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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency [1], as last amended by Commission Regulation (EC) No 1701/2003 [2], and in particular Article 31(3) and Article 32(5) thereof,

Whereas:

(1) Regulation (EC) No 1592/2002 gives power to the European Aviation Safety Agency (the Agency) to take individual decisions in the fields of airworthiness and environmental certification, investigation of undertakings, payment of applicable fees and charges; it also establishes a Board of Appeal before which such individual decisions of the Agency may be appealed against.

(2) Articles 31 and 32 of Regulation (EC) No 1592/2002 empower the Commission to adopt detailed rules concerning the number of boards of appeal, the work allocation, the qualifications required for the members of each board and the powers of individual members in the preparatory phase of the decisions as well as the voting conditions.

(3) It is expected that the number of appeals will be quite limited at least as long as Regulation (EC) No 1592/2002 is not amended to extend its scope to flight operations and crew licensing.

(4) The Board will examine matters for which a high level general technical experience in the domain of certification is mainly required; it is nevertheless necessary that the Board is chaired by a legally qualified member with recognised experience in Community and international law. This member should be the Chairperson.

(5) To facilitate the handling and disposal of appeals, a rapporteur should be designated for each case, who should be responsible *inter alia* for preparing communications with the parties and for drafting decisions.

(6) To ensure the smooth and efficient operating of the Board of Appeal, a registry should be attached to it, the personnel of which will be in charge of all support functions involving no legal or technical discretion.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Committee established under Article 54(3) of Regulation (EC) No 1592/2002,

HAS ADOPTED THIS REGULATION:

Article 1

The number of boards

For the purpose of deciding on appeals from the decisions referred to in Article 35 of Regulation (EC) No 1592/2002 a Board of Appeal is established.

Article 2

Qualifications of the members

1. The Board of Appeal shall consist of two technically qualified members and one legally qualified member which shall be the Chairperson of the Board.

2. 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, in one or more of the disciplines set out in the Annex to this Regulation.

3. The legally qualified member and his alternate shall be a graduate in law and qualified by recognised experience in Community and international law.

Article 3

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's decisions.

2. The Chairperson shall assign the examination of an appeal to one of the Board's members as rapporteur.

Article 4

Role of the rapporteurs

1. The rapporteur shall carry out a preliminary study of the appeal.

[1] OJ L 240, 7.9.2002, p. 1.
[2] OJ L 243, 27.9.2003, p. 5.