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Rulemaking interpretation on “Maintenance release of aircraft not covered by the Basic Regulation”

Aircraft affected:

- Aircraft carrying out military, customs, police, search and rescue, fire fighting, coastguard or similar activities or services.
- Aircraft listed in Annex II of the Basic Regulation.
- Aircraft registered in a third country and not being used by a Community operator.
- Aircraft for which the regulatory safety oversight has been transferred to a third country and which are not used by a Community operator.

These aircraft are excluded from complying with the airworthiness requirements contained in the Basic Regulation (EC (No) 216/2008) and in its Implementing Rules for airworthiness (EC (No) 2042/2003 and EU (No) 748/2012).

Current practices identified on aircraft listed above:

The following practices have been identified during the audits performed by EASA (both in Part-145 organisations directly approved by EASA and in Part-145 organisations approved by EU Member States):

- **PRACTICE 1:**
 - The EASA Part-145 organisation performs and releases the maintenance in accordance with EASA Part-145 (release statement referring to 145.A.50), signing under the EASA approval number.
 - **The position of EASA is that such release is issued in violation of EASA Part-145 and is not a legally valid release. Such release is issued outside the privileges granted by the EASA Part-145 approval. Appropriate findings should be raised by the Competent Authority (EASA or EU Member State) against such practice.**
- **PRACTICE 2:**
 - The EASA Part-145 organisation receives, under the national rules of the State of Registry, an approval (including an approval number). This is a separate approval to the EASA Part-145 approval already held by the organisation.

- The EASA Part-145 organisation performs and releases the maintenance following the regulation of the State of Registry (release statement referring to the aviation code of the State of Registry, and not to 145.A.50), signing under the approval number issued by such State (not under the EASA approval number).
- **EASA finds no reasons to object to this practice, since it falls completely under national responsibility, produces no effects on the EASA system and does not violate EU law.**
- **PRACTICE 3:**
 - The national law of the State of Registry responsible for the aircraft clearly states that the release can be performed by an EASA Part-145 organisation referring to the EASA Part-145 approval number (they don't issue their own approval number).
 - The EASA Part-145 organisation performs and releases the maintenance following the regulation of the State of Registry (release statement referring to the aviation code of the State of Registry, and not to 145.A.50), but they still refer to the EASA approval number.
 - **EASA finds no reason to object to this practice as long as the national law allows it and the release document clearly states, in order to avoid any misunderstandings, that it is a release made under the State national law and not a release under EASA Part-145. Once these conditions are met, this practice falls completely under national responsibility, produces no effects on the EASA system and does not violate EU law.**

Why an EASA Part-145 organisation cannot issue an EASA Part-145 (145.A.50) release (Practice 1) for aircraft not covered by the Basic Regulation:

- Those aircraft identified above are excluded from complying with the airworthiness requirements contained in the Basic Regulation (EC (No) 216/2008) and in its Implementing Rules for airworthiness (EC (No) 2042/2003 and EU (No) 748/2012). As a consequence, they are subject to the airworthiness requirements established in the national regulations of the corresponding State.
- Since the competent authority responsible for the EASA Part-145 approval does not have any legal power, under the EU system, to approve maintenance procedures for aircraft not covered by the Basic Regulation, nor to perform the oversight of such maintenance activities, it follows that the MOE (Maintenance Organisation Exposition) of the approved EASA Part-145 organisation can only contain a scope of work and procedures relative to aircraft covered by the Basic Regulation.
- Issuing an EASA Part-145 (145.A.50) release is the last step of a chain of airworthiness requirements under the EU legal system and it is a privilege

contained in 145.A.75. This privilege is limited to maintenance performed on aircraft for which the organisation is approved and always in accordance with the approved maintenance organisation exposition (MOE).

- It follows from here that the EASA Part-145 (145.A.50) release can only be performed on aircraft covered by the Basic Regulation. Any other aircraft can only be released under the national regulations and procedures of the corresponding State, which means that such maintenance releases are issued completely in the national domain, they are not EU/EASA releases and are not issued in accordance with EU law. EASA therefore has no legal competence or responsibility over them.

Approval of the Maintenance Organisation Exposition (MOE) of the EASA Part-145 organisation:

The MOE is the document where the EASA Part-145 organisation describes the structure, facilities, resources and procedures applicable to its EASA Part-145 approval. Since the competent authority (EASA or Member State) responsible for the Part-145 approval does not have any legal power to approve procedures for aircraft outside the Basic Regulation and, at the same time, it is responsible for the oversight of the activities performed in accordance with the MOE, **such competent authority must make sure that the MOE clearly states that its content only applies to aircraft covered by the Basic Regulation. This could be achieved, for example, by having such statement included in the Statement of the Accountable Manager (refer to 145.A.70(a)1).**



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