ECA Comments on EASA Concept Papers
– Germanwings Task Force Recommendations –

1. Introduction

ECA very much welcomes EASA's stakeholder consultation on the revised Concept Papers regarding the recommendations made by the Agency's Germanwings Task Force, as well as the very well organised Aircrew Medical Fitness Workshop, in December 2015.

This consultation is particularly important as the EASA Task Force was made up of a relatively small number of participants only. A structured stakeholder consultation, like this one, a thorough impact assessment of some of the more far-reaching proposals, as well as further consultations (e.g. via a 2nd workshop) are therefore both necessary and much appreciated.

ECA notes that the French BEA has not issued its final accident investigation report, thereby not yet providing a *confirmed* fact basis. This relates e.g. to the question on whether the consumption of alcohol or drugs played a role or not, and what type of personal, medical and/or organisational factors may or may not have contributed to the chain of events and how. ECA therefore shares the view taken by the EASA Advisory Board (EAB letter of 02/12/2015) that *"Taking regulatory or operational actions before the final accident investigation report is published creates the risk that such actions are not adequate to address the causes of this accident. We are confident that a thorough investigation according to well established European and international procedures will allow the Agency to correct actions already taken.*"

ECA reiterates its serious concern about the proposed use of 'Operational Directives' – as suggested in the Concept Papers despite the concerns voiced by numerous stakeholders at the Agency's Aircrew Medical Fitness Workshop. ECA echoes in this respect the EAB's collective concerns, i.e. "*[...] we do have concerns about the proposed very ambitious time-frame and unprecedented usage of new "innovative solutions" [...]. In particular, the – so far untested – Operational Directives that may be drafted [...] should not become a 'test-tool' to be tried out on the complex issues related to the Germanwings 4U9525 tragedy.*" To prevent that ODs create facts on the ground and generate unnecessary compliance costs *before* the AMC / GM drafting process has been concluded, ECA reiterates it call upon the Agency to refrain from using ODs.

Finally, ECA welcomes the Agency's intention to accompany each major action by a robust impact assessment demonstrating the need, effectiveness, cost-benefit ratio and proportionality of the proposed measures.

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2. Pilots' Psychological Evaluation

a) Role & responsibilities of operators (Rec. #2(a))

EASA proposes:

- All airline pilots should undergo psychological evaluation as part of the training or before entering service. The airline shall verify that a satisfactory evaluation has been carried out.
- An Operational Directive mandating that operators should ensure that flight crew must undergo a psychological evaluation as part of the training or before entering airline service.
- New AMC / GM to existing IRs, with details on how operators can implement this psychological evaluation.

b) Medical aspects (Rec. #2(b))

EASA proposes:

- For Class 1 medical examinations, an OD requiring:
  - For an initial examination: to include a psychological/psychiatric evaluation or history of mental health from the applicant's physician;
  - For a renewal/revalidation examination: to include a psychiatric evaluation for applicants whose Class 1 medical certificate has been denied or limited for at least the following conditions:
    - mood disorder,
    - neurotic disorder,
    - personality disorder,
    - mental or behavioural disorder,
    - problematic use of psychoactive substances.
- For Class 1 renewal/revalidation examinations: an AMC/GM to MED.B.055 and MED.B.060 to improve psychological/psychiatric evaluation.
- AME training: For the reinforcement of AME's psychological/psychiatric training:
  - an AMC & GM to MED.D.015 by adding psychological/psychiatric training and increasing duration of the advance aviation medicine training course from 60 hours to 66 hours;
  - also valid for recommendation #4(b): a new GM to MED.D.030 by adding psychological/psychiatric aspects to the refresher training for AMEs.

- As explained above, ECA does *not* support the use of Operational Directives.
- ECA welcomes the *content* of EASA's proposals, as contained in the Concept Papers on recommendations 2(a) & 2(b), subject to the following comments:

Psychological evaluation as part of training or before entering service:

- The initial selection, and subsequent training, already today contributes to the fact

that – generally speaking – the population of pilots is conscientious, resilient, and emotionally stable. Adding a psychological evaluation at the beginning of their career before the start of their training can further enhance this.

- Therefore, ECA supports this suggestion, as a valuable strengthening of the pilot selection process to enhance the subsequent training success and suitability for the job. To achieve this aim, such an evaluation should be:
  - be carried out by qualified and certified psychologists, with specialised knowledge and experience in aviation;
  - be based on validated selection criteria and procedures;
  - take place *before* the start of the initial training, to prevent young people to spend/ borrow thousands of euro for their training to then discover that they may not be suitable.
- A full diagnostic screening for mental health disorders would not be a cost-effective procedure at the *ab inito* selection stage. However, if there are clear indications of potential disorders, a more comprehensive examination (by a psychiatrist/clinical psychologist) should be done.
- While the airline would be responsible for verifying that a satisfactory evaluation has been carried out, the term 'satisfactory' needs to be defined in more detail to ensure a harmonised application across Europe. It should be according defined, internationally recognized quality standards.
- If a psychological evaluation has already been carried out at/before the *ab initio* training stage, a psychological evaluation before entering airline service would not be necessary, except where there are clear indications of potential issues.

Strengthen the psychological part of initial & recurrent aeromedical assessment:

- When mental health issues arise, recognition and acceptance are the first step in solving them. Any raising of mental health issues or request for support should be positively appreciated and reacted upon (e.g. by airline management, company's occupational health service, peers, regulators, and AMEs).
- The most effective means of strengthening the aeromedical assessment (both physical and psychological), is to strengthen the relationship between pilot and AME – which must be based on openness and mutual trust.
- Trust is the cornerstone of any robust health assessment, with confidentiality of medical information being an important basis for such a trust relationship. Strengthening this relationship during aeromedical assessment is key to success. The joint ESAM-EAAP-ECA paper on the Pilot-AME relationship is an important step into this direction.

- Addressing and discussing mental health and psychosocial stress factors during the routine aero-medical assessments is an important aspect of the aeromedical examination and should be done, provided that any information disclosed to AMEs that does not directly impact on fitness to fly remains confidential between pilots and AMEs. Otherwise, trust and openness will be difficult to develop and potential

issues risk to remain hidden. (see also ESAM-EAAP-ECA statement on AsMA recommendations on pilots' mental health).

- The most promising measure to effectively address mental health issues are Peer Support Programmes (PSP). Such programmes have proven successful in enhancing safety and addressing health-related issues, while minimising career jeopardy and the possible stigma of seeking assistance. Hence, while psychological evaluations at *ab initio* training stage and strengthening the psychological aspects of aeromedical examinations can undoubtedly bring benefits, the emphasis should be on promoting existing PSP, setting up new ones, and AMEs being both aware of such programs and being able to recommend them to a pilot where deemed necessary.
- ECA pilot experts (with aero-medical background) should be consulted by EASA when preparing the draft AMC/GM, as should experts from EAAP.

Training for aero-medical examiners to be strengthened:

- ECA supports this recommendation, as it will help to enhance the quality of the aeromedical examinations.
- For how this should be done in detail (e.g. courses on mental health promotion and mental health disorders to raise sensitivity; interviewing techniques etc) both ESAM and EAAP should be consulted.
- ECA strongly recommends that this 'strengthened' AME training includes:
  - Knowledge about Peer Support Programs, their value to address and potentially solve a wide range of issues, as well as their concrete availability in an airline/country;
  - Up to date knowledge of the current issues in aviation, for example (but not only) different employment contract forms (e.g. self-employment, zero-hours contracts, temporary agency work, pay-to-fly schemes, etc.), fatigue and flight limitations, in order to enhance the AMEs' understanding of the pilot's work environment and its potential impact on mental well-being.

3. Aircrew Support and Reporting Systems / Drugs & Alcohol Testing / Prevention of problematic use of psychoactive substances

a) Aircrew Support and Reporting Systems (Rec. #6)

EASA proposes:

- That all commercial air transport (CAT) operators should establish an aircrew support and reporting system. EASA proposes a new IR to Regulation (EU) No 965/2012 (the Air OPS regulation) to ensure that all flight and cabin crew members have access to a support programme.
- In addition to the new IR, EASA will provide AMC and GGM on how to start implementing the recommendations in a proactive manner. The AMC and GM will state the enablers of an effective support programme, such as:

- protection of data;
- essential trust between management and crew being the foundation of a successful support programme;
- an effective safety culture; and
- support for consequences of loss of licence.

— EASA will make use of existing good practices and approaches that are already well-established within some Member States and operators (incl. reference to the AsMA Statement on 'Pilot Mental Health - Updated Expert Working Group Recommendations', Sept. 2015):

- ECA strongly supports EASA's proposal to make Peer Support Programmes (PSP) mandatory across Europe and to ensure that all flight and cabin crew members have access to a support programme.
- Both EASA's Concept Paper, and its previous Action Plan and Task Force report contain very valuable elements as a basis for the new rulemaking task.
- Beyond the general 'enabler' mentioned by EASA, this needs to be complemented by detailed AMC & GM to encapsulate best practices and key requirements that ensure a successful implementation of such programmes. Therefore, representatives from existing European PSP, as well as from crew associations involved in PSP, should participate in the related rulemaking task. ECA is committed to fully contribute its expertise to this task.
- ECA notes that EASA considers it essential that crew representative associations need to be an equal stakeholder in PSP. We fully support this as an essential requirement to make such programmes succeed in practice, and strongly recommend that this is clearly reflected in the related rules.
- Currently, existing PSP focus on the prevention of problematic substances (alcohol & drugs). The success they showed on this needs to be extended to mental health issues. For this to be successful, the rulemaking task should include representatives from the aeromedical and aviation psychologists community (ESAM & EAAP).

b) Prevention of problematic use of psychoactive substances (Rec. #3(a)) & Drugs & Alcohol testing – Medical Aspects (Rec. #3(b))

EASA proposes:

— an OD on prevention of problematic use of psychoactive substances in case of:
1) when aircrew is employed by a CAT operator;
2) post-incident, post-accident;
3) with due cause;
4) as part of follow-up and after a positive test result.

- The OD, addressed to NAAs, will require CAT operators to establish a policy along with the associated procedures to deal with the prevention and detection of cases of problematic use of psychoactive substances. The operator should develop and implement an objective, transparent and non-discriminatory procedure for the detection of cases of such use.
- The OD will apply to aircrew (flight and cabin crew) of CAT operators and will require that operators take all reasonable measures to develop and implement a policy, with the related procedures, to ensure such use does not endanger the flight safety.
- The OD will define what 'psychoactive substances' means.
- Separate GM, referring to ICAO Doc 9654 'Manual on Prevention of Problematic Use of Substances in the Aviation Workplace', First Edition – 1995.
- EASA notes that testing is only one aspect of a comprehensive response to the misuse of psychoactive substances. Considering testing as a stand-alone option or as an alternative to aircrew support system, is not adequate.

- **Random testing** for the use of psychoactive substances:
  - EASA notes that the Aircrew Medical Fitness workshop revealed that there is no consensus on the potential benefits that such testing would bring to safety. This is consistent with the conclusions of the German BDL report.
  - As a result, EASA will conduct an impact assessment to decide whether random testing should be made mandatory or whether other means, such as AMC/GM or safety promotion material, are needed.
  - If the impact assessment renders random testing a mandatory requirement, such a requirement would not contain detailed testing methodologies and thresholds on substances to be tested. The OD would require that each operator adapt its random testing programme to its particular operational environment (to enables proportionality and minimising related costs). Detailed prescriptive requirements are considered inappropriate and could quickly become outdated.
  - EASA will neither prescribe the list of substances to be tested (apart from alcohol), nor will require a fixed proportion of the air crew members to be sampled. Instead, it will require operators to establish an adequate testing policy based on a risk assessment and taking into account the existing guidance, incl. ICAO Doc 9654.

- Drugs & Alcohol testing (Class 1) – Medical Aspects (Rec. #3(b)):
  - EASA proposes an OD mandating D&A testing in the initial Class 1 medical assessment.
  - EASA to develop more detailed AMC & GM to the existing rules contained in Commission Regulation (EU) No 1178/2011.

- As explained above, ECA does not support the use of Operational Directives.

Drug & Alcohol testing

- ECA supports mandating D&A testing in the initial Class 1 medical assessment and the development of additional GM.
- ECA notes that EASA's Concept Paper acknowledges (p. 11) that "*The significance and usefulness of a negative D&A test at the initial medical assessment are very limited in the context of flight safety*", and that the value of such testing at the initial Class 1 medical is to "*show the applicants the seriousness of all regulations concerning use of drugs and/or alcohol by aircrew*" and "*to educate aircrew on the safety risks of illicit drugs, medication and alcohol [...]*". Hence, ECA recommends that EASA assesses the cost-benefit ratio of such testing versus other educational measures during training.
- ECA supports the EASA proposal for D&A testing in the cases of a) when aircrew is employed by a CAT operator; b) post-incident & post-accident; c) with due cause / reasonable suspicion; and d) as part of follow-up and after a positive test result. This support is subject to the following further comments:

  - The procedure for testing must be robust and standardised, and cannot be left to the discretion of individual organisations. This should include the collection, delivery, storage and analysis of samples. The whole process should be undertaken by accredited and audited independent organisations.

  - The procedures following a positive sample need to be clearly defined and be non-prejudicial, especially in case of a false positive result, where the negative impact upon an individual is at stake. (see also related comments below re. random testing).

Random testing for Drugs & Alcohol:

- ECA does not support random D&A testing, as it has proven to be ineffective, costly and potentially prone to 'false positives' – with negative repercussions for flight operations as well as for the individual crew members – whilst giving the false impression of safety. Whereas random testing may be perceived as politically expedient to demonstrate that 'something' is being done, the decisions should not be driven by political motives, but by the aim of providing the most effective and efficient measures to prevent the use of problematic substances, keeping in mind also the proportionality principle.
- Random testing may help to filter out some incidental substance abuse, but this is far more effectively done by the current practice of 'due cause / reasonable suspicion tests'. Crucially, random testing does nothing to actually *prevent* abuse through early recognition, nor to *help* the person concerned to face the problem and to find a solution. It is therefore inadequate to prevent D&A use in aviation.

- In contrast, experience – e.g. in the USA – has shown that 'Peer Support Programmes' are significantly more effective in preventing problem cases to develop and to potentially affect safety, than random testing at work – and this at a fraction of the cost compared to random testing.
- The above is in line with the feed-back from the large majority of participants at the Aircrew Medical Fitness Workshop (where the main and most outspoken supporter of random testing was the UK CAA, as was the case in the EASA Task Force). It is also in line with the conclusions of the German BDL-led Task Force, where there had been consensus at *technical* level that random testing is ineffective and inefficient. This technical consensus was however not carried over into the final German Task Force report, as some airline representatives felt uneasy with the possible public perception of such a conclusion. Hence, as pointed out in the Concept Paper, the report recorded a 'divided' opinion as regards random testing.
- ECA does support random testing as part of a Peer Support Programme for crews that successfully went through a rehabilitation programme and are allowed to fly again. In such cases, random testing, is both useful, effective and required.
- As pointed out by EASA in its Concept Paper on Medical Aspects of D&A testing, such tests have a high rate of false positives, especially for drugs, and each testing method has both advantages & disadvantages. This means that reliable random testing for drugs is a complicated, error-prone and costly matter. This is not reflected in the Concept Paper on recommendation 3(a). As at present there is no reliable practicable *drug* testing regime available, ECA at this stage does not support such testing, until reliable and practicable methods have been developed (see also ECA Position paper referenced below).
- ECA welcomes the decision to carry out a full Impact Assessment on random testing, to determine whether random testing is an *effective* and *efficient* means to *prevent* D&A use in aviation. ECA considers that organisations represented at the EASA workshop should be consulted on the specification and scope of this Impact Assessment before it is conducted.
- EASA proposes to follow the approach chosen in the EASA Opinion 03-2014 for ATM on 'problematic use of psychoactive substances'. ECA considers this approach to be inadequate. While the proposed AMC and GM provisions for training and educational material may be useful as guidance, the IR, AMC and GM provisions on ATM provider *responsibilities* are far too unspecific and do not reflect a number of key requirements (see below). While this approach *may* work in the ATM world, where a relatively limited number of organisations are concerned and most of which are largely in public ownership – this 'performance-based' approach is inadequate for airlines with a multitude of operators of different sizes, business models and safety cultures. Hence, ECA does not support EASA's suggestion to consider this approach.

- In case the Impact Assessment comes to the conclusion that random testing is an effective and efficient means to prevent D&A use in aviation and where a company has determined an increased risk of abuse (e.g. after related incidents in that company), a number of key requirements must be met as a minimum standard (for details see ECA Position Paper referenced below, list on p. 2-3). This is to ensure reliability, consistency, equal treatment, respectful treatment of staff, and to minimize potential negative repercussions on flight operations and flight safety. These key requirements must be laid out explicitly in AMC and/or GM, and cannot be left to the discretion of each operator. ECA experts should be involved in the drafting of the related AMC / GM.
- If testing programmes are carried out, they should cover all aviation personnel who perform safety sensitive functions (in line with ICAO Doc. 9654-AN/945), i.e. go beyond pilots and cabin crew.
- ECA position paper "Problematic Substance Use Prevention in Aviation: Testing & Peer Support Programmes" (Nov. 2015) forms integral part of this submission.

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