis and follow-up obligations.

3. How is the information shared among the competent authorities?

The competent authorities (EASA Member States and EASA) share all information collected and registered in the respective databases through the European Central Repository (ECR) (*Article 9*). This includes information on occurrences (*Article 9(1)*) which shall be transferred within 30 days as well as information related to their analysis and follow-up which shall be transferred within 2 months (*Article 13(9)*). This also includes detailed information about accidents and serious incidents such as the investigation report (*Article 9(2)*).

The Regulation (*Article 10(1)*) provides secure full online access to the ECR to any entity entrusted with regulating civil aviation safety, or any safety investigation authority, within the Union.

It is understood that this includes the Member States CAAs and SIAs, as well as the European Commission, EASA and Eurocontrol. This access will cover the entire ECR i.e. occurrences entered after 15 November 2015 as well as those which were already contained in the ECR before that date.

Member State or the Agency are required (*Article 9(3)*) to forward all pertinent safety-related information to the relevant authority of the Member State or the Agency as soon as possible if, while collecting details of occurrences or when storing occurrence reports or carrying out an analysis in accordance with Article 13(6), it identifies safety matters which it considers either to be of interest to other Member States or the Agency or to possibly require safety action to be taken by other Member States or the Agency.

It is understood that the Regulation does not intend to duplicate the flow of information unnecessarily between the Member States and EASA.

Therefore, certain criteria are expected to be applied in order to identify those occurrences or safety issues known through the analysis of occurrences constituting safety significant information, and therefore to be communicated to other Member States or to EASA.

Safety significant information stemming from occurrence reports should be understood as:

- a. A conclusive safety analysis that summarises individual occurrence data and provides an in-depth analysis of a safety issue, which might be relevant for another Member State or for EASA. In the case of the EASA this information could be connected to the European Aviation Safety Plan or to the role of EASA in safety promotion.
- b. Individual occurrence data where the Member State or EASA is the competent authority and:
 - i. the occurrence is defined as a reportable occurrence as per applicable legislation,
 - ii. the organisation responsible of addressing the occurrence is certified or approved by the Member State or EASA, and
 - iii. the Member State or EASA has come to the conclusion that:
 - the organisation certified by the Member State or EASA to which the occurrence relates, has not been informed of the occurrence; or
 - the occurrence has not been properly addressed or has been left unattended by the organisation certified by the Member State or EASA.

4. Under which deadline the information shall be transferred to the ECR?

The Member States and EASA are required to send to the ECR those initial notifications received from organisations and individuals no later than 30 days after entering them in the national or EASA's occurrence database. As the reporting means will provide an immediate data entry in the ECCAIRS environment of the Member State or EASA, the time between receiving and entering the information should be considered negligible and in practice doable in 30 days since the reception of the initial notification (*Article 9(1)*).

In the case of updates from organisation on occurrences initially reported representing a safety risk, the information of the follow-up should be transferred to the ECR no later than 2 months from the registration of the follow-up or final report (*Article 13(9)*).

Any additional safety-related information obtained by the Member State or by the Agency on any reported occurrence should be also transmitted to the ECR within the next 2 months after registering such information.

To facilitate the processing of follow-ups and final reports, the use of standard means should be promoted.

5. How shall the information be handled?

Information provided in an occurrence reported in accordance with Regulation 376/2014 shall only be used for safety purposes. The Just Culture principles enclosed in the Regulation applies to the handling of occurrence reports (see questions 13 of section 2 and 15 of section 3).

While an organisational separation with a clear separation between the department handling occurrence reports and the rest of the organisation or of the competent authority is not required, this is considered as a good way to achieve these objectives.

In any case, the privacy of the elements contained in the reports must be safeguarded. Names and personal details of reporters shall not be recorded in the databases of national authorities and of EASA. In that perspective, organisations are encouraged to refrain from including names and personal details when transferring occurrences reports to the competent authority.

6. What are the competent authority obligations in terms of oversight?

Article 13(8) establishes that the competent authority shall have access to the analysis made and actions taken by the organisations under their oversight. This is notably ensured by the obligation for organisation to transfer certain information to their competent authority (*Article 13(4) and (5)*) and to the possibility for the competent authority to request other information to be transmitted to it.

The Regulation requires the competent authority to appropriately monitor actions of the organisations they are responsible for (*Article 13(8)*). It is understood that to perform this responsibility the competent authority would need to establish a process to assess the information reported. This process should notably allow the competent authority to require additional appropriate action to be taken and implemented by the organisation in situation where it has assessed that the action was inappropriate to address actual or potential safety deficiencies (*Article 13(8)*). It should also allow a process to review and validate the risk classification of the occurrence.

Key principle

It is understood that monitoring obligation referred to in Article 13(8) does not require the competent authority to perform detailed investigation of each single occurrence it is notified of. This monitoring is expected to participate to the overall oversight functions on organisations it is responsible for.

In situations where the monitoring is done over organisations which are outside the normal oversight responsibilities of the competent authority (ground handling organisations, small aerodromes) it is understood that the monitoring obligations does not require to create comprehensive oversight mechanisms such as inspections, but is expected to be limited to the analysis of information transmitted with the view to monitor whether or not the action adopted was appropriate.

It is understood that not all occurrence reported may require action and that their preliminary assessment at reception may conclude that certain occurrences could be closed on receipt (no action or further analysis needed). In those cases, the occurrence should be reviewed if they are reported as a follow-up by the organisation or if additional information gathered by the competent authority questions the initial assessment made (i.e. by the reception of another report on the same occurrence from a different source).

7. Under what conditions can information of occurrences be used or made available?

Key principle

Information derived from occurrence reports can only be used for the purpose for which it has been collected (i.e. safety). It cannot be shared or used in order to attribute blame or liability or for any purpose other than the maintenance or improvement of aviation safety (Article 15).

More detailed information is available in questions 13 of section 2 and 15 of section 3.

In addition, the Regulation requires the information, cleared of any personal details, to be disseminated internally as appropriate. This aims in particular to ensure that the information is used by appropriate aviation authorities to allow them to discharge their obligations in relation to aviation safety improvement (*Article 16(2) and (3)*).

The Regulation also requests the Member States competent authorities to cooperate with their competent authorities for the administration of justice through advance administrative arrangements (*Article 15(4)*). It is specified that these advance administrative arrangements shall seek to ensure the correct balance between the need for proper administration of justice, on the one hand, and the necessary continued availability of safety information, on the other. It is understood that these advance arrangements should notably cover the access to occurrence reports by judicial authorities in cases where Regulation (EU) No 996/2010 is applicable.

8. Can the competent authority share information contained in the ECR and under what conditions?

The ECR being a European database, its access and use is subject to specific rules under EU law. The Member States and EASA shall ensure the compliance with the ECR access and use rules including for their local access to the European database.

The possibility to provide certain information from the ECR and the processes to be applied are described in Articles 10 to 12.

In this context, third parties may request information contained in the ECR. The request shall be submitted to the Member State where the third party is established or to the European Commission when the place of establishment is not a Member State territory. The Member State or the European Commission will assess the suitability of the request and, if applicable, will provide the requested information.

It should be clarified that no direct access to the ECR is allowed (*Article 10(4)*) except for the entities covered under Article 10(1) (see also question 21). It should also be highlighted that information from the ECR can only be supplied in aggregated (e.g. number of runway incursions for a given period) or anonymised form (removed of any details, including the name of the organisation involved in the occurrence, which may reveal the identity of the reporter or of a third party) except if it relates to the requestor own equipment, operations or field of activity (*Articles 2 and 11*). It is understood that information unrelated to the requestor own equipment or operations but related to his field of activity will be provided anonymised.

The third party receiving information from the ECR is responsible and liable of ensuring that use the information is only for the purpose specified in the request form, that the information is not disclosed without the written consent of the information provider and that it has taken the necessary measures to ensure appropriate confidentiality of the information received.

9. How shall States implement Article 16(12)?

Article 16(2) requires the Member State to designate a body responsible for the implementation of Article 16 (6), (9) and (11).

Article 16(6) states the principle of proceedings limitations; Article 16(9) establishes the principle of non-prejudice in a corporate context, both principles being subject to the two exceptions mentioned in question 25. Article 16(11) sets the obligation for organisations to adopt, after consulting its staff representatives, internal rules describing how ‘just culture’ principles are guaranteed and implemented within that organisation.

The Regulation provides the Member States with full flexibility in deciding which entity shall be entrusted with this role. It is understood that it could be an existing entity or an entity established specifically for fulfilling this responsibility. It is also understood that this entity might be elsewhere entrusted with aviation responsibilities, judicial responsibilities, ombudsman related responsibilities or with any other responsibility.

The Member States are however encouraged to designate an entity which acts independently from those responsible for the implementation of Article 16 (6), (9) and (11).

The designated entity is responsible for:

- Receiving and handling employees and contracted personnel alleged infringements of the rules

- Advise the relevant authorities of the Member States on the adoption of actions against those who infringe the principles of protection of the reporter and of other persons mentioned in occurrence reports, such as remedies or penalties
- On request of an organisation, reviewing its 'Just Culture' internal rules.

It is understood that this entity shall coordinate with the authorities of its Member State responsible for imposing penalties in infringement to the Regulation and shall advise them about remedies or penalties it intends to adopt (*Article 16(12)*).

The activities of this entity shall be reported to the European Commission in a report to be sent every five years.

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SECTION 5
PRIVATE PILOTS

1. Why shall I report occurrences?

The reporting of aviation safety occurrences is a vital to the understanding of where safety risks lie in the aviation system and, importantly, to help decision makers in the Member States to make the appropriate decisions on safety priorities (see also question 1 of section 1).

The information and safety intelligence needed to support safety improvement in the European aviation system largely relies on individuals reporting occurrences when they happen. Without this information, the realities of aviation safety issues cannot be properly understood.

Therefore by reporting occurrences private pilots directly contribute to make aviation safer.

2. Am I required by law to report occurrences?

The Regulation (*Article 4(6)a*) requires pilots of an aircraft registered in a Member State or an aircraft registered outside the Union but used by an operator for which a Member State ensures oversight of operations or an operator established in the Union, to report certain occurrences.

Key principle

Article 4(6)(a) covers both pilots in command operating in the context of commercial air transport as well as private pilots operating on an aircraft covered by the Regulation.

3. What occurrences are required to be reported?

Occurrences to be reported in the context of mandatory reporting systems are those which may represent a significant risk to aviation safety and which fall into defined categories (*Article 4(1)*). To facilitate the identification of those occurrences to be reported in the context of mandatory systems, the Commission is required to adopt a list classifying occurrences to be referred to (*Article 4(5)*). The occurrences to be reported will therefore be listed in the Commission Implementing Regulation No **xxxx**/2015 classifying the occurrences to be reported in the context of mandatory reporting schemes (hereinafter called “IR on occurrences”).

The IR on occurrences includes occurrences falling in the four categories mentioned in the Regulation as well as those applicable to aircraft other than complex motor-powered aircraft (*Article 4(5)*) which is, where appropriate, adapted to the specificities of this that aviation sector.

Key principle

In practice it means that the occurrences to be reported in the context of mandatory systems are understood as those contained in the Commission Regulation No **xxx/2015 classifying the occurrences to be reported in the context of mandatory reporting schemes**

The division in categories of occurrences to be reported provided for in Article 4(1) is established to allow the identification of the occurrences to be reported by the persons designated under Article 4(6). Therefore the division in the various Annexes of the IR on

occurrences intends to support the identification by reporters of the occurrences they shall

Key principle

It is therefore understood that, on a mandatory basis, reporters shall not report all occurrences contained in the IR on occurrences but only those relevant for their area of activities.

report.

For private pilots subject to the Regulation, occurrences that shall be reported are those contained in Annex V of IR on occurrences.

The Regulation is not applicable to aircraft listed in Annex II of Regulation 216/2008 (non-EASA aircraft) unless a Member States decides to expand the application of Regulation 376/2014 to the organisations and persons that are under its competency.

The obligation to report certain occurrences should not prevent private pilots to report any incident they consider safety significant.

Key principle

While for the sake of clarifying legal obligations the Regulation establishes two different reporting systems, mandatory and voluntary, it is understood that the reporting of any safety relevant occurrence should be encouraged as promoted by Regulation 376/2014.

4. To what authority shall I report occurrences?

Key principle

For private pilots the reporting should be made through the reporting system of the Member State that issued, validated or converted their pilot's licence.

5. Under what format shall I report an occurrence?

There is no obligation for private pilots to report in any specific format. Private pilots can choose the most suitable reporting form among the ones available in the competent authority they report to.

In addition, to facilitate the reporting by private pilots, the Commission is developing a European Reporting Portal where reporters could report on-line their occurrences or be transferred to the system of their Member States.

ERP web-address to be included.

6. Can the information I have reported be used against me?

Key principle

Information derived from occurrence reports can only be used for the purpose for which it has been collected (i.e. safety). It cannot be shared or used in order to attribute blame or liability or for any purpose other than the maintenance or

improvement of aviation safety (*Article 15*).

More detailed information is available in questions 13 of section 2 and 15 of section 3.

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