



2026/446

24.2.2026

COMMISSION DELEGATED REGULATION (EU) 2026/446

of 12 December 2025

supplementing Regulation (EU) 2018/1139 of the European Parliament and of the Council by laying down rules on the organisation and composition of the Board of Appeal of the European Union Aviation Safety Agency, on its members and on the rules and procedures for voting, and repealing Commission Regulation (EC) No 104/2004

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91⁽¹⁾, and in particular Articles 105(1) and 106(6) thereof,

Whereas:

- (1) Regulation (EU) 2018/1139 enables the European Union Aviation Safety Agency ('the Agency') to issue certificates, register declarations, conduct investigation of undertakings, and levy the payment of applicable fees and charges. It also establishes a Board of Appeal responsible for deciding on appeals against decisions taken by the Agency regarding those matters.
- (2) The Board of Appeal is also responsible for deciding on appeals against the individual decisions of the Agency referred to in Article 14(6) and (7) of Regulation (EU) 2023/2405 of the European Parliament and of the Council⁽²⁾.
- (3) The Board of Appeal should examine matters for which a high level of general technical experience in the fields of certification, oversight, enforcement and environmental performance of flights is mainly required. Therefore, Board members should be adequately qualified. It is also necessary that the Board of Appeal be chaired by a legally qualified member with recognised experience in Union law and public international law, so that quality and consistency of the decisions of the Board of Appeal are ensured.
- (4) In order to ensure that it can operate smoothly and efficiently, the Board of Appeal should consist of a Chairperson and two other members. Where the Board of Appeal considers that the nature of the appeal so requires (e.g., particularly complex appeal case), it should be allowed to call up two further members from the alternates.
- (5) The Chairperson should ensure that technical, legal and procedural expertise and/or experience is ensured for each appeal proceedings. The Chairperson, where the nature of the appeal proceedings so requires, should be able to replace a member by an alternate if such a replacement is justified by the need to rely during the appeal proceedings on the specific legal, procedural or technical expertise of that alternate.
- (6) To facilitate the handling and disposal of appeals, a rapporteur should be designated for each case. The rapporteur should be at least responsible for preparing communications with the parties and for drafting decisions.
- (7) To ensure a smooth and efficient operation, the Board of Appeal should be assisted by a secretariat, referred to as the registry, in the exercise of its duties.

⁽¹⁾ OJ L 212, 22.8.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/1139/oj>.

⁽²⁾ Regulation (EU) 2023/2405 of the European Parliament and of the Council of 18 October 2023 on ensuring a level playing field for sustainable air transport (ReFuelEU Aviation) (OJ L, 2023/2405, 31.10.2023, ELI: <http://data.europa.eu/eli/reg/2023/2405/oj>).

- (8) Commission Regulation (EC) No 104/2004 ⁽³⁾ lays down the rules on the organisation and composition of the Board of Appeal of the Agency. However, provisions of that Regulation should be adjusted to reflect the extended mandate of the Agency under both Regulation (EU) 2018/1139 and Regulation (EU) 2023/2405. In particular, the list of disciplines in the Annex to Regulation (EC) No 104/2004 should be adapted to cover the disciplines or the areas under the scope of the Agency where appeals are possible. In view of the number of the necessary changes and the new legal basis, a new act should be adopted instead of amending Regulation (EC) No 104/2004.
- (9) Regulation (EC) No 104/2004 should therefore be repealed,

HAS ADOPTED THIS REGULATION:

Article 1

Composition of the Board of Appeal and qualifications of the members

1. The Board of Appeal shall consist of two technically qualified members and one legally qualified member who shall be the Chairperson.
2. The technically qualified members shall have alternates. The technically qualified members and their alternates shall hold a university degree or an equivalent qualification and shall have substantial professional experience in the field of certification, oversight, enforcement or environmental performance of flights, in one or more of the disciplines or areas set out in the Annex.
3. The legally qualified member shall have an alternate, who will act as the alternate Chairperson. Both the legally qualified member and their alternate shall be a graduate in law and qualified by recognised experience in Union and public international law.
4. Where the Board of Appeal considers that the nature of the appeal so requires, it may call up to two further members from the alternates to act as additional members with voting rights for that case. The Board of Appeal shall then consist of four or five members.

Article 2

Powers of the Chairperson

1. The Board of Appeal shall be convened by its Chairperson. The Chairperson shall ensure the quality and consistency of the Board of Appeal's decisions.
2. The Chairperson shall assign the examination of an appeal to one of the Board's members as rapporteur.
3. Where the nature of the appeal proceedings so requires, the Chairperson may decide to replace a member by an alternate. The replacement shall be justified by the need to rely during the appeal proceedings on the specific legal, procedural or technical expertise of that alternate.

Article 3

Role of the rapporteur

1. The rapporteur shall carry out a preliminary study of the appeal.
2. The rapporteur shall ensure a close consultation and exchange of information with the parties to the proceedings. For that purpose, the rapporteur shall perform the following tasks:
 - (a) prepare communications to the parties, under the direction of the Chairperson;
 - (b) communicate to the parties to the proceedings any deficiencies to be remedied by them;

⁽³⁾ Commission Regulation (EC) No 104/2004 of 22 January 2004 laying down rules on the organisation and composition of the Board of Appeal of the European Aviation Safety Agency (OJ L 16, 23.1.2004, p. 20, ELI: <http://data.europa.eu/eli/reg/2004/104/oj>).

- (c) set appropriate procedural time limits in accordance with Article 112 of Regulation (EU) 2018/1139;
 - (d) sign all communications on behalf of the Board of Appeal.
3. The rapporteur shall prepare internal meetings of the Board of Appeal and the oral proceedings.
 4. The rapporteur shall draft the decision of the Board of Appeal.

Article 4

Registry

1. The Board of Appeal shall be assisted by a registry. Personnel in charge of the registry shall not participate in any Agency proceedings relating to decisions that can be appealed against and shall exercise their duties under the supervision and instructions of the Chairperson.
2. The personnel of the registry shall assist the Board of Appeal in the exercise of its duties and in particular with the following tasks:
 - (a) registration of appeals and assignment of a number to all appeals registered;
 - (b) communicating to the Board of Appeal and to all parties the information referred to in point (a);
 - (c) receipt, transmission and safe storage of all documents relevant to the appeal proceedings;
 - (d) communication with the parties and provision of support functions relating to the proceedings;
 - (e) informing the parties about the member composition of the Board that will hear the case, and without delay, about any changes to that composition;
 - (f) verifying that time-limits and other formal conditions for filing appeals are respected and notifying the Chairperson thereof;
 - (g) where necessary, drawing up the minutes of oral proceedings.

Article 5

Deliberations

1. Only members of the Board of Appeal shall participate in the deliberations. The Chairperson may, however, authorise other persons such as personnel of the registry or interpreters to attend.
2. Deliberations shall be secret.
3. During the deliberations between members of the Board of Appeal, the opinion of the rapporteur shall be heard first and that of the Chairperson last.

Article 6

Voting conditions and order

1. Decisions of the Board of Appeal shall be taken by a majority of its members. In the event of a tie, the vote of the Chairperson shall be decisive.
2. Votes shall be taken in the sequence provided for in Article 5(3). Abstentions shall not be permitted.

Article 7

Repeal

Regulation (EC) No 104/2004 is repealed.

*Article 8***Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 12 December 2025.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

List of disciplines and areas referred to in Article 1(2)

- (a) technical disciplines:
 - (i) flight/performance;
 - (ii) structure;
 - (iii) hydromechanical systems;
 - (iv) rotor/transmission systems;
 - (v) electrical/High Intensity Radiated Fields/lightning;
 - (vi) avionics/software/cybersecurity;
 - (vii) powerplant installation/fuel (energy) systems;
 - (viii) cabin safety/environmental systems;
 - (ix) noise/emissions.
 - (x) continued airworthiness/airworthiness directives as applied to the following products, parts, non-installed equipment and equipment to control unmanned aircraft remotely:
 - (1) aeroplanes
 - (2) rotorcraft;
 - (3) balloons/airships/gliders;
 - (4) Unmanned Aircraft Systems;
 - (5) Vertical Take Off and Landing (VTOL) capable aircraft;
 - (6) engines/auxiliary power units (APUs)/propellers;
- (b) approvals of and quality systems or management systems associated with the following:
 - (i) design organisations;
 - (ii) production organisations;
 - (iii) maintenance organisations;
 - (iv) continuing airworthiness management organisations;
 - (v) training organisations and aero-medical centres;
 - (vi) flight simulation training devices and organisations involved in their operation;
 - (vii) safety-related aerodrome equipment;
 - (viii) Air Traffic Management/Air Navigation Services (ATM/ANS) systems and ATM/ANS constituents and organisations involved in their design, production and maintenance;
 - (ix) organisations involved in the provision of ATM/ANS services;
 - (x) air operators.
- (c) evaluation of environmental performance of flights in the following fields:
 - (i) sustainability/environment in aviation;
 - (ii) sustainable aviation fuels (SAF);
 - (iii) carbon offsetting and market-based measures;
 - (iv) environmental, social, and governance (ESG) reporting.