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Subject:	Amended proposal for a regulation of the European parliament and the Council on the implementation of the Single European Sky (recast) -Four column document

Delegations will find in annex I the four column document with the positions of the European parliament and the Council.

A first draft classification of issues has been prepared by the Presidency, according to the following scheme:

- "A" is an editorial issue;
- "B" is a technical issue that could be resolved in the technical meetings; and
- "C" is a major policy question.

The draft classification for recitals will be developed later.

Amended proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the implementation of the Single European Sky
(recast)

(Text with EEA relevance)

	Commission proposal 10840/20	EP amendments (updated first reading) PE662.138v01-00	Council document 9162/21 ADD1	Category
1.	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments, Having regard to the opinion of the European Economic and Social Committee ¹ , Having regard to the opinion of the Committee of the Regions ² , Acting in accordance with the ordinary legislative procedure			

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	OJ C [...], [...], p. [...]. OJ C [...], [...], p. [...].			
2.	Whereas:			
3.	<p>(1) Regulation (EC) No 549/2004 of the European Parliament and of the Council¹, Regulation (EC) No 550/2004 of the European Parliament and of the Council² and Regulation (EC) No 551/2004 of the European Parliament and of the Council³ have been substantially amended. Since further amendments are to be made, those Regulations should be recast in the interests of clarity.</p> <p>1 Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) (OJ L 96, 31.3.2004, p. 1).</p> <p>2 Regulation (EC) No 550/2004 of</p>	<p>(1) Regulation (EC) No 549/2004 of the European Parliament and of the Council¹, Regulation (EC) No 550/2004 of the European Parliament and of the Council² and Regulation (EC) No 551/2004 of the European Parliament and of the Council³ have been substantially amended. Since further amendments are to be made <i>in order to ensure that airspace policy is future-proof and promotes resilience, efficiency and competitiveness in the sector</i>, those Regulations should be recast in the interests of clarity.</p> <p>1 Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation</p>	<p>(1) Regulation (EC) No 549/2004 of the European Parliament and of the Council¹, Regulation (EC) No 550/2004 of the European Parliament and of the Council² and Regulation (EC) No 551/2004 of the European Parliament and of the Council³ have been substantially amended. Since further amendments are to be made, those Regulations should be recast in the interests of clarity.</p> <p>1 Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) (OJ L 96, 31.3.2004, p. 1).</p> <p>2 Regulation (EC) No 550/2004 of the</p>	

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	<p>the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation) (OJ L 96, 31.3.2004, p. 10).</p> <p>3 Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation) (OJ L 96, 31.3.2004, p. 20).</p>	<p>of the single European sky (the framework Regulation) (OJ L 96, 31.3.2004, p. 1).</p> <p>2 Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation) (OJ L 96, 31.3.2004, p. 10).</p> <p>3 Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation) (OJ L 96, 31.3.2004, p. 20).</p>	<p>European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation) (OJ L 96, 31.3.2004, p. 10).</p> <p>3 Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation) (OJ L 96, 31.3.2004, p. 20).</p>	
4.	<p>(2) The adoption by the European Parliament and the Council of the first package of the single European sky legislation, namely, Regulation (EC) No 549/2004 , Regulation (EC) No 550/2004 , Regulation (EC) No 551/2004 , and Regulation (EC) No 552/2004 of</p>		<p>(2) The adoption by the European Parliament and the Council of the first package of the single European sky legislation, namely, Regulation (EC) No 549/2004 , Regulation (EC) No 550/2004 , Regulation (EC) No 551/2004 , and Regulation (EC) No 552/2004 of the European</p>	

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	<p>the European Parliament and of the Council⁴, laid down a firm legal basis for a seamless, interoperable and safe air traffic management (ATM) system. The adoption of the second package, namely, Regulation (EC) No 1070/2009 of the European Parliament and of the Council⁵, further strengthened the Single European Sky initiative by introducing the performance scheme and the Network Manager concepts to further improve the performance of the European ATM network. Regulation (EC) No 552/2004 has been repealed by Regulation (EU) 2018/1139 of the European Parliament and of the Council⁶, as the rules necessary for interoperability of ATM systems, constituents and procedures have been incorporated in that Regulation.</p>		<p>Parliament and of the Council⁴, laid down a firm legal basis for a seamless, interoperable and safe air traffic management (ATM) system. The adoption of the second package, namely, Regulation (EC) No 1070/2009 of the European Parliament and of the Council⁵, further strengthened the Single European Sky initiative by introducing the performance scheme and the Network Manager concepts to further improve the performance of the European ATM network. Regulation (EC) No 552/2004 has been repealed by Regulation (EU) 2018/1139 of the European Parliament and of the Council⁶, as the rules necessary for interoperability of ATM systems, constituents and procedures have been incorporated in that Regulation.</p>	

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	<p>4 Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European air traffic management network (the interoperability Regulation) (OJ L 96, 31.3.2004, p. 26).</p> <p>5 Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004 and (EC) No 552/2004 in order to improve the performance and sustainability of the European aviation system (OJ L 300, 14.11.2009, p. 34).</p> <p>6 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</p>		<p>4 Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European air traffic management network (the interoperability Regulation) (OJ L 96, 31.3.2004, p. 26).</p> <p>5 Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004 and (EC) No 552/2004 in order to improve the performance and sustainability of the European aviation system (OJ L 300, 14.11.2009, p. 34).</p> <p>6 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</p>	

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	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 (OJ L 212, 22.8.2018, p. 1).		the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1).	
5.	(3) In order to take into account the changes introduced in Regulation (EU) 2018/1139, it is necessary to align the content of this Regulation with that of Regulation (EU) 2018/1139.		(3) In order to take into account the changes introduced in Regulation (EU) 2018/1139, it is necessary to align the content of this Regulation with that of Regulation (EU) 2018/1139 and, in parallel, to amend that latter Regulation.	
6.		<i>(3a) In accordance with the 1944 Chicago Convention, States are responsible for managing and providing, whether directly or by delegation, air traffic services. The management of European airspace on the basis of the principles laid down in this Convention has always delivered the required levels of safety and allowed the right measures and policies to be adopted, whether in air traffic management at</i>		

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		<i>European level or in adopting measures to significantly reduce congestion and delays, thus cutting operating costs. It has never hampered the safety or fluidity of European air traffic nor impeded its efficiency.</i>		
7.	(4)In Article 1 of the 1944 Chicago Convention on Civil Aviation, the Contracting States recognise that ‘every State has complete and exclusive sovereignty over the airspace above its territory’. It is within the framework of such sovereignty that the Member States of the Union, subject to applicable international conventions, exercise the powers of a public authority when controlling air traffic.		(4) In Article 1 of the 1944 Chicago Convention on Civil Aviation, the Contracting States recognise that ‘every State has complete and exclusive sovereignty over the airspace above its territory’. It is within the framework of such sovereignty that the Member States of the Union, subject to applicable international conventions, exercise the powers of a public authority when controlling air traffic.	
8.			(4a) This Regulation should not affect Member States rights and responsibilities under the Chicago Convention.	

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9.	(5) Implementation of the common transport policy requires an efficient air transport system allowing the safe, regular and sustainable operation of air transport services, optimising capacity and facilitating the free movement of goods, persons and services.		(5) Implementation of the common transport policy requires an efficient air transport system allowing the safe, regular and sustainable operation of air transport services, optimising use of airspace and capacity, contributing to aviation sustainability and facilitating the free movement of goods, persons and services.	
10.		<i>(5a) In order to ensure that the expected increase in air traffic does not cause or exacerbate congestion in European airspace, with all the economic, environmental and security costs that that would entail, fragmentation of that airspace should be urgently remedied by implementing this Regulation as swiftly as possible.</i>		

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11.		<i>(5b) The implementation of the Single European Sky would have a positive impact in terms of growth, employment and competitiveness in Europe, in particular by increasing demand for jobs requiring advanced qualifications.</i>		
12.	(6) The simultaneous pursuit of the goals of augmentation of air traffic safety standards and improvement of the overall performance of ATM and air navigation services (ANS) for general air traffic in Europe requires that the human factor be taken into account. Therefore, the Member States should uphold ‘just culture’ principles. The opinions and recommendations of the Expert Group on the Human Dimension ⁷ of the Single European Sky should be considered and taken into account.		(6) The simultaneous pursuit of the goals of augmentation of air traffic safety standards and improvement of the overall performance of ATM and air navigation services (ANS) for general air traffic in Europe requires that the human factor be taken into account. Therefore, the Member States should uphold ‘just culture’ principles. The opinions and recommendations of the Expert Group on the Human Dimension ⁹ of the Single European Sky should be considered and taken into account.	

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	7 C(2017) 7518 final			
13.		<i>(6a) At Union level, a European Green Deal has been announced. It includes a climate neutrality goal to be achieved by 2050 and the environmental principle “do no significant harm”. Regulation (EU) 2021/ ... of the European Parliament and of the Council (‘European Climate Law’) has been adopted in parallel. It includes concrete emission reduction targets as milestones on a path towards climate neutrality, A “Sustainable and Smart Mobility Strategy” was presented on 9th December 2020, with a clear commitment to the urgent decarbonisation of the aviation sector, and the creation of zero-emission airports as one of its flagships.</i>		
14.		<i>(6b) The design of future air traffic management needs comprehensive action in avoiding contrails and climate-impacting emissions.</i>		

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15.		<i>(6c) The Single European Sky is intended as a system that will continuously contribute to the climate neutrality goal with the goal of achieving a reduction of climate impacting emissions by up to 10% in accordance with the Sustainable and Smart Mobility Strategy, which should be understood on an aggregated basis. Given the important role that the transport sector, including aviation, is to play in fulfilling the climate targets established by the European Climate Law, achieving that reduction of climate impacting emissions should take precedence over the other possible benefits of a less fragmented airspace and a more integrated air traffic management.</i>		
16.		<i>(6d) The increase in fuel efficiency and reduced emissions due to optimised routes for individual flights should be seen as an enabler of a more rational use of the air space, allowing for more</i>		

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		<i>options in terms of direct flights instead of emissions-boosting stop-overs. A more efficient use of the airspace would also provide an enhanced choice in terms of slot timing, and a generally reduced take-off and departure schedule, with benefits both to the working conditions of crews and airport staff, as well as to the quality of life of citizens living in the area impacted by the airport activity, for instance by its noise pollution.</i>		
17.	(7) Improvements in the environmental performance of ATM also directly contribute to the achievement of the objectives contained in the Paris Agreement and in the Commission's European Green Deal, in particular through the reduction of aviation emissions.	(7)Improvements in the environmental and climate performance of ATM must be designed and combined to directly contribute in an aggregated manner to the achievement of the objectives contained in the Paris Agreement and in the Commission's European Green Deal, in particular through the reduction of aviation emissions. The European Commission should continuously monitor and	(7) Improvements in the environmental performance of ATM also contribute to the achievement of the objectives contained in the Paris Agreement, in the Communication from the Commission on the European Green Deal, Council conclusions on the Commission's Sustainable and Smart Mobility Strategy and in the Digital Agenda for Europe in particular through the reduction of	

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		<i>report periodically on the overall impact of ATM performance in terms of CO2 and non-CO2 emissions' reduction. ANSPs have limited area for action on this topic, ATM efficiency cannot in itself ensure the environmental efficiency of the aviation sector. The impact of other aviation stakeholders on ATM performance should be also monitored.</i>	aviation emissions.	
18.			(7a) Airspace is a common resource for all categories of users that needs to be used flexibly by all of them, ensuring fairness and transparency whilst taking into account security and defence needs of Member States and their commitments within international organisations.	

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19.	(8) In 2004, the Member States have adopted a general statement on military issues related to the Single European Sky. According to this statement, Member States should, in particular, enhance civil-military cooperation and, if and to the extent deemed necessary by all Member States concerned, facilitate cooperation between their armed forces in all matters of air traffic management.		<p>(8) In 2004, the Member States have adopted a general statement on military issues related to the Single European Sky⁸, which they have reiterated. According to that statement, Member States should, in particular, enhance civil-military cooperation and, if and to the extent deemed necessary by all Member States concerned, facilitate cooperation between their armed forces in all matters of air traffic management.</p> <p>8 See OJ L 96, 31.03.2004, p. 9.</p>	
20.	(9) Decisions relating to the content, scope or carrying out of military operations and training do not fall within the sphere of competence of the Union under Article 100(2) of the Treaty on the Functioning of the European Union.		(9) Decisions relating to the content, scope or carrying out of military operations and training do not fall within the sphere of competence of the Union under Article 100(2) of the Treaty on the Functioning of the European Union.	

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21.		<i>(9a) Airspace is a common resource for all categories of users and should be used flexibly by all of them in a fair and transparent manner, with due account being taken of Member States' security and defence needs and of the undertakings that they have made under the aegis of international organisations.</i>	Recital 7a	
22.			(9a) Member States, together with third countries where relevant, may establish functional airspace blocks to develop better cooperation and coordination with a view to fostering performance of the air traffic management network within the Single European Sky and a reduced environmental impact.	
23.	(10) To ensure the consistent and sound oversight of service provision across Europe, the national supervisory authorities should be guaranteed sufficient independence and resources. This	(10) To ensure the consistent and sound oversight of service provision across Europe, the national supervisory authorities should be guaranteed <i>budgetary and financial</i> independence and	(10) Member States should nominate a national supervisory authority in order to assume the tasks assigned to such authority under this Regulation. To ensure the consistent and sound oversight of	

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	should not prevent a national supervisory authority from being part of a regulatory authority competent for several regulated sectors if that regulatory authority fulfils the independence requirements, or from being joined in terms of its organisation with the national competition authority.	<i>sufficient financial and human</i> resources. This should not prevent a national supervisory authority from being part of a regulatory authority competent for several regulated sectors if that regulatory authority fulfils the independence requirements, or from being joined in terms of its organisation with the national competition authority.	service provision across Europe, the national supervisory authorities should be guaranteed sufficient independence and resources. In particular, the financing of those authorities should guarantee their independence and should allow them to operate in accordance with the principles of fairness, transparency, non-discrimination and proportionality. Staff of national supervisory authorities should act independently, in particular by avoiding conflicts of interest between air navigation service provision and the execution of their tasks. This should not prevent a national supervisory authority from being part of a regulatory authority competent for several regulated sectors if that regulatory authority fulfils the independence requirements, or from being joined in terms of its organisation in particular with the	

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			national competent authority designated pursuant to Regulation (EU) 2018/1139 or the national competition authority.	
24.	(11) The financing of the national supervisory authorities should guarantee their independence, and should allow them to operate in accordance with the principles of fairness, transparency, non-discrimination and proportionality. Appropriate procedures for appointing staff should contribute to guaranteeing the independence of the national supervisory authorities, ensuring in particular that the appointment of persons in charge of strategic decisions is made by a public authority which does not directly exert ownership rights over air navigation service providers.	(11) The public financing of the national supervisory authorities should guarantee their independence and should allow them to operate in accordance with the principles of fairness, transparency, non-discrimination and proportionality. Appropriate procedures and criteria for appointing competent staff should contribute to guaranteeing the independence of the national supervisory authorities, ensuring in particular that the appointment of persons in charge of strategic decisions is made by a public authority which does not directly exert ownership rights over air navigation service providers and which ensures transparency of the decision-making process .	(11) [...]	

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25.	(12) National supervisory authorities have a key role to play in the implementation of the Single European Sky and they should therefore cooperate with each other in order to enable the exchange of information on their work and decision-making principles, best practices and procedures as well as with regard to the application of this Regulation and to develop a common approach, including through enhanced cooperation at regional level. This cooperation should take place on a regular basis.	(12) National supervisory authorities have a key role to play in the implementation of the Single European Sky and they should therefore cooperate with each other in order to enable the exchange of information on their work and decision-making principles, best practices and procedures as well as with regard to the application of this Regulation and to develop a common approach, including through enhanced cooperation at regional level. This cooperation should take place on a regular basis <i>through the European Central Repository referred to in Article 8 of Regulation (EU) No 376/2014 of the European Parliament and of the Council⁹.</i> <i>9 Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the</i>	(12) National supervisory authorities have a key role to play in the implementation of the Single European Sky and they should therefore cooperate with each other in order to enable the exchange of information on their work and decision making principles, best practices and procedures as well as with regard to the application of this Regulation and to develop a common approach, including through enhanced cooperation at regional level. This cooperation should take place on a regular basis.	

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		<i>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).</i>		
26.	(13) The cooperation between air traffic service providers is an important tool for improving the performance of the European ATM system and should be encouraged. Member States should be able to set up cooperation mechanisms not limited to predefined forms of cooperation and geographical areas.		(13) [...] (moved to recital 16c)	
27.	(14) The safety certification and safety oversight of air navigation service providers are conducted by the national competent authorities	(14) The safety certification and safety oversight of air navigation service providers are conducted by the national competent authorities or by	(14) An air navigation service provider should be able to offer services in the Union under non-discriminatory conditions where it holds a	

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	or by the European Union Aviation Safety Agency (the Agency), in accordance with the requirements and processes laid down in Regulation (EU) 2018/1139. Additional requirements related to financial robustness, liability and insurance cover are necessary for the provision of air navigation services and should be subject to an economic certificate. An air navigation service provider should only be able to offer services in the Union where it holds both a safety certificate and the economic certificate.	the European Union Aviation Safety Agency (the Agency), in accordance with the requirements and processes laid down in Regulation (EU) 2018/1139. Additional requirements related to financial robustness, liability and insurance cover are necessary for the provision of air navigation services and should be subject to an economic certificate. An air navigation service provider should only be able to offer services in the Union where it holds both a safety certificate and the economic certificate. <i>This requirement should not apply to military providers, but Member States should ensure that such providers comply with the common requirements to the maximum extent possible.</i>	certificate or a declaration pursuant to Article 41 of Regulation (EU) 2018/1139.	
28.			(14a) Pursuant to Article 2, paragraph 3, c), of Regulation (EU) 2018/1139, that Regulation, including the certification requirements laid down in its	

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			Article 41, does not apply to ATM/ANS that are provided or made available by the military. Accordingly, Member States should also be authorised to allow the provision of such air navigation services in all or part of the airspace under their responsibility without certification and/or application of all or part of this Regulation. In such cases, the Member State concerned may in particular be able to designate the military service providers concerned to provide air traffic services or meteorological services (MET) in accordance with this Regulation.	
29.			(14b) This Regulation does not require the certification of signals provided by Global Navigation Satellite Systems (GNSS).	
30.	(15) There should be no discrimination between airspace users as to the provision of		(15) There should be no discrimination between airspace users as to the provision of	

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	equivalent air navigation services.		equivalent air navigation services.	

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31.		<i>(15a) Specific mechanisms should be put in place in order to ensure that air-based and ground-based investment projects relating to the ATM Master Plan are delivered in a coordinated manner, making it possible for SESAR technologies to be deployed effectively and on time.</i>		
32.	(16) Air traffic services, provided on an exclusive basis, should be subject to designation and minimum public interest requirements.		(16) Air traffic services should be provided on an exclusive basis. Providers of such services should be subject to designation and public interest requirements with respect in particular to national security and defence as well as the location of their principal place of business and their ownership. In this respect, it should be taken into account that the provision of air traffic services, as envisaged by this Regulation, is connected with the exercise of the powers of a public authority, which are not of an economic nature and therefore	

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			not subject to the application of the Treaty rules on competition.	
33.			(16a) Member States should ensure that the designation of an air traffic service provider is not prevented by their national law on the grounds in particular that the service provider concerned has its principal place of business in another Member State or is owned by nationals of that Member State in case the application of such national law entails an unjustified restriction of the freedom to provide services or the freedom of establishment, which should be assessed on a case-by-case basis in the light of all relevant circumstances.	

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34.			(16b) On the basis of their analysis of safety considerations, Member States should be able to designate on an exclusive basis one or more MET providers in respect of all or part of the airspace under their responsibility, without the need to organise a call for tenders.	
35.			(16c) The cooperation between air navigation service providers is an important tool for improving the overall performance of the European ATM system and should be encouraged.	
36.	(17) Air traffic service providers or airport operators should have the choice to procure communication, navigation and surveillance services (CNS), aeronautical information services (AIS), air traffic data services (ADS), meteorological services (MET) or terminal air traffic services under market conditions, without prejudice to safety requirements,	(17) Air traffic service providers or airport operators should procure communication, navigation and surveillance services (CNS), aeronautical information services (AIS), air traffic data services (ADS), meteorological services (MET) or terminal air traffic services under market conditions, without prejudice to safety requirements, <i>unless they prove</i>	(17) On the basis of their analysis of safety considerations, Member States may allow air traffic service providers or, airport operators or a group of airport operators to procure communication, navigation and surveillance services (CNS), aeronautical information services (AIS), air traffic data services (ADS), MET, unless a single MET provider is designated by the	

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	where they find that such procurement enables cost-efficiency gains. The possibility to resort to such procurement is expected to allow for more flexibility and to promote innovation in services, without affecting the specific needs of the military regarding confidentiality, interoperability, system resilience, data access, and ATM security.	that such procurement <i>is to the detriment of</i> cost-efficiency gains, <i>working conditions and climate or environmental performance</i> . The procurement is expected to allow for more flexibility and to promote innovation in services, without affecting the specific needs of the military regarding confidentiality, interoperability, system resilience, data access, and ATM security.	Member State concerned, or terminal air traffic services for aerodrome and approach control. The possibility to resort to such procurement may allow for more flexibility and to promote innovation in services, without affecting safety and the specific needs, including of the military, regarding confidentiality, interoperability, system resilience, data access, and ATM security.	
37.	(18) Where terminal air traffic services are procured, they should not be subject to the charging scheme set out in this Regulation, nor to, Article 1(4) of Directive 2009/12/EC of the European Parliament and of the Council ¹⁰ , linked to the applicability of that scheme. <hr/> ¹⁰ Directive 2009/12/EC of the European Parliament and of the	(18) Procured terminal air traffic services should not be subject to the charging scheme set out in this Regulation, nor to, Article 1(4) of Directive 2009/12/EC of the European Parliament and of the Council ¹⁰ , linked to the applicability of that scheme. <hr/> ¹⁰ Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges (OJ	(18) Where MET or air traffic services for aerodrome control and approach control are procured, they should not be subject to the performance scheme set out in this Regulation.	

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	Council of 11 March 2009 on airport charges (OJ L 70, 14.3.2009, p. 11).	L 70, 14.3.2009, p. 11).		
38.	(19) The provision of <i>en route</i> air traffic services should be organisationally separated from the provision of CNS, AIS, ADS, MET and terminal air traffic services, including through the separation of accounts, in order to ensure transparency and avoid discrimination, cross-subsidisation and distortion of competition.	(19) The provision of en route air traffic services should be organisationally and functionally separated from the provision of CNS, AIS, ADS, MET and terminal air traffic services, including through the separation of accounts, in order to ensure transparency and avoid discrimination, cross-subsidisation and distortion of competition.	(19) [...]	
39.	(20) Where applicable, the procurement of air navigation services should be carried out in accordance with Directive 2014/24/EU of the European Parliament and of the Council ¹¹ and Directive 2014/25/EU of the European Parliament and of the Council ¹² . National supervisory authorities should ensure that procurement requirements for air navigation services are fulfilled.	(20) ■ The procurement of air navigation services should be carried out in accordance with Directive 2014/24/EU of the European Parliament and of the Council ¹¹ and Directive 2014/25/EU of the European Parliament and of the Council ¹² . National supervisory authorities should ensure that procurement requirements for air navigation services are fulfilled.	(20) Where applicable, the procurement of air navigation services should be carried out in accordance with Directive 2014/24/EU of the European Parliament and of the Council ¹¹ Directive 2014/25/EU of the European Parliament and of the Council ¹² unless otherwise provided under this Regulation, and with the principles of equal treatment, non-discrimination and	

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	<p>11 Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).</p> <p>12 Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).</p>	<p>11 Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).</p> <p>12 Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).</p>	<p>transparency as well as with the applicable provisions of the Treaty, in particular the Treaty rules on the freedom to provide services and the freedom of establishment.</p> <p>11 Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).</p> <p>12 Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).</p>	
40.	(21) The traffic management of unmanned aircraft requires the availability of common information services. In order to contain the costs of such traffic management, prices for common information	(21) <i>It is essential that unmanned aircraft operations are integrated in a way that ensures the safe and shared use of the European airspace by both unmanned and traditional aircraft operations.</i>	(21) The traffic management of unmanned aircraft requires the availability of common information services CIS. In order to contain the costs of such traffic management, prices for CIS	

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	services should be based on cost and a reasonable mark-up for profit, and should be subject to approval by national supervisory authorities. To enable the provision of the service, the required data should be made available by air navigation service providers.	The traffic management of unmanned aircraft <i>in an integrated manner</i> requires the availability of common information services <i>in order to create a common understanding of airspace activity in a given piece of airspace</i> . In order to contain the costs of such traffic management, prices for common information services should be based on cost and a reasonable mark-up for profit, and should be subject to approval by national supervisory authorities. To enable the provision of the service, the required data should be made available by air navigation service providers.	provided on an exclusive basis should be based on cost and a reasonable mark-up for profit, and should be subject to approval by national supervisory authorities. To enable the provision of the service, access to relevant operational data should be granted to CIS providers on fair, reasonable and non-discriminatory terms.	
41.		<i>(21a) The traffic management of unmanned aircraft is dependent on the availability of U-space services. Considering the vulnerability of the counterparty in the provision of U-space services, charging schemes should</i>	(21a) Availability of relevant operational data with respect to general air traffic is essential for enabling the flexible provision of air traffic data services, on cross-border and on Union-wide bases. Therefore, such data should be	

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		<i>pay utmost attention to safeguarding the affordability principle.</i>	made available to relevant stakeholders on fair, reasonable, and non-discriminatory terms. Accuracy of information including on airspace status and on specific air traffic situations and timely distribution of this information to civil and military controllers has a direct impact on the safety and efficiency of operations, including the environmental efficiency of flights. Timely access to up-to-date information on airspace status is essential for all parties wishing to take advantage of airspace structures made available when filing or re-filing their flight plans.	
42.	(22) The performance and charging schemes are intended to make air navigation services provided under conditions other than market conditions more cost-efficient and to promote better service quality and should, to this end, include relevant and appropriate incentives.	(22) The performance and charging schemes are intended to make air navigation services provided under conditions other than market conditions ■ cost-efficient and to promote better service quality <i>as well as a lower impact of aviation on climate and the environment.</i>	(22) The performance and charging schemes should ensure the efficient, sustainable and continuous operation of the European ATM system and are also intended to make air navigation services provided under conditions other than market	

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	In view of this objective, the performance and charging schemes should not cover services supplied under market conditions.	<i>Those performance and charging schemes</i> should, to this end, include relevant and appropriate incentives. In view of this objective, the performance and charging schemes should not cover services supplied under market conditions.	conditions more cost-efficient and to promote better service quality . To this end, they should include relevant and appropriate incentives. In view of this objective, the performance scheme should not cover services procured in accordance with this Regulation. The performance scheme should cover all air navigation services which a designated air traffic service provider provides or procures from other service providers, including when that service provider provides air navigation services and air traffic services.	
43.		<i>(22a) In order to promote better service quality, those performance and charging schemes should include relevant and appropriate outcome-based incentives. Financial incentives should be set with a view to encouraging better air navigation service</i>	(22a) A Performance Review Body (PRB) may be designated to advise and assist the Commission as well as the national supervisory authorities in the implementation of the performance and charging schemes.	

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		<i>performance in a balanced and symmetrical manner by rewarding or penalising actual performance in relation to binding performance targets. The evaluation of financial incentives should clearly focus on the effects attributable to air navigation service providers and should take due account of impacts stemming from the actions of other stakeholders.</i>		
44.	(23) To be most effective, the necessary oversight regarding the performance and charging schemes should be directed at designated air traffic service providers as such.		(23) [...]	
45.	(24) The responsibilities for the oversight in respect of the performance and charging schemes should be appropriately divided.		(24) [...]	
46.	(25) Given the cross border and network elements inherent in the provision of <i>en route</i> air navigation services and the fact that, as a	(25) Given the cross border and network elements inherent in the provision of <i>en route</i> air navigation services and the fact that, as a	(25) Given the cross border and network elements inherent in the provision of air navigation services <i>en-route</i> performance should be	

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	consequence, performance is notably to be assessed against Union-wide performance targets, a Union body should be in charge of the assessment and approval of the performance plans and performance targets for <i>en route</i> air navigation services, subject to judicial review by an appeal body and eventually by the Court of Justice. In order to ensure that the tasks be carried out with a high level of expertise and necessary independence, that Union body should be the Agency acting as Performance Review Body (PRB), functioning in accordance with the dedicated governance rules set out in Regulation (EU) 2018/1139. Given their knowledge of the local circumstances, necessary to assess terminal air navigation services, national supervisory authorities should be in charge of the assessment and approval of the	consequence, performance is notably to be assessed against Union-wide performance targets, a Union body should be in charge of the assessment and approval of the performance plans and performance targets for <i>en route</i> air navigation services, subject to judicial review by an appeal body and eventually by the Court of Justice. In order to ensure that the tasks be carried out with a high level of expertise and necessary independence, that Union body should be the Agency acting as Performance Review Body (PRB), functioning in accordance with the dedicated governance rules set out in <i>this</i> Regulation ■ . Given their knowledge of the local circumstances, necessary to assess terminal air navigation services, national supervisory authorities should be in charge of the assessment and approval of the	assessed against Union-wide performance targets.	

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	performance plans and performance targets for terminal air navigation services. The allocation of costs between <i>en route</i> and terminal air navigation services constitutes a single operation, relevant to both types of services, and should therefore be subject to the oversight of the Agency acting as PRB.	performance plans and performance targets for terminal air navigation services. The allocation of costs between <i>en route</i> and terminal air navigation services constitutes a single operation, relevant to both types of services, and should therefore be subject to the oversight of the Agency acting as PRB.		
47.		<i>(25a) The European Union Aviation Safety Agency acting as Performance Review Body (the “Agency acting as PRB”) should have a permanent structure, in order to guarantee that the tasks conferred upon the Agency acting as PRB are carried out with the required expertise and independence from public or private interests, and be able to rely on dedicated resources. A Regulatory Board for Performance Review should be established and a Director for</i>	<i>(25a)</i> Given their knowledge of the local circumstances, Member States and their national supervisory authorities should be in charge of preparing and adopting the draft performance plans and performance targets. Those plans should be based in particular on the input of the designated air traffic service provider(s) in respect of all the air navigation services which those service providers provide or procure. The Commission should be in charge of assessing those plans. The national supervisory	

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		<i>Performance Review should be appointed specifically in order to carry out the functions of the Agency acting as PRB. The Regulatory Board for Performance Review should act independently and should not seek, or follow, instructions or accept recommendations from a government of a Member State, from the Commission or from any other public or private entity.</i>	authorities should also be in charge of monitoring performance by air traffic service providers and of imposing corrective measures, where appropriate.	
48.		<i>(25b) The Director for Performance Review should be the legal representative of the Agency in matters of performance review and be in charge of the day-to-day administration in respect of this matter, as well as of various preparatory tasks. The Director for Performance Review should also be responsible for drafting and submitting the section on performance review in the programming document, the</i>		

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		<i>annual work programme and the annual activity report of the Agency. The Regulatory Board for Performance Review, as an independent body, should be involved in those activities.</i>		
49.		<i>(25c) Where the Agency acting as PRB has decision-making powers, interested parties should, for reasons of procedural economy, be granted a right of appeal to an Appeal Board for Performance Review, which should be part of the Agency acting as PRB, but independent from its administrative and regulatory structure. Cooperation between national supervisory authorities in the area of performance review is important to ensure the smooth application of Union law in this area and should thus be facilitated, namely through the establishment of an Advisory Board for Performance Review.</i>		

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50.		<i>(25d) Designated air traffic service providers hold natural monopolies in respect of the services concerned, and those services are remunerated by airspace users. Because of this specific feature, it is necessary for the performance and charging schemes to be applied to them, so as to optimise the provision of the services concerned on a number of points. The principal role of the Agency acting as PRB consists of the application of those schemes, and the funds necessary for its setting up can therefore be considered to be necessary for reasons linked to the peculiar features and the peculiar position of the providers of the services concerned.</i>		
51.		<i>(25e) No revenue received by it, from whatever source, should compromise the Agency's and impartiality. The Agency acting as PRB should also establish a</i>		

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		<i>reserve fund covering one year of its operational expenditure to ensure the continuity of its operations and the execution of its tasks.</i>		
52.		<i>(25f) The Agency acting as PRB should be open to the participation of third countries which have concluded agreements with the Union and which have adopted and are applying the relevant rules of Union law.</i>		
53.	(26) Draft performance plans in the area of <i>en route</i> and terminal navigation services should be consistent with respective Union-wide performance targets and conform to certain qualitative criteria, so as to ensure as much as possible that the targets set are effectively met. The assessment procedure should ensure that shortcomings are swiftly corrected.		(26) Draft performance plans should contain <i>en route</i> performance targets consistent with Union-wide performance targets as well as terminal performance targets in the key performance areas of the environment, capacity and cost-efficiency, while taking into account local circumstances and interdependencies between key performance areas and safety, and conform to certain qualitative criteria, so as to ensure as much as	

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			possible that the targets set are effectively met.	
54.	(27) The performance of the network functions should be subject to criteria specific to them, having regard to the peculiar nature of these functions. The network functions should be subject to performance targets in the key performance areas of the environment, capacity and cost-efficiency.	(27) The performance of the network functions should be subject to criteria specific to them, having regard to the peculiar nature of these functions. The network functions should be subject to <i>specific</i> performance targets in the key performance areas of the <i>climate and</i> environment, capacity and cost-efficiency.	(27) The performance of the network should be subject to specific criteria, having regard to the peculiar nature of the network functions. The network should be subject to performance targets in the key performance areas of the environment, capacity and cost-efficiency.	
55.	(28) The charging scheme should be based on the principle that airspace users should pay for the cost incurred for the provision of the services received but that only cost imputable to such service and not covered otherwise should be taken into account. The costs related to the Network Manager should be included in the determined costs eligible to be charged to airspace users. Charges should encourage the safe, efficient, effective and	(28) <i>Article 15 of the 1944 Chicago Convention on Civil Aviation recognises that a contracting State is permitted to impose charges for the use of air navigation facilities.</i> The charging scheme should be based on the principle that airspace users should pay for the cost incurred for the <i>necessary use</i> of the services received but that only cost imputable to <i>the use of</i> such service and not covered otherwise should be taken into account. The	(28) The charging scheme should be based on the principle that airspace users should pay for the cost incurred for the provision of the services made available to them or for their benefit which are not covered otherwise . The costs incurred in relation to the provision of air navigation services by Member States national authorities, including the national competent authorities and the national supervisory authorities as well as	

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	sustainable provision of air navigation services with a view to achieving a high level of safety and cost-efficiency and meeting the performance targets and they should stimulate integrated service provision, whilst reducing the environmental impact of aviation.	costs related to the Network Manager should be included in the determined costs eligible to be charged to airspace users. Charges should encourage the safe, efficient, effective and sustainable provision of air navigation services with a view to achieving a high level of safety and cost-efficiency and meeting the performance targets and they should stimulate integrated service provision, whilst reducing the environmental impact of aviation.	EUROCONTROL and the Network Manager may be included in the determined costs eligible to be charged to airspace users. Charges should encourage the safe, efficient, effective and sustainable provision of air navigation services with a view to achieving a high level of safety and cost-efficiency and meeting the performance targets and they should support the reduction of the environmental impact of aviation.	
56.	(29) Mechanisms for modulation of charges to improve environmental performance and service quality, notably through increased use of sustainable alternative fuels, increased capacity and reduced delays, while maintaining an optimum safety level, should be set up at Union-wide level given the cross-border nature of aviation.	(29) Mechanisms for modulation of charges to improve <i>climate and</i> environmental performance and service quality, notably through increased use of sustainable alternative fuels, <i>alternative clean propulsion technologies, more direct-routing</i> , increased capacity and reduced delays, while maintaining an optimum safety	(29) Member States should be allowed to provide for the modulation of charges to improve environmental performance and service quality, notably through increased use of sustainable alternative fuels, increased capacity and reduced delays, while maintaining an optimum safety level. The Commission should	

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	National supervisory authorities should also have the possibility to establish mechanisms at local level regarding terminal services.	level should be set up at Union-wide level given the cross-border nature of aviation. National supervisory authorities should also have the possibility to establish mechanisms at local level regarding terminal services.	carry out a feasibility study on the impact of the modulation of charges on air traffic and on stakeholders, as well as on the contribution of that modulation to achievement of the Single European Sky objectives.	
57.	(30) In order to incentivise airspace users to fly the shortest route, in particular in times of congestion, it should be possible to establish a common unit rate for <i>en route</i> services across the Single European Sky airspace. The establishment of any such common unit rate should be revenue neutral for air traffic service providers.		(30) [...]	
58.			(30a) Mechanisms such as the extension, the suspension of an on-going reference period or the adaptation of performance targets over a reference period, should be established to address unforeseeable and significant events having a material impact on	

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			the implementation of the performance and charging schemes, where a significant deviation from traffic forecasts can be observed.	
59.			(30b) Without prejudice to the procedure laid down in Article 258 TFEU, the Commission should review the compliance by the Member States with the requirements set out under the performance and charging schemes and, where appropriate, may issue an opinion on whether those requirements have been complied with.	
60.	(31) Provision should be made for the transparency of the accounts of air navigation service providers, as one means to prevent cross-subsidisation and ensuing distortions.		(31) Provision should be made for the transparency of the accounts of air navigation service providers, as one means to prevent cross-subsidisation and ensuing distortions.	

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61.	(32) ATM network functions should contribute to the sustainable development of the air transport system and support the achievement of Union-wide performance targets. They should ensure the sustainable, efficient and environmentally optimal use of airspace and of scarce resources, reflect operational needs in the deployment of the European ATM network infrastructure and should provide support in case of network crises. A number of tasks contributing to the execution of these functions should be carried out by a Network Manager, whose action should involve all operational stakeholders concerned.	(32) ATM network functions should contribute to the sustainable development of the air transport system and support the achievement of Union-wide performance targets, <i>including those regarding climate and the environment, in order to ensure timely sectorial compliance with the emission reductions established in Union law.</i> They should ensure the sustainable, efficient and environmentally optimal use of airspace and of scarce resources, reflect operational needs in the deployment of the European ATM network infrastructure and should provide support in case of network crises. A number of tasks contributing to the execution of these functions should be carried out by a Network Manager, whose action should involve all operational stakeholders concerned.	(32) Network functions should contribute to the sustainable development of the air transport system and support the achievement of Union-wide performance targets. They should facilitate the sustainable, efficient and environmentally optimal use of airspace and of scarce resources, reflect operational needs in the deployment of the European ATM network infrastructure and should provide support in case of network crises.	

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62.		<i>(32a) The Member States are parties to the EUROCONTROL International Convention Relating to Co-operation for the Safety of Air Navigation, according to which EUROCONTROL is to develop and operate a common European air traffic flow management system at a common international centre. The Union has signed an Accession Protocol to the EUROCONTROL Convention.</i>	(32a) A number of network functions, such as air traffic flow management, need to be coordinated centrally by a single body in support of actions taken by Member States and the relevant operational stakeholders. Therefore, a number of tasks contributing to the execution of these functions should be carried out by a Network Manager, whose action should involve all operational stakeholders concerned. The specific tasks of the Network Manager should be laid down in this Regulation. The Network Manager should be appointed by the Commission. The Commission should appoint Eurocontrol, given the extensive expertise of that organisation in the aviation domain, or another impartial and competent body, to carry out those tasks.	

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63.	(33) In the cooperative decision making process for the decisions to be taken by the Network Manager, the interest of the network should prevail. Parties to the cooperative decision-making process should therefore act to the maximum extent possible with a view to improving the functioning and performance of the network. The procedures for the cooperative decision-making process should promote the interest of the network, and be such that issues are resolved and consensus found wherever possible.	(33) In the cooperative decision making process for the decisions to be taken by the Network Manager, the interest of the network should prevail, <i>except in cases where national security demands otherwise</i> . Parties to the cooperative decision-making process should therefore act to the maximum extent possible with a view to improving the functioning and performance of the network, <i>including with regard to climate and the environment, as well as taking into consideration local safety concerns</i> . The procedures for the cooperative decision-making process should promote the interest of the network, and be such that issues are resolved and consensus found wherever possible. <i>The decision-making power and final responsibility for the decisions taken in the cooperative decision-making</i>	(33) Operational stakeholders, which have to implement network functions at local and operational levels, as well as Member States should be fully involved in the implementation of those functions and in the decision-making process. Accordingly, the Network Manager should take measures through cooperative decision-making based in particular on the consultation of operational stakeholders and Member States and detailed working arrangements and processes for operation. In such cooperative decision-making process, the interest of the network should prevail to the extent possible, without prejudice to security and defence needs, and be such so that issues are resolved and consensus found wherever possible. Moreover, to ensure the appropriate governance relating to the execution of the network	

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		<i>process belongs to the Network Manager.</i>	functions, a Network Management Board, ensuring an appropriate representation of the interests of all the actors involved in the implementation of those functions, should be set up. Without prejudice to the consultation of the Network Management Board on regulatory or strategic decisions such as the endorsement of the Network Strategy Plan, the measures adopted through cooperative decision-making and by the Network Management Board should be operational or technical in nature, ensuring the day to day operation of the network in accordance with the objectives of this regulation. Decision-making powers of the Network Manager and the Network Management Board as well as the scope of the cooperative decision-making process should be clearly defined. Acts adopted in the framework of	

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			network functions should be subject to judicial review as appropriate in accordance with the conditions laid down in the Treaty.	
64.	(34) To enhance the customer focus of air traffic service providers and to increase the possibility of airspace users to influence decisions which affect them, the consultation and participation of stakeholders in major operational decisions of the air traffic service providers should be made more effective.	(34) To enhance the customer focus of air traffic service providers, the consultation of stakeholders in major operational decisions of the air traffic service providers should be made more effective.	(34) [...]	
65.	(35) Availability of relevant operational data is essential for enabling the flexible provision of air traffic data services, on cross-border and on Union-wide bases. Therefore, such data should be made available to relevant stakeholders, including to prospective new providers of air traffic data services. Accuracy of information including on airspace	(35) The availability of relevant operational data in an interoperable format is essential for enabling the flexible provision of air traffic data services, on cross-border and on Union-wide bases. Therefore, such data should be made available to relevant stakeholders, including to prospective new providers of air traffic data services. Accuracy of	(35) [...](moved to recital 21a)	

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	status and on specific air traffic situations and timely distribution of this information to civil and military controllers has a direct impact on the safety and efficiency of operations. Timely access to up-to-date information on airspace status is essential for all parties wishing to take advantage of airspace structures made available when filing or re-filing their flight plans.	information including on airspace status and on specific air traffic situations and timely distribution of this information to civil and military controllers has a direct impact on the safety and efficiency of operations. Timely access to up-to-date information on airspace status is essential for all parties wishing to take advantage of airspace structures made available when filing or re-filing their flight plans.		
66.	(36) The provision of complete, high-quality and timely aeronautical information has a significant impact on safety and on facilitating access to Union airspace and the possibilities of moving within it. Access to those data should be facilitated through an appropriate information infrastructure.		(36) The provision of complete, high-quality and timely aeronautical information has a significant impact on safety and on facilitating access to Union airspace and the possibilities of moving within it. Access to those data should be facilitated through an appropriate information infrastructure.	

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67.	(37) The safe and efficient use of airspace can only be achieved through close cooperation between civil and military airspace users, which in practice is mainly based on the concept of flexible use of airspace and effective civil-military coordination as established by ICAO. Rules should be established with a view to ensuring the application of this concept, and the Commission should be empowered to provide for measures ensuring greater harmonisation.		(37) The safe and efficient use of airspace can only be achieved through close cooperation between civil and military airspace users, which in practice is mainly based on the concept of flexible use of airspace and effective civil-military coordination as established by ICAO. With a view to ensuring the uniform application of this concept, the Commission should be empowered to adopt implementing acts, within the limits of the common transport policy and without prejudice to Member States' responsibilities over their airspace.	
68.		<i>(37a) This Regulation is without prejudice to the power of Member States' to adopt provisions concerning the organisation of their armed forces. That power may require Member States to take measures to ensure that their armed forces have sufficient</i>		

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		<i>airspace to ensure a suitable level of training. Provision should therefore be made for a safeguards clause to enable this power to be exercised</i>		
69.	(38) The SESAR project is aimed at enabling the safe, efficient and environmentally sustainable development of air transport by modernising the European and global ATM system. In order to contribute to its full effectiveness, proper coordination between the phases of the project should be ensured. The European ATM Master Plan should result from the SESAR definition phase, and should contribute to achieving the Union-wide performance targets.	(38) The SESAR project is aimed at enabling the safe, efficient and environmentally sustainable development of air transport by modernising the European and global ATM system. In order to contribute to its full effectiveness, proper coordination between the phases of the project should be ensured. The European ATM Master Plan should result from the SESAR definition phase, and should contribute to achieving the Union-wide performance targets, <i>including those regarding climate and the environment</i>	(38) The SESAR project is aimed at enabling the safe, efficient and environmentally sustainable development of air transport by modernising the European and global ATM system. In order to contribute to its full effectiveness, proper coordination between the phases of the project should be ensured. The European ATM Master Plan should result from the SESAR definition phase, and should contribute to achieving the Union-wide performance targets.	
70.	(39) The concept of common projects should aim at implementing, in a timely, coordinated and synchronised	(39) The concept of common projects should aim at implementing, in a timely, coordinated and synchronised manner, the essential	(39) The concept of common projects should aim at implementing, in a timely, coordinated and synchronised manner, the essential	

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	manner, the essential operational changes identified in the European ATM Master Plan which have a network-wide impact. The Commission should be charged with carrying out a cost-benefit analysis in respect of the funding with a view to speeding up the deployment of the SESAR project.	operational changes identified in the European ATM Master Plan which have a network-wide impact. <i>In particular the common projects should promote and accelerate the update of new digital technologies that are essential for the future scalability, resilience and sustainability of the ATM system in Europe.</i> The Commission should be charged with carrying out a cost-benefit analysis in respect of the funding with a view to <i>speeding</i> up the deployment of the SESAR project.	operational changes identified in the European ATM Master Plan which have a network-wide impact. The Commission should be charged with carrying out a cost-benefit analysis in respect of the funding with a view to speeding up the deployment of the SESAR project.	
71.		<i>(39a) In order to streamline the SESAR deployment phase, an enhanced coordination of standardisation activities should ensure the timely availability of standards required to deploy SESAR solutions. A reformed and integrated European Aviation Standards Coordination Group (EASCG) should contribute to a</i>		

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		<i>further customer-focused standardisation process, making sure that the needs of operational stakeholders are appropriately prioritised.</i>		
72.	(40) Compliance with the requirements for ATM systems and constituents established by Regulation (EU) 2018/1139 should ensure the interoperability of those systems and constituents, to the benefit of the Single European Sky.		(40) Compliance with the requirements for ATM systems and constituents established by Regulation (EU) 2018/1139 should ensure the interoperability of those systems and constituents, to the benefit of the Single European Sky.	
73.	(41) In order to take into account technical or operational developments, in particular by amending annexes, or by supplementing the provisions on network management, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. The content and scope of each delegation is set out in detail in the relevant Articles.	(41) In order to take into account technical or operational developments, █ the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. The content and scope of each delegation is set out in detail in the relevant Articles. When adopting delegated acts under this Regulation, it is of particular importance that the	(41) [...]	

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	<p>When adopting delegated acts under this Regulation, it is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹⁴. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</p>	<p>Commission carry out appropriate consultations during its preparatory work, including at expert level, <i>through an expert group on the human dimension of the Single European Sky</i>, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹⁵. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</p>		
	<p>14 OJ L 123, 12.5.2016, p. 1.</p>	<p>14 OJ L 123, 12.5.2016, p. 1.</p>		

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74.	(42) In order to ensure uniform conditions for the implementation of this Regulation, in particular with regard to the modalities of recruitment and selection procedures for national supervisory authorities, rules on the economic certification of air navigation service providers, rules for the implementation of the performance and charging schemes, in particular on the setting of Union-wide performance targets, the classification of <i>en route</i> and terminal air navigation services, the criteria and procedures for the assessment of the draft performance plans and performance targets of air traffic service providers and the Network Manager, the monitoring of performance, rules for the provision of information on costs and charges, the content and establishment of the cost base for	(42) In order to ensure uniform conditions for the implementation of this Regulation, ■ implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ¹⁵ . <hr/> 15 Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).	(42) In order to ensure uniform conditions for the implementation of this Regulation, in particular with regard to the designation of the PRB, the implementation of the performance and charging schemes, including on the setting of Union-wide performance targets, the criteria and procedures for the assessment of the draft performance plans and performance targets of air traffic service providers and the Network Manager, the assessment and approval of the performance plans, the monitoring of performance, rules for the provision of information on costs and charges, the content and establishment of the cost base for charges and the setting of unit rates for air navigation services, incentive mechanisms and risk-sharing mechanisms, rules on the execution of the network functions, on the	

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	charges and the setting of unit rates for air navigation services, incentive mechanisms and risk-sharing mechanisms, the appointment of the Network Manager and the terms and conditions of such appointment, the tasks of the Network Manager and the governance mechanisms to be applied by it, rules on the execution of the network functions, modalities of the consultation of stakeholders on major operational decisions of the air traffic service providers, requirements regarding the availability of operational data, conditions of access and setting of access prices, application of the concept of flexible use of airspace, the establishment of common projects and the governance mechanisms applicable to them, implementing powers should be conferred on the Commission. Those powers should be exercised		appointment of the Network Manager and the terms and conditions of such appointment, as well as the tasks of the Network Manager, on the Network Management Board, on cooperative decision-making process and the network governance mechanisms , requirements regarding the availability of operational data, application of the concept of flexible use of airspace, the establishment of common projects and the governance mechanisms applicable to them, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ¹⁵ . Where the committee delivers no opinion, the Commission should not adopt the draft implementing act.	

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	<p>in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁵.</p> <p>15 Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>		<p>15 Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>	
75.	<p>(43) The social partners should be better informed and consulted on all measures having significant social implications. At Union level, the Sectoral Dialogue Committee set up under Commission Decision 98/500/EC¹⁶ should also be consulted.</p> <p>16 OJ L 225, 12.8.1998, p. 27.</p>		<p>(43) The social and professional staff organisations should respectively be consulted on all proposed measures having significant social, technological and human dimension or performance related implications. At Union level, the Sectoral Dialogue Committee set up under Commission Decision 98/500/EC¹⁶ and the Expert Group for Human Dimensions should also be consulted.</p>	

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			16 OJ L 225, 12.8.1998, p. 27.	
76.	(44) The penalties provided for with respect to infringements of this Regulation should be effective, proportional and dissuasive, without reducing safety.		(44) The penalties provided for with respect to infringements of this Regulation should be effective, proportional and dissuasive, without reducing safety.	
77.			(44b) This Regulation should not prevent the application by Member States of measures necessary to safeguard essential security or defence policy interests. Moreover, it does not affect the power of Member States to adopt provisions in relation to the organisation of their armed forces. This power may lead Member States to adopt measures to ensure that their armed forces have sufficient airspace for adequate education and training purposes. Provision should therefore be made for a safeguards clause to enable this power to be exercised.	

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78.	(45) In view of the legal position of the Kingdom of Spain with regard to sovereignty and jurisdiction on the territory where the airport is located, this Regulation should not apply to Gibraltar airport.		(45) [...]	
79.	(46) Since the objective of this Regulation, namely the implementation of the Single European Sky, cannot be sufficiently achieved by the Member States but can rather, by reason of the transnational scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,		(46) Since the objective of this Regulation, namely the implementation of the Single European Sky, cannot be sufficiently achieved by the Member States but can rather, by reason of the transnational scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,	

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80.	HAVE ADOPTED THIS REGULATION:			
81.	CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS	
82.	<i>Article 1</i>	<i>Article 1</i>	<i>Article 1</i>	
83.	Subject matter and scope	Subject matter and scope	Subject matter and scope	
84.	<i>Article 1 - paragraph 1</i>	<i>Article 1 - paragraph 1</i>	<i>Article 1 - paragraph 1</i>	
85.	1. This Regulation lays down rules for the creation and effective functioning of the Single European Sky in order to reinforce current air traffic safety standards, to contribute to the sustainable development of the air transport system and to improve the overall performance of air traffic management and air navigation services for general air traffic in Europe, with a view to meeting the requirements of all airspace users. The Single European Sky shall comprise a coherent pan-European network , a progressively more integrated airspace, network management	1. This Regulation lays down rules for the creation and effective functioning of the Single European Sky in order to ensure current air traffic safety standards, to contribute to the sustainable development of the air transport system and to improve the overall performance of air traffic management and air navigation services for general air traffic in Europe, with a view to meeting the requirements of all airspace users <i>and enabling the air transport sector duly to contribute to the achievement of the climate and environment objectives laid down in Union law.</i> The Single	1. This Regulation lays down rules for the creation and effective functioning of the Single European Sky in order to reinforce air traffic safety standards, to contribute to the sustainable development of the air transport system and to improve the overall performance of air traffic management and air navigation services for general air traffic in Europe, with a view to meeting the requirements of all airspace users. The Single European Sky shall comprise a coherent pan-European network , a progressively more integrated airspace, network management and air traffic management systems	B

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	and air traffic management systems based on safety, efficiency, interoperability and technological modernisation , for the benefit of all airspace users, citizens and the environment.	European Sky shall comprise a coherent pan-European network, an integrated airspace, network management and air traffic management systems based on safety, efficiency, interoperability and technological modernisation for the benefit of <i>citizens</i> , all airspace users and the environment.	based on safety, efficiency, interoperability and technological modernisation, for the benefit of all airspace users, citizens and the environment.	
86.	<i>Article 1 - paragraph 2</i>	<i>Article 1 - paragraph 2</i>	<i>Article 1 - paragraph 2</i>	
87.	2. The application of this Regulation shall be without prejudice to Member States' sovereignty over their airspace and to the requirements of the Member States relating to public order, public security and defence matters, as set out in Article 44. This Regulation does not cover military operations and training.	2. The application of this Regulation shall be without prejudice to Member States' sovereignty over their airspace and to the requirements of the Member States relating to public order, public and national security and defence matters, as set out in Article 44. This Regulation does not cover military operations and training. Coordination with the military authorities shall be ensured in order to address the potential impacts of the application of this	2. The application of this Regulation shall be without prejudice to Member States' sovereignty over their airspace and to the requirements of the Member States relating to public order, public security and defence matters, as set out in Article 44. This Regulation does not cover military operations and training. The coordination with military authorities shall be ensured to identify and address potential impacts of the application of this Regulation on military	B

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		<i>Regulation on military operations and training, which are outside its scope.</i>	activities.	
88.	Article 1 - paragraph 3		Article 1 - paragraph 3	
89.	3. The application of this Regulation shall be without prejudice to the rights and duties of Member States under the 1944 Chicago Convention on International Civil Aviation (the Chicago Convention). In this context, this Regulation aims to assist, in the fields it covers, Member States in fulfilling their obligations under the Chicago Convention, by providing a basis for a common interpretation and uniform implementation of its provisions, and by ensuring that these provisions are duly taken into account in this Regulation and in the rules drawn up for its implementation.		3. The application of this Regulation shall be without prejudice to the rights and duties of Member States under the 1944 Chicago Convention on International Civil Aviation (the Chicago Convention). In this context, this Regulation aims to assist, in the fields it covers, Member States in fulfilling their obligations under the Chicago Convention, by providing a basis for a common interpretation and uniform implementation of its provisions, and by ensuring that these provisions are duly taken into account in this Regulation and in the rules drawn up for its implementation.	

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90.	<i>Article 1 - paragraph 4</i>		<i>Article 1 - paragraph 4</i>	
91.	4. This Regulation shall apply to the airspace within the ICAO EUR region where Member States are responsible for the provision of air traffic services . Member States may also apply this Regulation to airspace under their responsibility within other ICAO regions, on the condition that they inform the Commission and the other Member States thereof.		4. This Regulation shall apply to the airspace within the ICAO EUR region where Member States are responsible for the provision of air traffic services. Member States may also apply this Regulation to airspace under their responsibility within other ICAO regions, on the condition that they inform the Commission and the other Member States thereof.	
92.	<i>Article 1 - paragraph 5</i>	<i>Article 1 - paragraph 5</i>	<i>Article 1 - paragraph 5</i>	
93.	5. [In the event the Regulation is adopted before the end of the transition period: This Regulation shall not apply to Gibraltar airport.]		[...]	
94.	<i>Article 1 - paragraph 6</i>	<i>Article 1 - paragraph 6</i>	<i>Article 1 - paragraph 6</i>	
95.	6. Unless otherwise provided, where reference is made to the European Union Aviation Safety Agency (the Agency), such reference shall be understood as aimed at the Agency in its capacity as safety authority	6. Unless otherwise provided, where reference is made to the European Union Aviation Safety Agency (the Agency), such reference shall be understood as aimed at the Agency in its capacity as safety authority	[...]	C

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	and not as authority in charge of performance review.	and not as authority in charge of performance review. █		
96.	<i>Article 2</i>	<i>Article 2</i>	<i>Article 2</i>	
97.	Definitions	Definitions	Definitions	
98.	For the purposes of this Regulation, the following definitions shall apply:		For the purposes of this Regulation, the following definitions shall apply:	
99.	<i>Article 2 - paragraph 1</i>		<i>Article 2 - paragraph 1</i>	
100.	1. ‘aerodrome control service’ means an air traffic control (ATC) service for aerodrome traffic;		1. ‘aerodrome control service’ means an air traffic control (ATC) service for aerodrome traffic;	
101.	<i>Article 2 - paragraph 2</i>		<i>Article 2 - paragraph 2</i>	
102.	2. ‘aeronautical information service’ means a service, established within a defined area of coverage, responsible for the provision of aeronautical information and data necessary for the safety, regularity, and efficiency of air navigation;		2. ‘aeronautical information service’ means a service, established within a defined area of coverage, responsible for the provision of aeronautical information and data necessary for the safety, regularity, and efficiency of air navigation;	
103.	<i>Article 2 - paragraph 2a (new)</i>		<i>Article 2 - paragraph 2a (new)</i>	
104.			2a. ‘Agency’ means the European Union Aviation Safety Agency established by Regulation (EU) 2018/1139;	A

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105.	<i>Article 2 - paragraph 3</i>		<i>Article 2 - paragraph 3</i>	
106.	3. ‘air navigation service provider’ means a public or private entity providing one or more air navigation services for general air traffic;		3. ‘air navigation service provider’ means a public or private entity providing one or more air navigation services for general air traffic;	
107.	<i>Article 2 - paragraph 4</i>		<i>Article 2 - paragraph 4</i>	
108.	4. ‘air navigation services (ANS)’ means air traffic services; communication, navigation and surveillance services (CNS); meteorological services (MET); aeronautical information services (AIS); and air traffic data services (ADS);		4. ‘air navigation services (ANS)’ means air traffic services; communication, navigation and surveillance services (CNS) including services which augment signals emitted by satellites of core constellations of GNSS for the purpose of air navigation; meteorological services for air navigation (MET); aeronautical information services (AIS); and air traffic data services (ADS);	B
109.	<i>Article 2 - paragraph 5</i>		<i>Article 2 - paragraph 5</i>	
110.	5. ‘air traffic control (ATC) service’ means a service provided for the purpose of: (a) preventing collisions: (i) between aircraft;		5. ‘air traffic control (ATC) service’ means a service provided for the purpose of: (a) preventing collisions: (i) between aircraft;	

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	(ii) in the manoeuvring area between aircraft and obstructions; (b) expediting and maintaining an orderly flow of air traffic;		(ii) in the manoeuvring area between aircraft and obstructions; (b) expediting and maintaining an orderly flow of air traffic;	
111.	<i>Article 2 - paragraph 6</i>		<i>Article 2 - paragraph 6</i>	
112.	6. ‘air traffic data services’ means services consisting in the collection, aggregation and integration of operational data from providers of surveillance services, from providers of MET and AIS and network functions and from other relevant entities, or the provision of processed data for air traffic control and air traffic management purposes;		6. ‘air traffic data services’ means services consisting in the collection, aggregation and integration of operational data from providers of surveillance services, from providers of MET and AIS and network functions and from other relevant entities generating operational data, and the provision of processed data for air traffic control and air traffic management purposes;	
113.	<i>Article 2 - paragraph 7</i>	<i>Article 2 - paragraph 7</i>	<i>Article 2 - paragraph 7</i>	
114.	7. ‘air traffic flow and capacity management (ATFCM)’ means a service aiming at protecting air traffic control from over-delivery and optimising the use of the available capacity;		[...]	

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115.	<i>Article 2 - paragraph 8</i>		<i>Article 2 - paragraph 8</i>	
116.	8. ‘air traffic flow management (ATFM)’ means a function or service established with the objective of contributing to a safe, orderly and expeditious flow of air traffic covering the full trajectory by ensuring that ATC capacity is utilised to the maximum extent possible, and that the traffic volume is compatible with the capacities declared by the appropriate air traffic service providers;		8. ‘air traffic flow management (ATFM)’ means a function established with the objective of contributing to a safe, orderly and expeditious flow of air traffic covering the full trajectory by ensuring that ATC capacity is utilised to the maximum extent possible, and that the traffic volume is compatible with the capacities declared by the appropriate air traffic service providers;	
117.	<i>Article 2 - paragraph 9</i>	<i>Article 2 - paragraph 9</i>	<i>Article 2 - paragraph 9</i>	
118.	9. ‘air traffic management (ATM)’ means the aggregation of the airborne and ground-based functions or services (air traffic services, airspace management and air traffic flow management) required to ensure the safe and efficient movement of aircraft during all phases of operations;	9. ‘air traffic management (ATM)’ means the aggregation of the airborne and ground-based, <i>as well as space-based</i> functions or services (air traffic services, airspace management and air traffic flow management) required to ensure the safe and efficient movement of aircraft during all	9. ‘air traffic management (ATM)’ means the aggregation of the airborne and ground-based functions and services (air traffic services, airspace management and air traffic flow management, including flight procedures design;) required to ensure the safe and efficient movement of aircraft	B

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		phases of operations;	during all phases of operations;	
119.	Article 2 - paragraph 10	Article 2 - paragraph 10	Article 2 - paragraph 10	
120.	10. ‘air traffic services’ means the various flight information services, alerting services, air traffic advisory services and ATC services (area, approach and aerodrome control services);		10. ‘air traffic services’ means the various flight information services, alerting services, air traffic advisory services and ATC services (area, approach and aerodrome control services);	
121.		10a. ‘air traffic service contract’ means one or more legally binding contracts, following a competitive tendering procedure, that confirm the agreement between the Member States concerned and an air traffic service provider, conferring on the latter a right to provide air traffic services;		C
122.		10b. “designated air traffic service provider” means an air traffic service provider designated to provide air traffic services based on an air traffic service contract		C

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123.	<i>Article 2 - paragraph 11</i>		<i>Article 2 - paragraph 11</i>	
124.	11. ‘airspace block’ means an airspace of defined dimensions, in space and time, within which air navigation services are provided;		11. ‘airspace block’ means an airspace of defined dimensions, in space and time, consisting of one or more airspace structures, within which air navigation services are provided;	B
125.	<i>Article 2 - paragraph 12</i>	<i>Article 2 - paragraph 12</i>	<i>Article 2 - paragraph 12</i>	
126.	12. ‘airspace management’ means a planning function with the primary objective of maximising the utilisation of available airspace by dynamic time-sharing and, at times, the segregation of airspace among various categories of airspace users on the basis of short-term needs;	12. ‘airspace management’ means a planning function with the primary objective of <i>optimising</i> the utilisation of available airspace by dynamic time-sharing and, at times, the segregation of airspace among various categories of airspace users on the basis of short-term needs;	12. ‘airspace management’ means a planning and monitoring function with the primary objective of optimising the utilisation of available airspace by dynamic time-sharing and, at times, the segregation of airspace among various categories of airspace users on the basis of short-term needs;	A
127.	<i>Article 2 - paragraph 13</i>		<i>Article 2 - paragraph 13</i>	
128.	13. ‘airspace structure’ means a specific volume of airspace defined with a view to ensuring the safe and optimal operation of aircraft;		13. ‘airspace structure’ means a specific volume of airspace defined with a view to ensuring the safe and optimal operation of air traffic management;	B

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129.	<i>Article 2 - paragraph 14</i>		<i>Article 2 - paragraph 14</i>	
130.	14. ‘airspace users’ means operators of aircraft operated in accordance with general air traffic rules;		14. ‘airspace users’ means operators of aircraft operated in accordance with general air traffic rules;	
131.	<i>Article 2 - paragraph 15</i>		<i>Article 2 - paragraph 15</i>	
132.	15. ‘alerting service’ means a service provided to notify relevant organisations regarding aircraft in need of search and rescue aid, and to assist such organisations as required;		15. ‘alerting service’ means a service provided to notify relevant organisations regarding aircraft in need of search and rescue aid, and to assist such organisations as required;	
133.	<i>Article 2 - paragraph 16</i>		<i>Article 2 - paragraph 16</i>	
134.	16. ‘approach control service’ means an ATC service for arriving or departing controlled flights;		16. ‘approach control service’ means an ATC service for arriving or departing controlled flights;	
135.	<i>Article 2 - paragraph 17</i>		<i>Article 2 - paragraph 17</i>	
136.	17. ‘area control service’ means an ATC service for controlled flights in control areas ;		17. ‘area control service’ means an ATC service for controlled flights in control areas ;	
137.	<i>Article 2 - paragraph 18</i>	<i>Article 2 - paragraph 18</i>	<i>Article 2 - paragraph 18</i>	
138.	18. ‘baseline value’ means a value defined by way of estimation for the purpose of setting performance targets and	18. ‘baseline value’ means <i>a</i> value ■ <i>that has been estimated</i> for the purpose of setting performance targets and concerning determined	18. ‘baseline value’ means a value defined for the purpose of setting performance targets and estimated by using actual costs or actual unit	B

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	concerning determined costs or determined unit costs during the year preceding the start of the relevant reference period;	costs or determined unit costs during the year preceding the start of the relevant reference period;	costs during the year preceding the start of the relevant reference period;	
139.	<i>Article 2 - paragraph 19</i>		<i>Article 2 - paragraph 19</i>	
140.	19. ‘benchmark group’ means a group of air traffic service providers with a similar operational and economic environment;		19. ‘benchmark group’ means a group of air traffic service providers with a similar operational and economic environment;	
141.	<i>Article 2 - paragraph 20</i>		<i>Article 2 - paragraph 20</i>	
142.	20. ‘breakdown value’ means the value obtained, for a given air traffic service provider, by breaking down a Union-wide performance target to the level of each air traffic service provider and serving as a reference for assessing consistency of the performance target set in draft performance plan with the Union-wide performance target;		20. ‘breakdown value’ means the value obtained, for a given air traffic service provider, by breaking down a Union-wide performance target to the level of one or more air traffic service providers and serving as a reference for assessing consistency of the performance target set in draft performance plan with the Union-wide performance target;	

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143.	<i>Article 2 - paragraph 21</i>	<i>Article 2 - paragraph 21</i>	<i>Article 2 - paragraph 21</i>	
144.	21. ‘certificate’ means a document issued by the Agency, by a national competent authority or by a national supervisory authority, in any form complying with national law, which confirms that an air traffic management and air navigation service provider meets the requirements for providing a specific service;	21. ‘certificate’ means a document issued <i>as the result of a certification procedure and attesting compliance with the applicable</i> requirements; ■	21. ‘certificate’ means a certificate as defined by Article 3(12) of Regulation (EU) 2018/1139;	B
145.	<i>Article 2 - paragraph 22</i>		<i>Article 2 - paragraph 22</i>	
146.	22. ‘common information service (CIS)’ means a service consisting in the collection of static and dynamic data and their dissemination to enable the provision of services for the management of traffic of unmanned aircraft;		22. ‘common information service (CIS)’ means a service consisting in the dissemination of static and dynamic data to enable the provision of U-space services for the management of traffic of unmanned aircraft;	B

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147.		<i>22a. “U-space airspace” means a UAS geographical zone designated by Member States, in which UAS operations are only allowed to take place with the support of U-space services;</i>		B
148.		<i>22b. “U-space service” means a service relying on a high level of digitalisation and automation of functions designed to support safe, efficient and secure access to U-space airspace for a large numbers of UAS;</i>		B
149.		<i>22c. “U-space service provider” means any legal or natural person providing, or intending to provide, U-space services;</i>		B
150.	<i>Article 2 - paragraph 23</i>		<i>Article 2 - paragraph 23</i>	
151.	23. ‘communication services’ means aeronautical fixed and mobile services to enable ground-to-ground, air-to-ground and air-to-air communications for ATC purposes;		23. ‘communication services’ means aeronautical fixed and mobile services to enable ground-to-ground, air-to-ground and air-to-air communications for ATC purposes;	

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152.	<i>Article 2 - paragraph 24</i>		<i>Article 2 - paragraph 24</i>	
153.	24. ‘constituents’ means tangible objects such as hardware and intangible objects such as software upon which the interoperability of the European Air Traffic management Network (EATMN) depends;		24. ‘constituents’ means tangible objects such as hardware and intangible objects such as software upon which the interoperability of the European Air Traffic management Network (EATMN) depends;	
154.	<i>Article 2 - paragraph 25</i>		<i>Article 2 - paragraph 25</i>	
155.	25. ‘control area’ means a controlled airspace extending upwards from a specified limit above the earth;		25. ‘control area’ means a controlled airspace extending upwards from a specified limit above the earth;	
156.	<i>Article 2 - paragraph 26</i>	<i>Article 2 - paragraph 26</i>	<i>Article 2 - paragraph 26</i>	
157.	26. ‘cooperative decision-making’ means a process in which decisions are made based on interaction and consultation with Member States, operational stakeholders and other actors as appropriate;	26. ‘cooperative decision-making’ means a process in which decisions by the Network Manager are made based on interaction and consultation with operational stakeholders and with Member States and other actors as appropriate;	26. ‘cooperative decision-making’ means a process in which decisions, are made based on interaction and consultation with the relevant Member State authorities, operational stakeholders and other actors as appropriate and aiming at consensus;	C

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158.	<i>Article 2 - paragraph 27</i>		<i>Article 2 - paragraph 27</i>	
159.	27. ‘cross-border services’ means air navigation services provided in one Member State by a service provider having its principal place of business in another Member State;		27. ‘cross-border services’ means air navigation services provided in one Member State by a service provider having its principal place of business in another Member State ;	
160.	<i>Article 2 - paragraph 28</i>		<i>Article 2 - paragraph 28</i>	
161.	28. ‘declaration’ means, for the purposes of air traffic management and air navigation services, a declaration as defined in Article 3(10) of Regulation (EU) 2018/1139;		28. ‘declaration’ means, for the purposes of air traffic management and air navigation services, a declaration as defined in Article 3(10) of Regulation (EU) 2018/1139;	
162.	<i>Article 2 - paragraph 29</i>			
163.	29. ‘ <i>en route</i> air navigation services’ means air traffic services related to control of an aircraft from the end of the take off and initial climb phase to the commencement of the approach and landing phase and the underlying air navigation services necessary to provide <i>en route</i> air		[...]	B

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	traffic services;			
164.	Article 2 - paragraph 30		Article 2 - paragraph 30	
165.	30. ‘en route charging zone’ means a volume of airspace that extends from the ground up to, and including, upper airspace, where en route air navigation services are provided and for which a single cost base is established;		30. ‘en route charging zone’ means a volume of airspace that extends from the ground up to, and including, upper airspace, where en route air navigation services are provided and for which a single cost base and a single unit rate are established;	B
166.	Article 2 - paragraph 31		Article 2 - paragraph 31	
167.	31. ‘Eurocontrol’ is the European Organisation for the Safety of Air Navigation set up by the International Convention of 13 December 1960 relating to Cooperation for the Safety of Air Navigation;		31. ‘EUROCONTROL’ is the European Organisation for the Safety of Air Navigation set up by the International Convention of 13 December 1960 relating to Cooperation for the Safety of Air Navigation;	A
168.	Article 2 - paragraph 32		Article 2 - paragraph 32	
169.	32. ‘European air traffic management network’ (EATMN) means the collection of systems, listed in point 3.1 of Annex VIII to Regulation (EU) 2018/1139 ,		32. ‘European air traffic management network’ (EATMN) means the collection of systems, referred to in point 3.1 of Annex VIII to Regulation (EU) 2018/1139 ,	A

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	enabling air navigation services in the Union to be provided, including the interfaces at boundaries with third countries;		enabling air navigation services in the Union to be provided, including the interfaces at boundaries with third countries;	
170.	<i>Article 2 - paragraph 33</i>		<i>Article 2 - paragraph 33</i>	
171.	<p>33. ‘European ATM Master Plan’ means the plan endorsed by Council Decision 2009/320/EC¹⁷, in accordance with Article 1(2) of Council Regulation (EC) No 219/2007¹⁸ and as subsequently amended;</p> <p>_____</p> <p>17 OJ L 95, 9.4.2009, p. 41.</p> <p>18 Council Regulation (EC) No 219/2007 of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR) (OJ L 064, 2.3.2007, p.1).</p>		<p>33. ‘European ATM Master Plan’ means the plan endorsed by Council Decision 2009/320/EC¹⁷, and as subsequently amended;</p> <p>_____</p> <p>17 OJ L 95, 9.4.2009, p. 41</p>	A

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172.	<i>Article 2 - paragraph 34</i>	<i>Article 2 - paragraph 34</i>	<i>Article 2 - paragraph 34</i>	
173.	34. ‘flexible use of airspace’ means an airspace management concept based on the fundamental principle that airspace should not be designated as either pure civil or military airspace, but rather be considered as a continuum in which all user requirements have to be accommodated to the extent possible;	34. ‘flexible use of airspace’ means an airspace management concept based on the fundamental principle that airspace should not be designated as either pure civil or military airspace, but ■ as one continuum in which all user requirements have to be accommodated to the extent possible;	34. ‘flexible use of airspace’ means an airspace management concept, as described by ICAO, based on the fundamental principle that airspace should not be designated as either pure civil or military airspace, but rather be considered as a continuum in which all user requirements have to be accommodated to the extent possible ;	B
174.	<i>Article 2 - paragraph 35</i>		<i>Article 2 - paragraph 35</i>	
175.	35. ‘flight information service’ means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights;		35. ‘flight information service’ means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights;	
176.			<i>Article 2 - paragraph 35a (new)</i>	
177.			35a. ‘functional airspace block’ means an airspace block based on operational requirements and established regardless of State boundaries, where the provision of	C

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			air navigation services and related functions are performance-driven and optimised with a view to introducing, in each functional airspace block, enhanced cooperation among air navigation service providers or, where appropriate, an integrated provider;	
178.			<i>Article 2 - paragraph 35b (new)</i>	
179.			35b. 'flight procedures design' means all tasks relevant to the design of an instrument flight procedure;	B
180.	<i>Article 2 - paragraph 36</i>		<i>Article 2 - paragraph 36</i>	
181.	36. 'general air traffic' means all movements of civil aircraft, as well as all movements of State aircraft (including military, customs and police aircraft) when those movements are carried out in conformity with the procedures of the International Civil Aviation Organisation (ICAO) as established by the 1944 Chicago Convention on International Civil		36. 'general air traffic' means all movements of civil aircraft, as well as all movements of State aircraft (including military, customs and police aircraft) when those movements are carried out in conformity with the procedures of the International Civil Aviation Organisation (ICAO) as established by the Chicago Convention ;	A

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	Aviation;			
182.	<i>Article 2 - paragraph 37</i>		<i>Article 2 - paragraph 37</i>	
183.	37. ‘interoperability’ means a set of functional, technical and operational properties required of the systems and constituents of the EATMN and of the procedures for its operation, in order to enable its safe, seamless and efficient operation;		37. ‘interoperability’ means a set of functional, technical and operational properties required of the systems and constituents of the EATMN and of the procedures for its operation, in order to enable its safe, seamless and efficient operation;	
184.	<i>Article 2 - paragraph 38</i>		<i>Article 2 - paragraph 38</i>	
185.	38. ‘meteorological services’ means the facilities and services that provide aircraft with meteorological forecasts, warnings, briefings and observations for air navigation purposes, as well as any other meteorological information and data provided by States for aeronautical use;		38. ‘meteorological services for air navigation (MET)’ means the facilities and services that provide meteorological forecasts, warnings, briefings and observations for air navigation purposes, as well as any other meteorological information and data provided by States for aeronautical use;	A

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186.	<i>Article 2 - paragraph 39</i>		<i>Article 2 - paragraph 39</i>	
187.	39. ‘national competent authority’ means the entities as defined in point (34) of Article 3 of Regulation (EU) 2018/1139;		39. ‘national competent authority’ means the entities as defined in point (34) of Article 3 of Regulation (EU) 2018/1139;	
188.	<i>Article 2 - paragraph 40</i>	<i>Article 2 - paragraph 40</i>	<i>Article 2 - paragraph 40</i>	
189.	40. ‘national supervisory authority’ means the national body or bodies entrusted by a Member State with the tasks under this Regulation other than the tasks covered by the national competent authority;	40. ‘national supervisory authority’ means the national body or bodies entrusted by a Member State with the tasks under this Regulation. ■	40. ‘national supervisory authority’ means the national body or bodies entrusted by a Member State with the tasks under this Regulation ;	B
190.	<i>Article 2 - paragraph 41</i>		<i>Article 2 - paragraph 41</i>	
191.	41. ‘navigation services’ means the facilities and services that provide aircraft with positioning and timing information;		41. ‘navigation services’ means the facilities and services that provide aircraft with positioning and timing information;	
192.	<i>Article 2 - paragraph 42</i>	<i>Article 2 - paragraph 42</i>	<i>Article 2 - paragraph 42</i>	
193.	42. ‘network crisis’ means a state of inability to provide air traffic management and air navigation services at required level resulting in a major loss of network capacity, or a major imbalance		42. ‘network crisis’ means a state of inability to provide air traffic management and or air navigation services at required level resulting in a major loss of network capacity, or a major imbalance between	

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	between network capacity and demand, or a major failure in the information flow in one or several parts of the network following an unusual and unforeseen situation;		network capacity and demand, or a major failure in the information flow or integrity in one or several parts of the network following an unusual or unforeseen situation;	
194.		<i>42a. ‘network functions’ means air traffic management network functions delivered and executed by all operational stakeholders and States and by the Network Manager in order to achieve objectives defined in this regulation;</i>		B
195.	<i>Article 2 - paragraph 43</i>		<i>Article 2 - paragraph 43</i>	
196.	43. ‘Network Manager’ means the entity entrusted with the tasks necessary to contribute to the execution of the network functions referred to in Article 26, in accordance with Article 27;		43. ‘Network Manager’ means the entity entrusted with the tasks necessary to contribute to the execution of the network functions referred to in Article 26, in accordance with Article 27;	
197.			<i>Article 2 - paragraph 43a (new)</i>	
198.			43a. ‘Network Operations Plan (NOP)’ means a plan established through cooperative decision-making	B

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			process to implement at operational level the objectives of the network functions, and to contribute to performance objectives;	
199.			<i>Article 2 - paragraph 43b (new)</i>	
200.			43b. 'Network Strategy Plan (NSP)' means a plan established through cooperative decision-making process guiding the network's long-term development;	B
201.			<i>Article 2 - paragraph 43c (new)</i>	
202.			43c. 'Operational air traffic' means all flights, which do not comply with the provisions stated for general air traffic and for which rules and procedures have been specified by appropriate national authorities;	B
203.	<i>Article 2 - paragraph 44</i>		<i>Article 2 - paragraph 44</i>	
204.	44. 'operational data' means information concerning all phases of flight that is required for operational purposes by air navigation service providers, airspace users, airport operators		44. 'operational data' means information concerning all phases of flight that is required for operational purposes by air navigation service providers, airspace users, airport operators	

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	and other actors involved;		and other actors involved;	
205.			<i>Article 2 - paragraph 44a (new)</i>	
206.			44a. ‘operational stakeholders’ means the civil and military airspace users, civil and military air navigation service providers as well as airport operators;	B
207.	<i>Article 2 - paragraph 45</i>		<i>Article 2 - paragraph 45</i>	
208.	45. ‘performance plan’ means a plan drafted or adopted, according to the case, by air traffic service providers and the Network Manager and aimed at improving the performance of air navigation services and network functions;		45. ‘performance plan’ means a plan aimed at improving the performance of air navigation services and network functions;	B
209.	<i>Article 2 - paragraph 46</i>		<i>Article 2 - paragraph 46</i>	
210.	46. ‘putting into service’ means the first operational use after the initial installation or upgrade of a system;		46. ‘putting into service’ means the first operational use after the initial installation or upgrade of a system;	
211.	<i>Article 2 - paragraph 47</i>		<i>Article 2 - paragraph 47</i>	
212.	47. ‘route network’ means a network of specified routes for channelling the flow of general air traffic as		47. ‘route network’ means a network of specified routes for channelling the flow of general air traffic as	

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	necessary for the provision of ATC services;		necessary for the provision of ATC services;	
213.	<i>Article 2 - paragraph 48</i>		<i>Article 2 - paragraph 48</i>	
214.	48. ‘SESAR definition phase’ means the phase comprising the establishment and updating of the long-term vision of the SESAR project, of the related concept of operations enabling improvements at every stage of flight, of the required essential operational changes within the EATMN and of the required development and deployment priorities;		48. ‘SESAR definition phase’ means the phase comprising the establishment and updating of the long-term vision of the SESAR project, of the related concept of operations enabling improvements at every stage of flight, of the required essential operational changes within the EATMN and of the required development and deployment priorities;	
215.	<i>Article 2 - paragraph 49</i>		<i>Article 2 - paragraph 49</i>	
216.	49. ‘SESAR deployment phase’ means the successive phases of industrialisation and implementation, during which the following activities are conducted: standardisation, production and certification of ground and airborne equipment and processes necessary to implement SESAR		49. ‘SESAR deployment phase’ means the successive phases of industrialisation and implementation, during which the following activities are conducted: standardisation, production and certification of ground and airborne equipment and processes necessary to implement SESAR solutions	

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	solutions (industrialisation); and procurement, installation and putting into service of equipment and systems based on SESAR solutions, including associated operational procedures (implementation);		(industrialisation); and procurement, installation and putting into service of equipment and systems based on SESAR solutions, including associated operational procedures (implementation);	
217.	<i>Article 2 - paragraph 50</i>		<i>Article 2 - paragraph 50</i>	
218.	50. ‘SESAR development phase’ means the phase during which research, development and validation activities aiming to deliver mature SESAR solutions are conducted;		50. ‘SESAR development phase’ means the phase during which research, development and validation activities aiming to deliver mature SESAR solutions are conducted;	
219.	<i>Article 2 - paragraph 51</i>		<i>Article 2 - paragraph 51</i>	
220.	51. ‘SESAR project’ means the project to modernise air traffic management in Europe, aimed at providing the Union with a high performance, standardised and interoperable air traffic management infrastructure, and consisting in an innovation cycle that includes the SESAR		51. ‘SESAR project’ means the project to modernise air traffic management in Europe, aimed at providing the Union with a high performance, standardised and interoperable air traffic management infrastructure, and consisting in an innovation cycle that includes the SESAR definition	

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	definition phase, the SESAR development phase and the SESAR deployment phase;		phase, the SESAR development phase and the SESAR deployment phase;	
221.	<i>Article 2 - paragraph 52</i>	<i>Article 2 - paragraph 52</i>	<i>Article 2 - paragraph 52</i>	
222.	52. ‘SESAR solution’ means a deployable output of the SESAR development phase introducing new or improved standardised and interoperable operational procedures or technologies;		52. ‘SESAR solution’ means a deployable output of the SESAR development phase introducing new or improved standardised and interoperable operational procedures or technologies;	
223.		<i>52 a. ‘standards development organisation’ means any organisation the main purpose of which is developing, coordinating or issuing technical standards, including the European standardisation organisations listed in Annex I to Regulation (EU) 1025/2012¹⁸;</i> <i>18 Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on</i>		B

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		<i>European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316 14.11.2012, p. 12).</i>		
224.	Article 2 - paragraph 53		Article 2 - paragraph 53	
225.	53. ‘surveillance services’ means the facilities and services used to determine the respective positions of aircraft to allow safe separation;		53. surveillance services’ means the facilities and services used to determine the respective positions of aircraft to allow safe separation;	

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226.	<i>Article 2 - paragraph 54</i>		<i>Article 2 - paragraph 54</i>	
227.	54. ‘system’ means the aggregation of airborne and ground-based constituents, as well as space-based equipment, that provides support for air navigation services for all phases of flight;		54. ‘system’ means the aggregation of airborne and ground-based constituents, as well as space-based equipment, that provides support for air navigation services for all phases of flight;	
228.	<i>Article 2 - paragraph 55</i>		<i>Article 2 - paragraph 55</i>	
229.	55. ‘terminal air navigation services’ means aerodrome control services or aerodrome flight information services which include air traffic advisory services and alerting services, air traffic services related to the approach and departure of aircraft within a distance from the airport concerned necessary to meet operational requirements and the necessary underlying air navigation services;		[...]	B

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230.	<i>Article 2 - paragraph 56</i>		<i>Article 2 - paragraph 56</i>	
231.	56. ‘terminal charging zone’ means an airport or a group of airports, located within the territories of a Member State, where terminal air navigation services are provided and for which a single cost base is established;		56. ‘terminal charging zone’ means an airport or a group of airports, located within the territories of a Member State or Member States, where terminal air navigation services are provided and for which a single cost base and a single unit rate are established;	B
232.	<i>Article 2 - paragraph 57</i>		<i>Article 2 - paragraph 57</i>	
233.	57. ‘upgrade’ means any modification that changes the operational characteristics of a system.		57. ‘upgrade’ means any modification that changes the operational characteristics of a system.	
234.			<i>Article 2a (new)</i>	
235.			Functional airspace blocks	
236.			<i>Article 2a - paragraph 1 (new)</i>	
237.			1. Member States may establish a functional airspace block to develop better cooperation and coordination with a view to fostering the performance of the air traffic management network within the Single European Sky. Without	C

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			prejudice to Article 5(3) to (5a) of this Regulation, Member States may jointly execute all or part of their obligations under Articles 3, 4, 5, 7, 7a, 7b, 8, 10, 13, 13a, 13b and 17 of this Regulation and of the implementing rules adopted on the basis thereof at the level of the functional airspace block.	
238.			<i>Article 2a - paragraph 2 (new)</i>	
239.			2. Where relevant, cooperation may also include third countries taking part in functional airspace blocks.	C
240.			<i>Article 2a - paragraph 3 (new)</i>	
241.			3. Functional airspace blocks shall be established by means of an international agreement concluded between the Member States concerned and, where relevant, the third countries concerned having responsibility for any part of the airspace covered by the functional airspace block. The agreement and the list of obligations that Member	C

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			States intend to implement jointly shall be notified to the Commission.	
242.	CHAPTER II	CHAPTER II	CHAPTER II	
243.	NATIONAL SUPERVISORY AUTHORITIES	NATIONAL SUPERVISORY AUTHORITIES	NATIONAL SUPERVISORY AUTHORITIES	
244.	<i>Article 3</i>	<i>Article 3</i>	<i>Article 3</i>	
245.	Nomination, establishment and requirements regarding national supervisory authorities	Nomination, establishment and requirements regarding national supervisory authorities	Nomination, establishment and requirements regarding national supervisory authorities	
246.	<i>Article 3 - paragraph 1</i>	<i>Article 3 - paragraph 1</i>	<i>Article 3 - paragraph 1</i>	
247.	1. Member States shall, jointly or individually, either nominate or establish a body or bodies as their national supervisory authority in order to assume the tasks assigned to such authority by this Regulation.	1. Member States shall, jointly or individually, either nominate or establish a body ■ as their national supervisory authority in order to assume the tasks assigned to such authority by this Regulation.	1. Member States shall, jointly or individually, either nominate or establish a body or bodies as their national supervisory authority in order to assume the tasks assigned to such authority by this Regulation.	B
248.	<i>Article 3 - paragraph 2</i>	<i>Article 3 - paragraph 2</i>	<i>Article 3 - paragraph 2</i>	
249.	2. The national supervisory authorities shall exercise their powers impartially, independently and transparently.	2. The national supervisory authorities shall exercise their powers impartially, independently and transparently <i>applying appropriate management and</i>	2. The national supervisory authority shall exercise its powers impartially, independently and transparently and shall be organised, staffed, managed and	B

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		<i>control mechanisms</i> and shall be organised, staffed, managed and financed accordingly.	financed accordingly.	
250.	<i>Article 3 - paragraph 3</i>	<i>Article 3 - paragraph 3</i>	<i>Article 3 - paragraph 3</i>	
251.	3. Without prejudice to paragraph 1, the national supervisory authorities shall be legally distinct and independent from any other public or private entity in terms of their organisation, functioning, legal structure and decision-making.	3. Without prejudice to paragraph 1, the national supervisory authorities shall be legally distinct and independent from any other public or private entity in terms of their organisation, functioning, <i>budgeting, financing,</i> legal structure and decision-making.	[...]	C
252.	The national supervisory authorities shall also be independent in terms of their organisation, funding decisions, legal structure and decision-making from any air navigation service provider.	The national supervisory authorities shall also be independent in terms of their organisation, <i>functioning, budgeting, financing,</i> legal structure and decision-making from any air navigation service provider <i>or any other entity falling within the scope of their supervision.</i>	The national supervisory authority shall be independent from any air navigation service providers, in organisational, hierarchical and decision-making terms, in particular by avoiding conflicts of interest with those service providers. That independence shall not prevent that authority and those service providers from being part of the same civil service, public entity or administration.	C

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253.	<i>Article 3 - paragraph 4</i>	<i>Article 3 - paragraph 4</i>	<i>Article 3 - paragraph 4</i>	
254.	<p>4. Member States may set up national supervisory authorities which are competent for several regulated sectors, if those integrated regulatory authorities fulfil the independence requirements set out in this Article. The national supervisory authority may also be joined in respect of its organisational structure with the national competition authority referred to in Article 11 of Council Regulation (EC) No 1/2003¹⁸, if the joint body fulfils the independence requirements set out in this Article.</p> <p>_____</p> <p>18 Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).</p>	<p>4. The national supervisory authority may <i>share</i> its organisational structure <i>with another regulatory authority or</i> with the national competition authority referred to in Article 11 of Council Regulation (EC) No 1/2003, if the joint body fulfils the independence requirements set out in this Article.</p>	<p>4. Member States may set up authorities which are competent either for several regulated sectors or for several areas of regulation within the transport sector provided that those integrated regulatory authorities fulfil the independence requirements set out in this Article. The national supervisory authority may be joined in respect of its organisational structure with other public authorities, in particular the national competition authority referred to in Article 11 of Council Regulation (EC) No 1/2003¹⁸, the national competent authority, or, if applicable, with a national transport authority, provided that the joint body hereby set up fulfils the independence requirements set out in this Article.</p> <p>_____</p> <p>18 Council Regulation (EC) No</p>	C

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			1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).	
255.	Article 3 - paragraph 5	Article 3 - paragraph 5	Article 3 - paragraph 5	
256.	5. Staff of the national supervisory authorities shall comply with the following requirements:	5. Staff of the national supervisory authorities shall comply with the following requirements:	[...]	C
257.	(a) they shall be recruited under clear and transparent processes which ensure their independence;	(a) they shall be recruited under clear and transparent processes and criteria which ensure their independence;	[...]	C
258.	(b) they shall be selected on the basis of their specific qualifications, including appropriate competence and relevant experience or they shall be subject to appropriate training.	(b) they shall be selected on the basis of their specific qualifications, including appropriate competence and relevant experience or they shall be subject to appropriate training.	[...]	C
259.		(ba) they shall not be seconded from air navigation service providers or companies under the control of an air navigation service provider.		C

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260.	Staff of national supervisory authorities shall act independently, in particular by avoiding conflicts of interest between air navigation service provision and the execution of their tasks.	Staff of national supervisory authorities shall act independently <i>and not seek or take instructions from any government or other public or private entity when carrying out its functions.</i>	[...]	C
261.	<i>Article 3 - paragraph 6</i>	<i>Article 3 - paragraph 6</i>	<i>Article 3 - paragraph 6</i>	
262.	6. In addition to the requirements set out in paragraph 5, persons in charge of strategic decisions shall be appointed by an entity of the Member State concerned which does not directly exert ownership rights over air navigation service providers.	6. In addition to the requirements set out in paragraph 5, persons in charge of strategic decisions shall be appointed <i>in accordance with a clear and transparent procedure</i> by an entity of the Member State concerned which does not directly exert ownership rights over air navigation service providers. <i>Persons appointed shall not have held a professional position in, or had responsibility in connection with any air navigation service provider during the previous year.</i>	[...]	C
263.	Member States shall decide whether these persons are appointed for a fixed and renewable term, or on a	Member States shall decide whether ■ persons <i>in charge of strategic decisions</i> are appointed for a fixed	[...]	C

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	permanent basis which only allows dismissal for reasons not related to their decision-making.	and renewable term, or on a permanent basis which only allows dismissal for reasons not related to their decision-making.		
264.	Persons in charge of strategic decisions shall not seek or take instructions from any government or other public or private entity when carrying out their functions for the national supervisory authority and shall have full authority over the recruitment and management of its staff. 3. Without prejudice to paragraph 2, the national supervisory authorities may be joined in organisational terms with other regulatory bodies and/or safety authorities.		[...]	C
265.	They shall refrain from any direct or indirect interest that may be considered prejudicial to their independence and which may influence the performance of their functions. To that effect, they shall make an annual declaration of	They shall refrain from any direct or indirect interest that may be considered prejudicial to their independence and which may influence the performance of their functions. To that effect, they shall make ■ a declaration of commitment	[...]	C

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	commitment and declaration of interests indicating any direct or indirect interests.	and declaration of interests indicating any direct or indirect interests.		
266.	Persons in charge of strategic decisions, audits or other functions directly linked to performance targets or oversight of air navigation service providers, shall not hold any professional position or responsibility with any air navigation service provider after their term in the national supervisory authority, for at least a period of two years.	<i>Where a person has been</i> in charge of the strategic decisions, audits or other functions directly linked to performance targets or oversight of an air navigation service provider for a term of six months or more, <i>they</i> shall not hold any professional position <i>in</i> , or <i>have</i> responsibility <i>in connection</i> with, any air navigation service provider until a minimum period after their term in that national supervisory authority <i>has elapsed</i> . <i>That minimum period shall be:</i> <i>(i) at least 12 months, for staff in managerial positions;</i> <i>(ii) at least 6 months for staff, for staff in non-managerial positions.</i>	[...]	C
267.	<i>Article 3 - paragraph 7</i>	<i>Article 3 - paragraph 7</i>	<i>Article 3 - paragraph 7</i>	
268.	7. Member States shall ensure that national supervisory authorities have the necessary financial resources and capabilities to carry out the tasks assigned to them	7. Member States shall ensure that national supervisory authorities have the necessary <i>public</i> financial resources and capabilities to carry out the tasks assigned to them	[...]	C

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	under this Regulation in an efficient and timely manner. The national supervisory authorities shall manage their staff based on their own appropriations, to be set in proportion to the tasks to be fulfilled by the authority in accordance with Article 4.	under this Regulation in an efficient and timely manner. The national supervisory authorities shall manage their staff based on their own appropriations, <i>in accordance with relevant national law and procedures</i> , to be set in <i>depending on</i> the tasks to be fulfilled by the authority in accordance with Article 4.		
269.	<i>Article 3 - paragraph 8</i>	<i>Article 3 - paragraph 8</i>	<i>Article 3 - paragraph 8</i>	
270.	8. A Member State may request the Agency acting as Performance Review Body (PRB), to carry out the tasks related to the implementation of the performance and charging schemes laid down in Articles 14, 17, 19, 20, 21, 22 and 25, and in the implementing acts referred to in Articles 18 and 23 and for which the national supervisory authority of that Member State is responsible under this Regulation and the delegated and	8. A Member State may request the Agency acting as Performance Review Body (PRB), to carry out the tasks related to the implementation of the performance and charging schemes laid down in Articles 14, 17, 19, 20, 21, 22 and 25, and in the implementing acts referred to in Articles 18 and <i>delegated acts referred to in Article 23</i> and for which the national supervisory authority of that Member State is responsible under this Regulation and the	[...]	C

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	implementing acts adopted on the basis thereof.	delegated and implementing acts adopted on the basis thereof.		
271.	Once the Agency acting as PRB accepts such a request, it shall become the supervisory authority responsible for the tasks covered by that request and the national supervisory authority of the requesting Member State shall be relieved of the responsibility for those tasks. The rules contained in Regulation (EU) 2018/1139 and pertaining to the Agency acting as PRB shall apply to the performance of these tasks, including as regards the levying of fees and charges.	<i>A Member State which has reallocated the responsibility for the tasks to the Agency acting as PRB pursuant to paragraph 1 and 2, may, at any time, decide to revoke the reallocation, if:</i> <i>(i) the Member State concerned demonstrates that it has the necessary resources and can effectively exercise the responsibility for the tasks concerned;</i> <i>(ii) the Member State agrees with the Agency's acting as PRB detailed arrangements concerning the reallocation of responsibility for the tasks in question, including the date of that reallocation.</i>	[...]	C
272.	<i>Article 3 - paragraph 9</i>		<i>Article 3 - paragraph 9</i>	
273.	9. Member States shall notify the Commission of the names and addresses of the national supervisory authorities, as well as		9. Member States shall notify the Commission of the names and addresses of the national supervisory authorities, as well as	

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	changes thereto, and of the measures taken to ensure compliance with this Article.		changes thereto, and of the measures taken to ensure compliance with this Article.	
274.	Article 3 - paragraph 10	Article 3 - paragraph 10	Article 3 - paragraph 10	
275.	10. The Commission shall establish detailed rules laying down the modalities of recruitment and selection procedures referred to in paragraph 5, points (a) and (b). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).	10. The Commission shall establish detailed rules laying down the modalities of recruitment <i>criteria</i> and selection procedures referred to in paragraph 5, points (a), (b) <i>and (ba)</i> . <i>Those implementing acts shall specify:</i>	[...]	C
276.		<i>(a) the level of separation required by the appointing entity from any company, organisation, public or private entity or staff falling within the scope of national supervisory authorities or having an interest in the activities of such entities, with a view to maintaining a balance between avoiding conflicts of interest and administrative efficiency;</i>		C

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277.		<i>b) relevant technical qualifications of staff involved in audits.</i>		C
278.		Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).		C
279.	<i>Article 4</i>	<i>Article 4</i>	<i>Article 4</i>	
280.	Tasks of the national supervisory authorities	Tasks of the national supervisory authorities	Tasks of the national supervisory authorities	
281.	<i>Article 4 - paragraph 1</i>		<i>Article 4 - paragraph 1</i>	
282.	1. The national supervisory authorities referred to in Article 3 shall:		1. The national supervisory authority shall carry out the tasks assigned to it under this Regulation and the implementing acts adopted on the basis thereof, in particular the following tasks:	
283.	(a) conduct the activities necessary for the issuance of the economic certificates referred to in Article 6, including the oversight of the holders of those economic certificates;		(a) verify the compliance with, and the fulfilment of national security and defence requirements by the service providers referred to in Article 7(1a)b) and Article 8(4)d);	C

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284.	(b) oversee the correct application of procurement requirements in accordance with Article 8(6);		[...]	B
285.	(c) apply the performance and charging schemes set out in in Articles 10 to 17 and 19 to 22 and the implementing acts referred to in Articles 18 and 23, within the limits of their tasks defined in those articles and acts, and oversee the application of the Regulation regarding the transparency of accounts of designated air traffic service providers in accordance with Article 25.	(c) ■ implement the performance and charging schemes set out in in Articles 10 to 17 and 19 to 22, including the delegated acts referred to in Article 23 adopted to supplement those articles , and the implementing acts referred to in Articles 18, within the limits of their tasks defined in those articles and acts, and oversee the application of the Regulation regarding the transparency of accounts of ■ air navigation service providers in accordance with Article 25.	(c) assess and approve the price setting for the provision of the CIS, in accordance with Article 9; <i>(moved from Article 4(2))</i>	C
286.			(d) preparation of the draft performance plan, including the setting of criteria for allocation of costs and the setting of performance targets, the monitoring of performance and the charging schemes as set out, and within the limits of, in Articles 10 to 13b, 17 and 19 to 22 and the	C

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			implementing acts referred to in Articles 18 and 23;	
287.			(e) oversee the application of the Regulation regarding the transparency of accounts in accordance with Article 25 , audit or verify and approve the financial data referred to in Article 25(4).	A
288.	<i>Article 4 - paragraph 2</i>		<i>Article 4 - paragraph 2</i>	
289.	2. The national supervisory authorities shall be responsible for assessing and approving the price setting for the provision of the common information service, in accordance with Article 9.		[...] (<i>moved to Article 4(1)(c)</i>)	A
290.	<i>Article 4 - paragraph 3</i>	<i>Article 4 - paragraph 3</i>	<i>Article 4 - paragraph 3</i>	
291.	3. Each national supervisory authority shall conduct the necessary inspections , audits and other monitoring activities to identify possible infringements by entities subject to their oversight under this Regulation of the requirements set out in this		3. Each national supervisory authority shall, in cooperation with the national competent authority where it is a different entity, conduct the necessary monitoring activities, including, as appropriate, inspections and audits, to identify possible non-compliance by	B

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	Regulation and the delegated and implementing acts adopted on the basis thereof.		entities subject to their oversight under this Regulation of the requirements set out in this Regulation and the implementing acts adopted on the basis thereof.	
292.	It shall take all necessary enforcement measures which may, where appropriate, include the amendment, limitation, suspension or revocation of economic certificates issued by them in accordance with Article 6.	It shall take all necessary enforcement measures which may, where appropriate, include the amendment, limitation, suspension or revocation of economic certificates issued by them in accordance with Article 6 <i>and fines or periodic penalties imposed in accordance with Article 42a.</i>	In case of non-compliance, national supervisory authorities shall decide on and enforce corrective measures.	B
293.	The air navigation service providers, airport operators and the common information service providers concerned shall comply with the measures taken by the national supervisory authorities to this effect.		The air navigation service providers, airport operators and the CIS providers concerned shall comply with any enforcement measures taken by the national supervisory authorities in that context. In case of cross-border services, the Member State concerned, or its national supervisory authority, may request the Member State where the service provider is established or has its principal place of business, or the national supervisory authority of	B

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			that Member State, to provide him with support to overcome any enforcement difficulties. Both Member States, or their national supervisory authorities, shall endeavour to cooperate to that end.	
294.		<i>3 a. Member States shall ensure that the decisions taken by the national supervisory authority pursuant to this Article are subject to judicial review.</i>		B
295.	<i>Article 5</i>	<i>Article 5</i>	<i>Article 5</i>	
296.	Co-operation between national supervisory authorities	Co-operation between national supervisory authorities	Co-operation between national supervisory authorities	
297.	<i>Article 5 - paragraph 1</i>		<i>Article 5 - paragraph 1</i>	
298.	1. The national supervisory authorities shall exchange information and work together in a network in the context of the Advisory Board for Performance Review referred to in Article 114a of Regulation (EU) 2018/1139.		1. The national supervisory authorities shall exchange information as appropriate, in particular information relating to their work and decision-making process, best practices and procedures, as well as to the application of this Regulation. To this end, the national supervisory authorities	B

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			may participate and work together in a network that convenes at regular intervals.	
299.	<i>Article 5 - paragraph 2</i>		<i>Article 5 - paragraph 2</i>	
300.	2. The national supervisory authorities shall cooperate, where appropriate through working arrangements, for the purposes of mutual assistance in their monitoring and supervisory tasks and handling of investigations and surveys.		2. The national supervisory authorities shall cooperate, in particular in the case of the provision of cross-border services and of provision of air navigation services in an airspace falling under the responsibility of another Member State, through working arrangements, for the purposes of mutual assistance in their monitoring and supervisory tasks and handling of investigations and surveys.	B
301.	<i>Article 5 - paragraph 3</i>	<i>Article 5 - paragraph 3</i>	<i>Article 5 - paragraph 3</i>	
302.	3. National supervisory authorities shall facilitate the provision of cross-border services by air navigation service providers for the purpose of improving network performance. In the case of	3. National supervisory authorities shall facilitate the provision of cross-border services by air navigation service providers for the purpose of improving network performance. In the case of	3. In the case of provision of air navigation services in an airspace falling under the responsibility of two or more Member States, in particular with respect to functional airspace blocks, the Member States	B


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	provision of air navigation services in an airspace falling under the responsibility of two or more Member States, the Member States concerned shall conclude an agreement on the supervision to be carried out by them under this Regulation, of the air navigation service providers concerned . The national supervisory authorities concerned may establish a plan specifying the implementation of their co-operation with a view to giving effect to that agreement.	provision of air navigation services in an airspace falling under the responsibility of two or more Member States , the Member States concerned shall conclude an agreement on the supervision to be carried out by them under this Regulation, of the air navigation service providers concerned . The national supervisory authorities concerned <i>shall</i> establish a plan specifying the implementation of their co-operation with a view to giving effect to that agreement.	concerned shall conclude, if appropriate, an agreement on the supervision to be carried out by them or their authorities under this Regulation, of the air navigation service providers concerned.	
303.	<i>Article 5 - paragraph 4</i>	<i>Article 5 - paragraph 4</i>	<i>Article 5 - paragraph 4</i>	
304.	4. In the case of provision of air navigation services in an airspace falling under the responsibility of another Member State, the agreements referred to in paragraph 3 shall provide for the mutual recognition of the discharge, by each of the authorities, of the supervisory		4. In the case of provision of air navigation services in an airspace falling under the responsibility of another Member State, the agreements referred to in paragraph 3 shall provide for the mutual recognition of the discharge, by each of the Member States or their authorities, of the tasks set out in	B


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	tasks set out in this Regulation and of the results of the discharge of these tasks. They shall also specify which national supervisory authority shall be in charge of the economic certification set out in Article 6.		this Regulation and of the results of the discharge of these tasks. They shall also specify which national supervisory authority shall be in charge of the tasks set out in Article 4(1).	
305.	<i>Article 5 - paragraph 5</i>	<i>Article 5 - paragraph 5</i>	<i>Article 5 - paragraph 5</i>	
306.	5. Where permitted by national law and with a view to regional cooperation, national supervisory authorities may also conclude agreements on the division of responsibilities regarding the supervisory tasks. They shall notify the Commission of these agreements.	5. Where permitted by national law and with a view to regional cooperation, national supervisory authorities <i>shall</i> also conclude agreements on the division of responsibilities regarding the supervisory tasks. They shall notify the Commission of these agreements.	5. Where permitted by national law and with a view to regional cooperation, national supervisory authorities may also conclude agreements on the division of responsibilities regarding the supervisory tasks.	B
307.			<i>Article 5 - paragraph 5a (new)</i>	
308.			5a. Agreements referred to in this Article shall be notified to the Commission.	A


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309.		<i>Article 5a (new)</i>	<i>(Article 9b)</i>	
310.		Agency acting as Performance Review Body		
311.		<i>Article 5a - paragraph 1 (new)</i>		
312.		<i>1. A Performance Review Body (PRB) shall be established with the competence to implement various tasks notably in respect of the performance and charging schemes. A permanent structure shall be established with the European Union Aviation Safety Agency (EASA) in a manner that separates, functionally and hierarchically, the discharge of the PRB's tasks regarding the performance and charging schemes of the Single European Sky, from the Agency's activity as a safety authority.</i>		C
313.		<i>Article 5a - paragraph 2 (new)</i>		

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314.		<i>2. To carry out its tasks, the Agency acting as PRB shall have the required expertise. It shall be independent from public or private interests and shall be provided with its own dedicated resources. Its integration within the existing structure of the Agency shall be governed by the [Regulation (EU) 2018/1139 as amended by Regulation PRB].</i>		C
315.		<i>Article 5b (new)</i>		See document 9786/21
316.		Structure of the Agency acting as PRB		
317.		<i>For carrying out its tasks on performance review, the Agency acting as PRB shall have: (a) A Regulatory Board for Performance Review; (b) A Director for Performance Review; (c) An Advisory Board for Performance Review;</i>		

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		<i>(d) An Appeal Board for Performance Review, independent from the bodies and function holders listed in points (a) to (c).</i>		
318.		<i>Article 5c (new)</i>		See document 9786/21
319.		Functions of the Regulatory Board for Performance Review		
320.		<i>The Regulatory Board for Performance Review shall: (a) provide opinions and, where appropriate, comments on and amendments to the text of the Director for Performance Review's proposals for draft opinions, recommendations and decisions related to its tasks under this Regulation, including when they are carried out pursuant to a cooperation agreement under Article 5z which are considered for adoption; (b) within its field of competence, provide guidance to the Director for Performance Review in the execution</i>		

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		<p><i>of his or her tasks;</i></p> <p><i>(c) appoint the Director for Performance Review in accordance Article 5h(2), and where applicable decide on his or her removal from office in accordance with Article 5h(6);</i></p> <p><i>(d) approve the section on performance review activities of the programming document to be submitted by the Director for Performance Review to the Executive Director in accordance with point (g) of Article 5i(3) and Article 117a of the [Regulation (EU) 2018/1139 as amended by Regulation PRB];</i></p> <p><i>(e) decide, after obtaining the agreement of the Commission, and as regards the revenue and expenditure in respect of performance review, whether to accept any legacies, donations or grants from other Union sources or any voluntary contribution from the Member States or from the national supervisory authorities</i></p>		

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		<p><i>referred to in Article 3 of this Regulation;</i></p> <p><i>(f) approve the independent section on regulatory activities of the section on performance review of the consolidated annual activity report to be submitted by the Director for Performance Review to the Executive Director of the Agency in accordance with point (i) of Article 5i(3) and Article 118a of the [Regulation (EU) 2018/1139 as amended by Regulation PRB];</i></p> <p><i>(g) elaborate and approve the procedures for issuing opinions, recommendations and decisions by the Agency acting as PRB in accordance with Article 5v(4);</i></p> <p><i>(h) on the basis of a proposal by the Director for Performance Review, adopt and regularly update the communication and dissemination plans on performance review referred to in Article 5v(5);</i></p> <p><i>(i) on the basis of a proposal by the</i></p>		

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		<p><i>Director for Performance Review, establish or modify the internal structures concerning performance review;</i></p> <p><i>(j) authorise the conclusion of working arrangements in accordance with Article 5z(4).</i></p> <p><i>(k) exercise disciplinary authority over the Director for Performance Review;</i></p> <p><i>(l) on the basis of a proposal by the Director for Performance Review, establish mechanisms and procedures for consultation of stakeholders referred to in Article 38 and Article 5v of this Regulation.</i></p> <p><i>(m) provide an opinion to the Commission on the candidates to be appointed as members of the Appeal Board for Performance Review in accordance with Article 5m. That opinion shall not be binding.</i></p>		

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321.		<i>Article 5d (new)</i>		See document 9786/21
322.		Composition and independence of the Regulatory Board for Performance Review		
323.		<i>Article 5d – paragraph 1 (new)</i>		
324.		<i>1. The Regulatory Board for Performance Review shall be composed of 9 voting members and one non-voting representative of the Commission. Each member shall have an alternate. One of the members shall be the Chairperson of the Advisory Board for Performance Review. A member of the Management Board of the Agency shall not be a member of the Regulatory Board for Performance Review. The term of office for members and their alternates shall be five years, and that term shall be extendable.</i>		

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325.		<i>Article 5d – paragraph 2 (new)</i>		
326.		<i>2. The members of the Regulatory Board for Performance Review and their alternates shall be formally appointed by the Commission, following a public call for expression of interest. The members of the Regulatory Board for Performance Review shall be appointed on the basis of merit as well as to ensure a mix of skills, and experience relevant to the air traffic management or economic regulation of network industries, together with scientific knowledge and expertise about the environmental and climate impacts of the aviation sector. Gender and geographical balance shall be taken into account;</i>		

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327.		<i>Article 5d – paragraph 3 (new)</i>		
328.		<i>3. When carrying out the tasks conferred upon it by this Regulation, the Regulatory Board for Performance Review shall be independent and shall not seek or follow instructions from any government of a Member State, from the Commission, from EASA or any another public or private entity.</i>		
329.		<i>Article 5e (new)</i>		See document 9786/21
330.		Chairperson of the Regulatory Board for Performance Review		
331.		<i>Article 5e – paragraph 1 (new)</i>		
332.		<i>1. The Regulatory Board for Performance Review shall elect a Chairperson and a Deputy Chairperson from among its members with voting rights by a two-thirds majority. The Deputy Chairperson shall replace the Chairperson if the latter is not in a</i>		

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		<i>position to perform his or her duties.</i>		
333.		<i>Article 5e – paragraph 2 (new)</i>		
334.		<i>2. The term of office of the Chairperson and of the Deputy Chairperson shall be two-and-a- half years and shall be renewable. If their membership of the Regulatory Board for Performance Review ceases at any time during their term of office, their term of office shall automatically expire on that date.</i>		
335.		<i>Article 5f (new)</i>		See document 9786/21
336.		Meetings of the Regulatory Board for Performance Review		
337.		<i>Article 5f – paragraph 1 (new)</i>		
338.		<i>1. Meetings of the Regulatory Board for Performance Review shall be convened by its Chairperson.</i>		

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339.		<i>Article 5f – paragraph 2 (new)</i>		
340.		<i>2. The Regulatory Board for Performance Review shall hold at least two ordinary meetings a year. In addition, it shall meet at the request of the Chairperson, of the Commission or of at least one third of its members.</i>		
341.		<i>Article 5f – paragraph 3 (new)</i>		
342.		<i>3. The Director for Performance Review shall take part in the deliberations, without the right to vote.</i>		
343.		<i>Article 5f – paragraph 4 (new)</i>		
344.		<i>4. The Regulatory Board for Performance Review may invite any person whose opinion might be of interest, such as scientific experts in the domain of climate and environmental performance, to attend its meetings with observer status.</i>		

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345.		<i>Article 5f – paragraph 5 (new)</i>		
346.		<i>5. The Agency shall provide the secretariat for the Regulatory Board for Performance Review.</i>		
347.		<i>Article 5g (new)</i>		See document 9786/21
348.		Voting rules of the Regulatory Board for Performance Review		
349.		<i>Article 5g – paragraph 1 (new)</i>		
350.		<i>1. Unless otherwise specified in this Regulation, the Regulatory Board for Performance Review shall take decisions by a simple majority of the members with voting rights.</i>		
351.		<i>Article 5g – paragraph 2 (new)</i>		
352.		<i>2. Each member with voting rights appointed pursuant to Article 5d(2) shall have one vote. In the absence of a member, his or her alternate shall be entitled to exercise his or her right to vote. Neither observers nor the Director for Performance Review shall have the right to vote.</i>		

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353.		<i>Article 5g – paragraph 3 (new)</i>		
354.		<i>3. The Regulatory Board for Performance Review shall adopt its rules of procedure, which shall set out in greater detail the arrangements governing voting.</i>		
355.		<i>Article 5h (new)</i>		See document 9786/21
356.		Director for Performance Review		
357.		<i>Article 5h – paragraph 1 (new)</i>		
358.		<i>1. The Director for Performance Review shall be engaged as a temporary agent of the Agency under Article 2, point (a) of the Conditions of Employment of Other Servants.</i>		
359.		<i>Article 5h – paragraph 2 (new)</i>		
360.		<i>2. The Director for Performance Review shall be appointed by the Regulatory Board for Performance Review, on the basis of merit as well as skills and experience relevant to the aeronautical industry or economic</i>		


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		<i>regulation of network industries, from a list of at least three candidates proposed by the Commission and following an open and transparent selection procedure. The Director for Performance Review shall not have held any professional position or responsibility with any air navigation service provider or airline company for the one year prior to the appointment.</i>		
361.		Article 5h – paragraph 3 (new)		
362.		<p>3. The Director for Performance Review's term of office shall be five years. In the course of the nine months preceding the end of that period, the Commission shall undertake an assessment. In the assessment, the Commission shall examine in particular:</p> <p>(a) the performance of the Director for Performance Review;</p> <p>(b) the duties and requirements</p>		


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		<i>concerning performance review in the following years.</i>		
363.		<i>Article 5h – paragraph 4 (new)</i>		
364.		4. The Regulatory Board for Performance Review acting on a proposal from the Commission and giving the utmost consideration to the assessment referred to in paragraph 3 may extend the term of office of the Director for Performance Review once by no more than five years. A Director for Performance Review whose term of office has been extended shall not participate in another selection procedure for the same post at the end of the extended period.		
365.		<i>Article 5h – paragraph 5 (new)</i>		
366.		5. If his or her term of office is not extended, the Director for Performance Review shall remain in office until the appointment of his or her successor.		


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367.		<i>Article 5h – paragraph 6 (new)</i>		
368.		6. The Director for Performance Review may be removed from office only by a decision of the Regulatory Board for Performance Review, acting on a proposal from the Commission.		
369.		<i>Article 5h – paragraph 7 (new)</i>		
370.		7. The Regulatory Board for Performance Review shall reach decisions on appointment, extension of the term of office or removal from office of the Director for Performance Review on the basis of a two-thirds majority of its members with voting rights. The Director for Performance Review shall not hold any professional position or responsibility with any air navigation service provider, or with any other entity which could give rise to a conflict of interests, after his or her term as Director		


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		<i>for Performance Review, for at least a period of two years.</i>		
371.		<i>Article 5i (new)</i>		See document 9786/21
372.		Responsibilities of the Director for Performance Review		
373.		<i>Article 5i – paragraph 1 (new)</i>		
374.		<i>1. The Director for Performance Review shall be accountable to the Regulatory Board for Performance Review with respect to administrative, budgetary and managerial matters, but shall remain fully independent concerning his or her tasks under paragraph 3. Without prejudice to the role of the Regulatory Board for Performance Review in relation to the tasks of the Director for Performance Review, the Director for Performance Review shall neither seek nor follow any instruction from any government, from the Union</i>		


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		<i>institutions, from EASA or from any other public or private entity or person.</i>		
375.		<i>Article 5i – paragraph 2 (new)</i>		
376.		<i>2. The Director for Performance Review may attend the meetings of the Regulatory Board for Performance Review as an observer.</i>		
377.		<i>Article 5i – paragraph 3 (new)</i>		
378.		<i>3. The Director for Performance Review shall be responsible for the implementation of the tasks regarding performance review carried out in accordance with this Regulation. The Director for Performance Review shall take account of the guidance referred to in Article 5c(1), point (b) and, where provided for in this Regulation, the opinions of the Regulatory Board for Performance Review. In particular, the Director for</i>		

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		<p><i>Performance Review shall be responsible for:</i></p> <p><i>(a) ensuring the legal representation of the Agency in matters of performance review;</i></p> <p><i>(b) carrying out the day-to-day administration of the work on performance review, including exercising appointing authority powers as regard members of the staff whose posts are attributed to the function of the Agency acting as PRB;</i></p> <p><i>(c) with respect to areas directly or indirectly linked to the work on performance review, preparing the work of the Management Board, participating, without having the right to vote, in the work of the Management Board and implementing the decisions adopted by the Management Board on areas related to the function of the Agency acting as PRB;</i></p> <p><i>(d) drafting, consulting, adopting</i></p>		

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		<p><i>and publishing opinions, recommendations and decisions in respect of the its tasks under this Regulation, including when they are carried pursuant to a cooperation agreement under Article 5z;</i></p> <p><i>(e) implementing the section on performance review activities of the programming document referred to in Article 117a of the [Regulation (EU) 2018/1139 as amended by Regulation PRB];</i></p> <p><i>(f) taking the necessary measures, in particular as regards adopting internal administrative instructions and publishing notices, to ensure the functioning of the Agency’s work on performance review in accordance with this Regulation.</i></p> <p><i>(g) each year, preparing the section on performance review activities of the programming document referred to in Article 117a of the [Regulation (EU) 2018/1139 as amended by Regulation PRB] which shall be</i></p>		

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		<p><i>submitted to the Executive Director of the Agency and integrated in the Agency's draft programming document. Any change to the input related to performance review shall only be made upon approval of the Director for Performance Review;</i></p> <p><i>(i) drawing up a provisional draft estimate of the revenue and expenditure in respect of performance review in accordance with Article 120a(7) of the [Regulation (EU) 2018/1139 as amended by Regulation PRB] and submitting it to the Executive Director of the Agency for the purpose of Article 104(3), point (h) of the [Regulation (EU) 2018/1139 as amended by Regulation PRB] and implementing the revenue and expenditure in respect of performance review in accordance with Article 121 of the [Regulation (EU) 2018/1139 as amended by Regulation PRB]. Any change to the</i></p>		


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		<p><i>input related to performance review shall only be made upon approval of the Director for Performance Review;</i></p> <p><i>(j) preparing annually the draft section on performance review of the consolidated annual activity report including an independent section on the regulatory activities related to performance review and a section on financial and administrative matters, and submitting it to the Executive Director of the Agency for its integration in the consolidated annual activity report. Any change to the input on performance review shall only be made upon approval of the Director for Performance Review;</i></p> <p><i>(k) where activities of the Agency acting as PRB are concerned, preparing, in coordination with the Executive Director of the Agency, an action plan following up on the conclusions of internal or external audit reports and evaluations, as well as on investigations by OLAF, and</i></p>		


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		<p><i>reporting on progress twice a year to the Commission and reporting regularly on progress to the Management Board;</i></p> <p><i>(l) preparing a proposal for mechanisms and procedures for consultation of stakeholders referred to in Article 38 of this Regulation to be submitted to the Regulatory Board for Performance Review for adoption;</i></p> <p><i>(m) requesting the Regulatory Board for Performance Review to establish or modify the internal structures concerning performance review;</i></p> <p><i>(n) preparing the draft communication and dissemination plans concerning performance review referred to in Article 5v(5) to be submitted to the Regulatory Board for Performance Review;</i></p> <p><i>(o) deciding whether in order for the Agency acting as PRB to be able carry out its work in an efficient and</i></p>		

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		<i>effective manner it is necessary to establish one or more local offices in one or more Member States. The decisions referred to in the first subparagraphs require the prior consent of the Regulatory Board for Performance Review and, where applicable, the Member State where the local office is to be established. Those decisions shall specify the scope of the activities to be carried out at that local office or by that co-located staff in a manner that avoids unnecessary costs and duplication of administrative functions of the Agency.</i>		
379.		<i>Article 5i – paragraph 4 (new)</i>		
380.		<i>4. The section of the annual work programme on performance review in the programming document shall: (i) comprise detailed objectives and expected results, including performance indicators, including for climate and environment areas;</i>		

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		<p><i>(ii) contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action, in accordance with the principles of activity-based budgeting and management;</i></p> <p><i>(iv) be coherent with the section on performance review of the multi-annual work programme referred to in Article 117a(4) of the [Regulation (EU) 2018/1139 as amended by Regulation PRB]; and</i></p> <p><i>(iv) clearly indicate the tasks that have been added, changed or deleted in comparison with the previous financial year.</i></p>		
381.		<i>Article 5i – paragraph 5 (new)</i>		
382.		<i>5. The section of the consolidated annual activity report on performance review shall include an independent section on regulatory activities, including levels of performance targets fulfilment, and a section on</i>		

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		<i>financial and administrative matters. The Regulatory Board for Performance Review shall approve the independent section on regulatory activities prior to the submission to the Executive Director of the Agency, in accordance with Article 5c(1), point (d).</i>		
383.		<i>Article 5i – paragraph 6 (new)</i>		
384.		<i>6. For the purposes of paragraph 3, point (d), opinions, recommendations and decisions of the Agency acting as PRB under Regulation including when carried out pursuant to a cooperation agreement under Article 5z shall be adopted only after having obtained the favourable opinion of the Regulatory Board for Performance Review. Before submitting draft opinions, recommendations or decisions to a vote by the Regulatory Board for</i>		

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		<p><i>Performance Review, the Director for Performance Review shall submit proposals for the draft opinions, recommendations or decisions to the relevant working group for consultation sufficiently in advance.</i></p> <p><i>The Director for Performance Review shall take the comments and amendments of the Regulatory Board for Performance Review into account and shall resubmit the revised draft opinion, recommendation or decision to the Regulatory Board for Performance Review for a favourable opinion. Where the Director for Performance Review deviates from or rejects the comments and amendments received from the Regulatory Board for Performance Review, the Director for Performance Review shall also provide a duly justified written explanation.</i></p>		

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		<p><i>The Director for Performance Review may withdraw submitted draft opinions, recommendations or decisions provided that he/she submits a duly justified written explanation where he/she disagrees with the amendments submitted by the Regulatory Board for Performance Review. In the case of a withdrawal of a draft opinion, recommendation or decision, the Director for Performance Review may issue a new draft opinion, recommendation or decision following the procedure set out in Article 5c(1), point (a) and in the second subparagraph of this paragraph.</i></p> <p><i>If the Regulatory Board for Performance Review does not give a favourable opinion on the resubmitted text of the draft opinion, recommendation or decision because its comments</i></p>		

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		<i>and amendments were not adequately reflected in the resubmitted text, the Director for Performance Review may revise the text of the draft opinion, recommendation or decision further in accordance with the amendments and comments proposed by the Regulatory Board for Performance Review in order to obtain its favourable opinion, without having to provide additional written reasons.</i>		
385.		<i>Article 5j (new)</i>		See document 9786/21
386.		Functions and operations of the Advisory Board for Performance Review		
387.		<i>Article 5j – paragraph 1 (new)</i>		
388.		1. The Advisory Board for Performance Review shall: (a) exchange information about the work of national supervisory authorities and decision-making principles, best		

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		<p><i>practices and procedures as well as with regard to the application of this Regulation.</i></p> <p><i>(b) provide opinions and recommendations on guidance material to be issued by the Agency acting as PRB. The opinions and recommendations of the Advisory Board for Performance Review shall not be binding.</i></p>		
389.		<i>Article 5j – paragraph 2 (new)</i>		
390.		<p><i>2. The Advisory Board for Performance Review shall meet at regular intervals, in order to ensure that national supervisory authorities consult and work together in a network, in synergy with stakeholders.</i></p>		
391.		<i>Article 5j – paragraph 3 (new)</i>		
392.		<p><i>3. The Chairperson of the Regulatory Board for Performance Review and the Director for Performance Review may participate in</i></p>		

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		<i>meetings of the Advisory Board for Performance Review and may make recommendations to national supervisory authorities convened as the Advisory Board for Performance Review, as appropriate, on matters related to their expertise on the performance and charging scheme referred to in this Regulation.</i>		
393.		<i>Article 5j – paragraph 4 (new)</i>		
394.		<i>4. Subject to the rules on data provided for in Article 31 of this Regulation and in Regulation (EU) 2018/1725 of the European Parliament and of the Council¹⁹, the Agency shall provide the secretariat to the Advisory Board for Performance Review and shall support the exchange of the information referred to in paragraph 1 among the members of the Advisory Board for Performance Review, respecting the confidentiality of</i>		

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		<p><i>commercially sensitive information of air navigation service providers.</i></p> <p><i>19 Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).</i></p>		
395.		Article 5k (new)		See document 9786/21
396.		Composition of the Advisory Board for Performance Review		

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397.		<i>Article 5k – paragraph 1 (new)</i>		
398.		<p>1. The Advisory Board for Performance Review shall be composed of:</p> <p>(a) <i>one senior representative per Member State from the national supervisory authorities referred to in Article 3 of this Regulation and one alternate per Member State from the current senior staff of those authorities, both nominated by the national supervisory authority;</i></p> <p>(b) <i>one non-voting representative of the Commission, and one alternate, both with sufficient expertise and knowledge on the environmental and climate impacts of aviation;</i></p> <p>(c) <i>three non-voting representative of Air Navigation Services Providers, commercial and non-commercial civil airspace users and of the airport operators;</i></p> <p>(d) <i>one non-voting</i></p>		

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		<i>professional staff organisation representative.</i>		
399.		<i>Article 5k – paragraph 2 (new)</i>		
400.		<p>2. The Advisory Board for Performance Review shall elect a Chairperson and a Deputy- Chairperson from among its members. The Deputy- Chairperson shall replace the Chairperson if the latter is not in a position to perform his or her duties. The term of office of the Chairperson and of the Deputy- Chairperson shall be two-and-a- half years and shall be renewable. If their membership of the Advisory Board for Performance Review ceases at any time during their term of office, their term of office shall automatically expire on that date.</p>		

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401.		<i>Article 5l (new)</i>		See document 9786/21
402.		Powers of the Appeal Board for Performance Review		
403.		<i>Article 5l – paragraph 1 (new)</i>		
404.		1. The Appeal Board for Performance Review shall be responsible for deciding on appeals against the decisions referred to in this Regulation. The Appeal Board for Performance Review shall be convened as necessary.		
405.		<i>Article 5l – paragraph 2 (new)</i>		
406.		2. The Appeal Board for Performance Review shall be independent from the Regulatory Board for Performance Review, the Advisory Board for Performance Review and from the Director for Performance Review.		
407.		<i>Article 5l – paragraph 3 (new)</i>		
408.		3. The decisions of the Appeal Board for Performance Review shall be		

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		<i>adopted by a majority of at least four of its six members.</i>		
409.		<i>Article 5m (new)</i>		See document 9786/21
410.		Members of the Appeal Board for Performance Review		
411.		<i>Article 5m – paragraph 1 (new)</i>		
412.		1. The Appeal Board for Performance Review shall be composed of six members and six alternates selected from among current or former senior staff of the national supervisory authorities referred to in Article 3 of this Regulation competition authorities or other Union or national institutions with relevant experience in the aviation sector. The Appeal Board for Performance Review shall designate its Chairperson.		

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413.		<i>Article 5m – paragraph 2 (new)</i>		
414.		<i>2. The members of the Appeal Board for Performance Review shall be formally appointed by the Commission, following a public call for expression of interest, after consulting the Regulatory Board for Performance Review.</i>		
415.		<i>Article 5m – paragraph 3 (new)</i>		
416.		<i>3. The members of the Appeal Board for Performance Review shall undertake to act independently and in the public interest. For that purpose, they shall make a written declaration of commitments and a written declaration of interests indicating either the absence of any interest which might be considered prejudicial to their independence or indicating any direct or indirect interest which might be considered prejudicial to their independence. Those declarations shall be made public</i>		

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		<i>annually.</i>		
417.		<i>Article 5m – paragraph 4 (new)</i>		
418.		<i>4. The term of office of the members of the Appeal Board for Performance Review shall be five years. That term shall be renewable once.</i>		
419.		<i>Article 5m – paragraph 5 (new)</i>		
420.		<i>5. In taking their decisions the members of the Appeal Board for Performance Review shall act independently. They shall not be bound by any instructions. They shall not perform any duties in the Agency, in its Management Board, in the Regulatory Board for Performance Review or in the Advisory Board for Performance Review. A member of the Appeal Board for Performance Review shall not be removed during his or her term of office, unless he or she has been found guilty of serious misconduct, and the</i>		

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		<i>Commission has taken a decision to that effect.</i>		
421.		<i>Article 5m – paragraph 6 (new)</i>		
422.		<p>6. The Appeal Board for Performance Review shall adopt and publish its rules of procedure. Those rules shall set out in detail the arrangements governing the organisation and functioning of the Appeal Board for Performance Review and the rules applicable to appeals before the Appeal Board for Performance Review pursuant to Articles 5l to 5t. The Appeal Board for Performance Review shall notify the Commission of its draft rules of procedure as well as any significant change to those rules. The Commission may provide an opinion on those rules within three months of the date of receipt of the notification.</p>		

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423.		<i>Article 5n (new)</i>		See document 9786/21
424.		Exclusion and objection in the Appeal Board for Performance Review		
425.		<i>Article 5n – paragraph 1 (new)</i>		
426.		<i>1. The members of the Appeal Board for Performance Review shall not take part in any appeal proceedings if they have any personal interest therein, if they have previously been involved as representatives of one of the parties to the proceedings or if they participated in the adoption of the decision under appeal.</i>		
427.		<i>Article 5n – paragraph 2 (new)</i>		
428.		<i>2. If, for one of the reasons listed in paragraph 1 or for any other reason, a member of the Appeal Board for Performance Review considers that he or she should not take part in any appeal proceeding, he or she shall inform</i>		

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		<i>the Appeal Board for Performance Review accordingly.</i>		
429.		<i>3. Any party to the appeal proceedings may object to any member of the Appeal Board for Performance Review on any of the grounds given in paragraph 1, or if the member is suspected of partiality. Any such objection shall not be admissible if, while being aware of a reason for objecting, the party to the appeal proceedings has taken a procedural step. No objection may be based on the nationality of members.</i>		
430.		<i>Article 5n – paragraph 4 (new)</i>		
431.		<i>4. The Appeal Board for Performance Review shall decide as to the action to be taken in the cases specified in paragraphs 2 and 3 without the participation of the member concerned. For the purposes of taking this decision,</i>		

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		<i>the member concerned shall be replaced on the Appeal Board for Performance Review by his or her alternate. If the alternate finds him or herself in a similar situation to that of the member, the Chairperson shall designate a replacement from among the available alternates.</i>		
432.		<i>Article 5o (new)</i>		See document 9786/21
433.		Decisions issued by the Agency acting as PRB subject to appeal		
434.		<i>Article 5o – paragraph 1 (new)</i>		
435.		<i>1. An appeal may be brought against decisions of the Agency acting as PRB taken pursuant to this Regulation.</i>		
436.		<i>Article 5o – paragraph 2 (new)</i>		
437.		<i>2. An appeal lodged pursuant to paragraph 1 shall not have suspensory effect. The Appeal Board for Performance Review may, however, if it considers that</i>		

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		<i>circumstances so require, suspend the application of the contested decision.</i>		
438.		<i>Article 5o – paragraph 3 (new)</i>		
439.		<i>3. The Agency acting as PRB shall publish the decisions taken by the Appeal Board for Performance Review.</i>		
440.		<i>Article 5p (new)</i>		See document 9786/21
441.		Persons entitled to appeal		
442.		<i>Any natural or legal person may appeal against a decision issued by the Agency acting as PRB addressed to that person, or against a decision issued by the Agency acting as PRB which, although in the form of a decision addressed to another person, is of direct and individual concern to the former. The parties to proceedings may be party to the appeal proceedings.</i>		

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443.		<i>Article 5q (new)</i>		See document 9786/21
444.		Time limit and form		
445.		<i>The appeal shall include a statement of the grounds for appeal and shall be filed in writing to the Agency acting as PRB within two months of the notification of the decision to the person concerned, or, in the absence thereof, within two months of the date on which the Agency acting as PRB published its decision. The Appeal Board for Performance Review shall decide upon the appeal within four months of the lodging of the appeal.</i>		
446.		<i>Article 5r (new)</i>		See document 9786/21
447.		Interlocutory revision		
448.		Article 5r – paragraph 1 (new)		
449.		1. Before examining the appeal, the Appeal Board for Performance Review shall give the Agency acting as PRB the opportunity to		

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		<i>review its decision. If the Director for Performance Review considers the appeal to be well founded, he or she shall rectify the decision within two months from being notified by the Appeal Board for Performance Review. That shall not apply where the appellant is opposed to another party to the appeal proceedings.</i>		
450.		<i>Article 5r – paragraph 2 (new)</i>		
451.		<i>2. If the decision is not rectified, the Appeal Board for Performance Review shall forthwith decide whether or not to suspend the application of the decision pursuant to Article 5o(2).</i>		
452.		<i>Article 5s (new)</i>		See document 9786/21
453.		Examination of appeals		
454.		<i>Article 5s – paragraph 1 (new)</i>		
455.		<i>1. The Appeal Board for Performance Review shall assess whether the appeal is admissible</i>		


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		<i>and well founded.</i>		
456.		<i>Article 5s – paragraph 2 (new)</i>		
457.		<i>2. When examining the appeal pursuant to paragraph 1, the Appeal Board for Performance Review shall act expeditiously.</i>		
458.		<i>It shall as often as necessary invite the parties to the appeal proceedings to file, within specified time limits, written observations on notifications issued by itself or on communications from other parties to the appeal proceedings. The Appeal Board for Performance Review may decide to hold an oral hearing, either of its own motion or at the substantiated request of one of the parties to the appeal.</i>		

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459.		<i>Article 5t (new)</i>		See document 9786/21
460.		Decisions on appeal		
461.		<i>Where the Board of Appeal finds that the appeal is not admissible or that the grounds for appeal are not founded, it shall reject the appeal. Where the Board of Appeal finds that the appeal is admissible and that the grounds for appeal are founded, it shall remit the case to the Agency acting as PRB. The Agency acting as PRB shall take a new reasoned decision taking into account the decision by the Board of Appeal.</i>		
462.		<i>Article 5u (new)</i>		See document 9786/21
463.		Actions before the Court of Justice		
464.		<i>Article 5u – paragraph 1 (new)</i>		
465.		<i>1. Actions for the annulment of a decision issued by the Agency acting as PRB pursuant to this Regulation and actions for failure to act within the applicable time</i>		

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		<i>limits may be brought before the Court of Justice only after the exhaustion of the appeal procedure referred to in Articles 5l to 5t.</i>		
466.		<i>Article 5u – paragraph 2 (new)</i>		
467.		<i>2. The Agency acting as PRB shall take the necessary measures to comply with the judgments of the Court of Justice.</i>		
468.		<i>Article 5v (new)</i>		See document 9786/21
469.		Transparency, communication and procedures for issuing opinions, recommendations and decisions by the Agency acting as PRB		
470.		<i>Article 5v – paragraph 1 (new)</i>		
471.		<i>1. In carrying out its tasks, the Agency acting as PRB shall extensively consult at an early stage the stakeholders listed in Article 38(3) of this Regulation and, where relevant, competition authorities and the European</i>		

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		<i>Environmental Agency, without prejudice to their respective competence, in an open and transparent manner. In accordance with Article 38 of this Regulation, the Agency acting as PRB shall establish consultation mechanisms for appropriate involvement of those stakeholders.</i>		
472.		<i>For this purpose, the Director for Performance Review shall draft a proposal for those mechanisms to the Regulatory Board for Performance Review.</i>		
473.		<i>Article 5v – paragraph 2 (new)</i>		
474.		<i>2. The Agency acting as PRB shall ensure that the public and any interested parties are given objective, reliable, updated and easily accessible information, in particular with regard to the results of its work.</i>		

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475.		<i>All documents and minutes of consultation meetings shall be made public.</i>		
476.		<i>Article 5v – paragraph 3 (new)</i>		
477.		<i>3. The Agency acting as PRB shall make public, on its website, at least the agenda, the background documents and, where appropriate, the minutes of the meetings of the Regulatory Board for Performance Review and of the Appeal Board for Performance Review.</i>		
478.		<i>Article 5v – paragraph 4 (new)</i>		
479.		<i>4. The Agency acting as PRB shall adopt and publish adequate and proportionate procedures for issuing opinions, recommendations and decisions by the Agency acting as PRB, in accordance with the procedure set out in Article 5c(1), point (g). Those procedures shall: (a) ensure that the Agency</i>		

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		<p><i>acting as PRB publishes documents and widely consults interested parties, in accordance with a timetable and a procedure which includes an obligation on the Agency acting as PRB to give a written response to the consultation process;</i></p> <p><i>(b) undergo, for matters concerning climate and environmental performance, a scientific review by independent experts;</i></p> <p><i>(c) ensure that before taking any individual decision as provided for in the [Regulation (EU) 2018/1139 as amended by Regulation PRB] and in this Regulation, the Agency acting as PRB informs any party concerned of its intention to adopt that decision, and shall set a time limit within which the party concerned may express its views on the matter, taking full account of the</i></p>		

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		<p><i>urgency, complexity and potential consequences of the matter;</i></p> <p><i>(d) ensure that individual decisions of the Agency acting as PRB states the reasons on which they are based for the purpose of allowing an appeal on the merits;</i></p> <p><i>(e) where the Agency acting as PRB issues a decision, provide for the natural or legal person to whom the decision is addressed, and any other parties to proceedings, to be informed of the legal remedies available to them under this Regulation;</i></p> <p><i>(f) specify the conditions under which decisions are notified to the persons concerned, including information on the available appeal procedures as provided for in this Regulation.</i></p>		
480.		<i>Article 5v – paragraph 5 (new)</i>		
481.		<i>5. The Agency acting as PRB may engage in communication activities on its own initiative</i>		

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		<i>within its field of competence on performance review, and in doing so shall be represented by the Director for Performance Review. The allocation of resources to communication activities shall not be detrimental to the effective exercise of the tasks and powers referred to in this Regulation. Communication activities shall be carried out in accordance with relevant communication and dissemination plans adopted by the Regulatory Board for Performance Review in accordance with point (h) of Article 5c(1);</i>		
482.		<i>Article 5w (new)</i>		See document 9786/21
483.		Budget of the Agency for its functions as PRB		

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484.		<i>Article 5w – paragraph 1 (new)</i>		
485.		<i>1. The Agency shall account the revenue and expenditure for performance review separately from other revenue and expenditure. Such revenue and expenditure shall be in balance, in accordance with and subject to paragraph 2.</i>		
486.		<i>Article 5w – paragraph 1 (new)</i>		
487.		<i>2. Surpluses shown in the account referred to in paragraph 1 shall be transferred to the reserve fund established in accordance with paragraph 6. Losses shown in the account referred to in paragraph 1 shall be covered through transfers from that reserve fund. Where a significant positive or negative budget result becomes recurrent, the level of fees and charges referred to in paragraph 3, points (a) and (d) and Article 5y shall be revised.</i>		

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488.		<i>Article 5w – paragraph 3 (new)</i>		
489.		<p>3. The revenues of the Agency for its functions as PRB shall comprise:</p> <p>(a) a financial contribution from the Union for the setting up of the PRB for all the expenditures necessary to initiate the supervision by the Agency acting as PRB;</p> <p>(b) fees levied by the Agency acting as PRB on designated air traffic service providers for services related to performance plan assessment, target-setting and monitoring;</p> <p>(c) any voluntary financial contribution from the Member States or the national supervisory authorities referred to in Article 3 of this Regulation;</p> <p>(d) charges for publications and any other service provided by the Agency acting as PRB;</p> <p>(e) any contribution from third countries or other entities,</p>		

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		<i>provided that such a contribution does not compromise the independence and impartiality of the Agency acting as PRB.</i>		
490.		<i>Article 5w – paragraph 4 (new)</i>		
491.		<i>4. All revenue and expenditure of the Agency for its functions as PRB shall be the subject of forecasts for each financial year, coinciding with the calendar year, and shall be entered in its budget.</i>		
492.		<i>Article 5w – paragraph 5 (new)</i>		
493.		<i>5. The revenue received by the Agency for its functions as PRB shall not compromise its neutrality, independence or objectivity.</i>		


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494.		<i>Article 5w – paragraph 6 (new)</i>		
495.		<i>6. The Agency acting as PRB shall establish a reserve fund covering one year of its operational expenditure to ensure the continuity of its operations and the execution of its tasks. It shall be reviewed each year to ensure that it is limited to annual needs.</i>		
496.		<i>Article 5w – paragraph 7 (new)</i>		
497.		<i>7. The Director for Performance Review shall draw up each year a draft estimate of the revenue and expenditure for performance review for the following year together with the list of posts for performance review, detailing their intended duties and fields of activity, and shall submit them to the Executive Director for its integration in the draft statement of estimates of the Agency's revenue and expenditure referred to in Article 120(6) of the</i>		


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		<i>[Regulation (EU) 2018/1139 as amended by Regulation PRB].</i>		
498.		<i>Article 5w – paragraph 8 (new)</i>		
499.		<i>8. The Executive Director or the Management Board may make changes to the draft estimate of the revenue and expenditure and the list of posts for performance review upon approval of the Director for Performance Review. Where the Executive Director and the Director for Performance Review do not come to an agreement on the draft estimate of the revenue and expenditure for performance review, the Director for Performance Review shall draft an opinion which the Executive Director shall annex to the draft statement of estimates of the Agency's revenue and expenditure referred to in Article 120(6) of the [Regulation (EU) 2018/1139 as amended by Regulation PRB]. The Director</i>		

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		<i>for Performance Review shall in that case also have the right to present its opinion to the Management Board before the Management Board adopts the provisional draft estimate of revenue and expenditure of the Agency in accordance with the second subparagraph of Article 120(6) of the [Regulation (EU) 2018/1139 as amended by Regulation PRB].</i>		
500.		<i>Article 5x (new)</i>		See document 9786/21
501.		Evaluation		
502.		<i>Article 5x – paragraph 1 (new)</i>		
503.		<i>1. In conjunction with the evaluation referred to in Article 43 of this Regulation, the Commission shall, by the deadline defined in that Regulation, carry out an evaluation to assess the Agency's performance as PRB in relation to its objectives, tasks and powers.</i>		

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		<i>The evaluation shall in particular address the possible need to modify the tasks and powers of the Agency acting as PRB, and the financial implications of any such modification.</i>		
504.		<i>Article 5x – paragraph 2 (new)</i>		
505.		<i>2. Where the Commission considers that the continued existence of the PRB function is no longer justified with regard to its assigned objectives, tasks and powers, it may propose that this Regulation and [Regulation (EU) 2018/1139 as amended by Regulation PRB] be amended accordingly.</i>		
506.		<i>Article 5x – paragraph 3 (new)</i>		
507.		<i>3. The Commission shall forward the evaluation findings related to the activity of the Agency acting as PRB, together with its conclusions, to the European Parliament, the Council and the</i>		

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		<i>Management Board. The findings of the evaluation and the recommendations shall be made public.</i>		
508.		<i>Article 5y (new)</i>		See document 9786/21
509.		Fees and charges of the Agency acting as PRB		
510.		<i>Article 5y – paragraph 1 (new)</i>		
511.		1. Fees of the Agency acting as PRB shall be levied for: (a) the assessment of the allocation of costs between en route and terminal air navigation services, in accordance with Article 13(6) of this Regulation. (b) the assessment, for each initial or revised draft performance plan presented to the Agency acting as PRB, carried out in accordance with Article 13(7) to (9) of this Regulation; (c) where the Agency acts as a supervisory authority in		

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		<p><i>accordance with Article 3(8) of this Regulation, the assessment, for each initial or revised draft performance plan presented to the Agency acting as PRB, carried out in accordance with Article 14(6) to (8) of this Regulation;</i></p> <p><i>(d) the establishment of performance targets of designated air traffic service providers in accordance with Article 13(9) of this Regulation;</i></p> <p><i>(e) where the Agency acts as a supervisory authority in accordance with Article 3(8) of this Regulation, the establishment of performance targets of designated air traffic service providers in accordance with Article 14(8) of this Regulation;</i></p> <p><i>(f) the assessment of requests for permissions to revise targets and performance plans of air traffic service providers in accordance with Article 17(3) and (4) of this</i></p>		

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		<p><i>Regulation;</i></p> <p><i>(g) the verification of unit rates in preparation of the setting of those rates by the national supervisory authorities, in accordance with Article 21 of this Regulation;</i></p> <p><i>(h) the issuance of reports, in respect of individual air traffic service providers, on the monitoring of performance in accordance with Article 13(11) of this Regulation and, where the Agency acts as a supervisory authority in accordance with Article 3(8) of this Regulation in accordance with Article 14(10) of this Regulation;</i></p> <p><i>(i) the adoption of corrective measures in accordance with Article 13(11) of this Regulation and, where the Agency acts as a supervisory authority in accordance with Article 3(8) of this Regulation, in accordance</i></p>		

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		<i>with Article 14(10) of this Regulation; The budget of the Agency acting as PRB shall comprise a separate budget line for the financing of the registry of the Appeal Board for the Performance Review.</i>		
512.		<i>Article 5y – paragraph 2 (new)</i>		
513.		<i>2. The charges levied for publications and the provision of any other service by the Agency acting as PRB as referred to in Article 5w(3) shall reflect the actual cost of each individual service provided.</i>		
514.		<i>Article 5y – paragraph 3 (new)</i>		
515.		<i>3. The amount of the fees and charges shall be fixed by the Commission in accordance with paragraph 4. They shall be fixed at such a level as to ensure that the revenue in respect thereof covers the full cost of the activities related to the services delivered,</i>		

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		<i>and to avoid a significant accumulation of surplus. All expenditure regarding members of staff whose posts are dedicated to the function of the Agency acting as PRB, in particular the employer's pro-rata contribution to the pension scheme, shall be reflected in that cost. The fees and charges shall be assigned revenues for the Agency acting as PRB for activities related to services for which fees and charges are due.</i>		
516.		<i>Article 5y – paragraph 4 (new)</i>		
517.		<i>4. The Commission is empowered to adopt delegated acts in accordance with Article 36 laying down detailed rules relating to fees and charges levied by the Agency for its function as PRB. Those delegated acts shall specify: (a) detailed criteria and a detailed methodology for establishing the amounts of the</i>		

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		<i>fees and charges; (b) detailed procedures and a detailed methodology with regard to the way fees and charges are paid.</i>		
518.		<i>Article 5z</i>		See document 9786/21
519.		Cooperation agreements on performance review		
520.		<i>Article 5z – paragraph 1 (new)</i>		
521.		<i>1. Insofar as the activities of the Agency acting as PRB are concerned, the Agency shall be open to the participation of third countries which have concluded agreements with the Union and which have adopted and are applying the relevant rules of Union law in the field of air traffic management including, in particular, the rules on independent national supervisory authorities and on performance scheme and charging scheme.</i>		

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522.		<i>Article 5z – paragraph 2 (new)</i>		
523.		<i>2. Subject to the conclusion of an agreement to that effect between the Union and third countries as referred to in paragraph 1, the Agency acting as PRB may also carry out its tasks under this Regulation with regard to third countries, provided that those third countries have adopted and apply the relevant rules in accordance with paragraph 1 and have mandated the Agency acting as PRB to coordinate the activities of their national supervisory authorities with those of the national supervisory authorities of Member States.</i>		
524.		<i>Article 5z – paragraph 3 (new)</i>		
525.		<i>3. Priority shall be given to those cooperation agreements with potential to result in a higher overall reduction of climate-impacting emissions;</i>		

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526.		<i>Article 5z – paragraph 4 (new)</i>		
527.		<i>4. The agreements referred to in paragraph 1 shall specify the nature, scope and procedural aspects of the involvement of those countries in the work of the Agency acting as PRB and shall include provisions relating to financial contributions and to staff. Those agreements may provide for the establishment of working arrangements.</i>		
528.	CHAPTER III	CHAPTER III	CHAPTER III	
529.	SERVICE PROVISION	SERVICE PROVISION	SERVICE PROVISION	
530.	<i>Article 6</i>	<i>Article 6</i>	<i>Article 6</i>	
531.	Economic certification and requirements for air navigation service providers	Economic certification and requirements for air navigation service providers	Provision of services by air navigation service providers	
532.	<i>Article 6 - paragraph 1</i>	<i>Article 6 - paragraph 1</i>	<i>Article 6 - paragraph 1</i>	
533.	1. Air navigation service providers shall, in addition to the certificates they are required to hold pursuant to Article 41 of Regulation (EU) No 2018/1139, hold an economic	1. Air navigation service providers shall, in addition to the certificates they are required to hold pursuant to Article 41 of Regulation (EU) No 2018/1139, hold an economic	[...]	C

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	certificate. This economic certificate shall be issued upon application, when the applicant has demonstrated sufficient financial robustness and has obtained appropriate liability and insurance cover.	certificate. This economic certificate shall be issued upon application, when the applicant has demonstrated ■ financial robustness and has obtained appropriate liability and insurance cover. <i>The applicants shall also demonstrate that they have policies and processes in place to ensure compliance with Union competition law.</i>		
534.	The economic certificate referred to in this paragraph may be limited, suspended or revoked when the holder no longer complies with the requirements for issuing and maintaining such certificate.	The economic certificate referred to in this paragraph may be amended , limited, suspended or revoked when the holder no longer complies with the requirements for issuing and maintaining such certificate. <i>The NSA shall develop a contingency plan in collaboration with the Network Manager and the Agency acting as PRB in the event of such limitation, suspension or revocation of the economic certificate, in order to ensure business continuation.</i>	[...]	C

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535.	<i>Article 6 - paragraph 2</i>		<i>Article 6 - paragraph 2</i>	
536.	2. An entity that holds an economic certificate referred to in paragraph 1 and a certificate referred to in Article 41 of Regulation (EU) No 2018/1139 shall be entitled to provide within the Union air navigation services for airspace users, under non-discriminatory conditions, without prejudice to Article 7(2).		2. Without prejudice to Articles 7, 7a and 8(4) of this Regulation, an entity that complies with the requirements set out in Articles 40 and 41 of Regulation (EU) No 2018/1139 and in the delegated acts and implementing acts adopted on the basis thereof shall be entitled to provide air navigation services for airspace users within the Union, under non-discriminatory conditions.	B
537.			<i>Article 6 - paragraph 2a (new)</i>	
538.			2a. In the case a Member States has granted to an air navigation service provider an exemption from the requirement to hold a certificate pursuant to Article 41(6) of Regulation (EU) 2018/1139, that Member State may, notwithstanding paragraph 2, allow that service provider to provide air navigation services in the part of	B

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			the airspace under its responsibility for which this exemption was granted and in compliance with the conditions set out in that Article.	
539.	<i>Article 6 - paragraph 3</i>	<i>Article 6 - paragraph 3</i>		
540.	3. The economic certificate referred to in paragraph 1 and the certificate referred to in Article 41 of Regulation (EU) No 2018/1139 may be subject to one or several conditions set out in Annex I. Such conditions shall be objectively justified, non-discriminatory, proportionate and transparent. The Commission shall be empowered to adopt delegated acts in accordance with Article 36 in order to amend the list set out in Annex I for the purposes of providing for an economic level playing field and resilience of service provision.	3. The economic certificate referred to in paragraph 1 ■ may be subject to one or several conditions set out in Annex I. Such conditions shall be objectively justified, non-discriminatory, proportionate and transparent. The Commission shall be empowered to adopt delegated acts in accordance with Article 36 in order to amend the list set out in Annex I for the purposes of providing for an economic level playing field and <i>financial</i> resilience of service provision.	[...]	C

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541.	<i>Article 6 - paragraph 4</i>	<i>Article 6 - paragraph 4</i>	<i>Article 6 - paragraph 4</i>	
542.	4. The national supervisory authorities of the Member State where the natural or legal person applying for the economic certificate has its principal place of business or, if that person has no principal place of business, where it has its place of residence or place of establishment, shall be responsible for the tasks set out in this Article in respect of the economic certificates. In the case of provision of air navigation services in an airspace falling under the responsibility of two or more Member States, the national supervisory authorities responsible shall be those specified in accordance with Article 5(4).	4. The national supervisory <i>authority</i> of the Member State where the natural or legal person applying for the economic certificate has its principal place of business or, if that person has no principal place of business, where it has its place of residence or place of establishment, shall be responsible for the tasks set out in this Article in respect of the economic certificates. In the case of provision of air navigation services in an airspace falling under the responsibility of two or more Member States, the national supervisory authorities responsible shall be those specified in accordance with Article 5(4).	[...]	
543.	<i>Article 6 - paragraph 5</i>		<i>Article 6 - paragraph 5</i>	
544.	5. For the purpose of paragraph 1, the national supervisory authorities		[...]	C

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	shall:			
545.	(a) receive and assess the applications made to them, and, where applicable, issue or renew economic certificates;		[...]	C
546.	(b) perform oversight of holders of economic certificates.		[...]	C
547.	Article 6 - paragraph 6	Article 6 - paragraph 6	Article 6 - paragraph 6	
548.	6. The Commission shall adopt, in accordance with the examination procedure referred to in Article 37(3), implementing rules regarding detailed requirements on financial robustness, in particular financial strength and financial resilience, as well as in respect of liability and insurance cover. In order to ensure the uniform implementation of and compliance with paragraphs (1), (4) and (5) of this Article, the Commission shall adopt implementing acts, in accordance with the examination procedure referred to in Article 37(3),	6. ■ In order to ensure the uniform implementation of and compliance with paragraphs (1), (4) and (5) of this Article, the Commission shall, with a view to achieving the objectives set out in Article 1, adopt implementing acts, in accordance with the examination procedure referred to in Article 37(3), laying down detailed provisions concerning: (a) the rules and procedures for certification issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 6 paragraph 1;	[...]	C

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	laying down detailed provisions concerning the rules and procedures for certification and for conducting the investigations, inspections, audits and other monitoring activities necessary to ensure effective oversight by the national supervisory authority of the entities subject to this Regulation.	<p><i>(b) the rules and procedures for conducting the investigations, inspections, audits and other monitoring activities referred to in Article 4(3) and Article 6(5) necessary to ensure effective oversight and enforcement by the national supervisory authority of the entities subject to this Regulation;</i></p> <p><i>(c) the rules and procedures for developing contingency plans in case of limitation, suspension or revocation of the economic certificate, referred to in Article 6(1);</i></p>		
549.		<i>Article 6 - paragraph 6a (new)</i>	<i>Article 6 - paragraph 3</i>	
550.		<i>6a. Notwithstanding paragraphs 1 and 2, Member States may allow the provision of air navigation services in all or part of the airspace under their responsibility without certification in cases where the provider of such services offers them primarily</i>	3. Notwithstanding paragraph 2, Member States may allow the provision of air navigation services referred to in Article 2(3)c) of Regulation 2018/1139 in all or part of the airspace under their responsibility by the military without certification and/or	B

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		<i>aircraft movements other than general air traffic. In those cases, the Member State concerned shall inform the Commission and the other Member States of its decision and of the measures taken to ensure maximum compliance with the common requirements.</i>	application of all or part of this Regulation. In such cases, the Member State concerned shall inform the Commission and the other Member States of its decision. The provision of those services shall be in accordance with the conditions laid down in Article 2(5) of Regulation 2018/1139.	
551.	<i>Article 7</i>	<i>Article 7</i>	<i>Article 7</i>	
552.	Designation of air traffic service providers	Designation of air traffic service providers	Designation of air traffic service providers	
553.	<i>Article 7 - paragraph 1</i>	<i>Article 7 - paragraph 1</i>	<i>Article 7 - paragraph 1</i>	
554.	1. Member States shall ensure the provision of air traffic services on an exclusive basis within specific airspace blocks in respect of the airspace under their responsibility. For this purpose, Member States shall individually or collectively, designate one or more air traffic service provider(s).	1. Member States shall ensure the provision of air traffic services on an exclusive basis within specific airspace blocks in respect of the airspace under their responsibility. For this purpose, Member States shall individually or collectively, designate <i>one or more air traffic service provider(s) on the basis of a competitive</i>	1. Member States shall ensure the provision of air traffic services on an exclusive basis within specific airspace blocks in respect of the airspace under their responsibility. For this purpose, Member States shall individually or collectively, designate one or more air traffic service provider(s). Member States shall have discretionary powers in	C

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		<i>tendering procedure in accordance with paragraph 4a of this Article, unless they prove to the Agency acting as PRB that the procurement would result in a loss of cost efficiency or operational efficiency, a reduction in working condition or negative climate and environmental impact.</i>	designating air traffic service provider(s), on the condition that the air traffic service provider(s) fulfils the requirements laid down in this Article.	
555.			<i>Article 7 - paragraph 1a (new)</i>	
556.	The air traffic service providers shall fulfill the following conditions:		1a. The air traffic service providers shall fulfil the following cumulative conditions:	
557.	(a) they shall hold a valid certificate or a valid declaration as referred to in Article 41 of Regulation (EU) 2018/1139 and an economic certificate in accordance with Article 6(1).		(a) they hold a certificate pursuant to Article 41 of Regulation (EU) 2018/1139 or a valid declaration pursuant to Article 41(5) of Regulation (EU) 2018/1139, unless exempted from the certification requirement pursuant to Article 2(3)c) of Regulation (EU) 2018/1139;	B
558.	(b) they shall comply with the national security and defence requirements.		(b) they comply with the national security and defence requirements;	

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559.		<i>(ba) they shall fulfil the requirements on service quality in accordance with the Union wide performance targets;</i> I		C
560.			(c) their principal place of business is located in the territory of a Member State and	C
561.			(d) Member States or nationals of Member States own more than 50% of the service provider and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except where otherwise as provided for in an agreement with a third country to which the Union is a party.	C
562.			By way of derogation from points c) and d), a Member State may designate an air traffic service provider having its principal place of business in a third country and/or not complying with the condition set out in point d) to provide air traffic services in a	C

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			limited part of the airspace for which that Member State is responsible where that part of the airspace borders an airspace under the responsibility of that third country.	
563.	Each decision to designate an air traffic service provider shall be valid for a maximum of ten years. Member States may decide to renew the designation of an air traffic service provider.	<i>1a. The duration of an air traffic service contract shall not exceed one reference period. Member States may decide to renew the designation of an air traffic service provider for up to two additional reference periods.</i>	[...]	C
564.	Article 7 - paragraph 2		Article 7 - paragraph 2	
565.	2. The designation of the air traffic service providers shall not be subject to any condition requiring those providers to:		2. The designation of the air traffic service providers shall not be subject to any condition requiring those providers to :	
566.	(a) be owned directly or through a majority holding by the designating Member State or its nationals;		(a) be owned directly or through a majority holding by the designating Member State or its nationals;	
567.	(b) have their principal place of operation or registered office in the territory of the designating Member State;		(b) have their principal place of operation or registered office in the territory of the designating Member State;	

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568.	(c) use only facilities in the designating Member State.		(c) use only facilities in the designating Member State in case the application of such conditions entails an unjustified restriction of the freedom to provide services or the freedom of establishment.	
569.	<i>Article 7 - paragraph 3</i>	<i>Article 7 - paragraph 3</i>	<i>Article 7 - paragraph 3</i>	
570.	3. Member States shall specify the rights and obligations to be met by the air traffic service providers, designated individually or jointly. The obligations shall include conditions for making available relevant data enabling all aircraft movements to be identified in the airspace under their responsibility.	3. Member States shall specify <i>in the air traffic service contract</i> the rights and obligations to be met by the air traffic service providers , designated individually or jointly. The obligations shall include conditions for making available relevant data enabling all aircraft movements to be identified in the airspace under their responsibility.	3. Member States shall specify the rights and obligations to be met by the air traffic service providers, designated in accordance with this Article.	C
571.	<i>Article 7 - paragraph 4</i>		<i>Article 7 - paragraph 4</i>	
572.	4. Member States shall inform the Commission and other Member States immediately of any decision within the framework of this Article regarding the designation of air traffic service		4. Member States shall inform the Commission and other Member States immediately of any decision within the framework of this Article regarding the designation of air traffic service providers within	

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	providers within specific airspace blocks in respect of the airspace under their responsibility.		specific airspace blocks in respect of the airspace under their responsibility.	
573.		<i>Article 7 - paragraph 4a (new)</i>		
574.		<i>4a. The Commission shall adopt delegated acts in accordance with Article 36 specifying the tendering procedure to be followed by the Member States when designating air traffic service providers in accordance with Directive 2014/24/EU and Directive 2014/25/EU;</i>		C
575.			<i>Article 7a (new)</i>	
576.			Designation of MET providers	
577.			<i>Article 7a - paragraph 1 (new)</i>	
578.			1. Member States may designate, individually or collectively, a MET provider on an exclusive basis in all or part of the airspace under their responsibility, taking into account safety considerations.	B

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579.			<i>Article 7a - paragraph 2 (new)</i>	
580.			2. Member States shall inform the Commission and other Member States without delay of any decision taken on the basis of this Article.	B
581.		<i>Article 7a (new)</i>	<i>Article 7b (new)</i>	
582.		Relations between service providers	Relations between air navigation service providers	
583.		<i>Article 7a - paragraph 1 (new)</i>	<i>Article 7b - paragraph 1 (new)</i>	
584.		<i>1. Without prejudice to Article 8, air traffic service providers may avail themselves of the air traffic services of other service providers that have been certified in the Union.</i>	1. Air navigation service providers may avail themselves of the services of other service providers that hold a certificate pursuant to Article 41 of Regulation (EU) 2018/1139 or a valid declaration pursuant to Article 41(5) of Regulation (EU) 2018/1139, unless exempted from the certification requirement pursuant to Article 2(3)c) of Regulation (EU) 2018/1139. Such cooperation shall be made in accordance with Article 8 where applicable.	B

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585.			For air traffic service providers designated in accordance with Article 7 and MET providers designated in accordance with Article 7a, such cooperation shall be subject to the authorisation of the Member States concerned.	
586.		<i>Article 7a - paragraph 2 (new)</i>	<i>Article 7b - paragraph 2 (new)</i>	
587.		<i>2. Air traffic service providers shall formalise their working relationships with one another by means of written agreements or equivalent legal arrangements, setting out the specific duties and functions assumed by each provider and allowing for the exchange of operational data between all service providers in so far as general air traffic is concerned. Those arrangements shall be notified to the national supervisory authority or authorities concerned. Without prejudice to Article 8, the approval of the Member States concerned</i>	2. For the purpose of paragraph 1, air navigation service providers shall formalise their working relationships by means of written agreements or equivalent legal arrangements, setting out the specific duties, including financial settlements if applicable, and functions assumed by each provider. Those agreements or arrangements shall be notified to the national supervisory authority or authorities concerned.	B

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		<i>shall be required.</i>		
588.			For air traffic service providers designated in accordance with Article 7 and MET providers designated in accordance with Article 7a, the terms of that agreement shall be subject to the approval of the Member States concerned.	C
589.	<i>Article 8</i>	<i>Article 8</i>	<i>Article 8</i>	
590.	Conditions regarding the provision of CNS, AIS, ADS, MET and terminal air traffic services	1 The provision of CNS, AIS, ADS, MET and terminal air traffic services	Conditions regarding the provision of CNS, AIS, ADS, MET and the provision of air traffic services for approach and aerodrome control	
591.	<i>Article 8 - paragraph 1</i>	<i>Article 8 - paragraph 1</i>	<i>Article 8 - paragraph 1</i>	
592.	1. Where this enables cost-efficiency gains to the benefit of airspace users, air traffic service providers may decide to procure CNS, AIS, ADS or MET services under market conditions.	1. 1 Air traffic service providers <i>shall</i> procure CNS, AIS, ADS or MET services under market conditions, <i>unless they prove to the National supervisory authorities concerned that the procurement would result in cost efficiency, operational, working conditions or climate and environmental loss.</i>	1. Without prejudice to the rights and obligations defined by their designating State under Article 7(3), designated air traffic service providers may decide to procure CNS, AIS, or ADS services.	C

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593.			<i>Article 8 - paragraph 1a (new)</i>	
594.			1a. Except in cases where Member States have designated a MET provider in accordance with Article 7a, Member States may allow air traffic service providers to procure MET.	C
595.			<i>Article 8 - paragraph 1b (new)</i>	
596.	Where this enables cost-efficiency gains to the benefit of airspace users, Member States shall allow airport operators to procure terminal air traffic services for aerodrome control under market conditions.	■ Airport operators <i>shall</i> procure terminal air traffic services for aerodrome control <i>and terminal air traffic services for approach control</i> under market conditions <i>unless they prove to the National supervisory authorities concerned that the procurement would result in a loss of cost efficiency or operational efficiency, a reduction in working conditions or negative climate and environmental impact. The national supervisory authorities shall be responsible for assessing the evidence and deciding whether it is sufficient.</i>	1b. Member States may allow airport operators or a group of airport operators to procure air traffic services for aerodrome control and/or air traffic services for approach control.	C

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597.	In addition, where this enables cost-efficiency gains to the benefit of airspace users, Member States may allow airport operators or the national supervisory authority concerned to procure terminal air traffic services for approach control under market conditions.	In <i>case of a group of airports, the</i> operators or the national supervisory authority concerned <i>may decide that</i> terminal air traffic services for approach control <i>are to be procured at those airports. The national supervisory authority shall coordinate and oversee the procurement procedures, in particular for respecting the implementation of the European ATM Master Plan, the interoperability and ground/air investment coordination.</i>	In such case, the tender specifications, including requirements on service quality, shall be subject to Member States approval. Member States shall designate the service provider selected as a result of the procurement referred to in this paragraph.	C
598.	Article 8 - paragraph 2	Article 8 - paragraph 2	Article 8 - paragraph 2	
599.	2. Procurement of services under market conditions shall be on the basis of equal, non-discriminatory and transparent conditions in accordance with Union law including Treaty rules on competition. The tender procedures for the procurement of the services concerned shall be designed so as to enable the	2. Procurement of services under market conditions shall be on the basis of equal, non-discriminatory and transparent conditions in accordance with Union law including Treaty rules on competition. The tender procedures for the procurement of the services concerned shall be designed so as to enable the effective participation	[...]	B

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	effective participation of competing providers in these procedures including through regular reopening of competition.	of competing providers in these procedures including through regular reopening of competition. <i>The period of service allocation following the tender procedure shall not exceed the reference period.</i>		
600.	Article 8 - paragraph 3	Article 8 - paragraph 3	Article 8 - paragraph 3	
601.	3. Member States shall take all necessary measures to ensure that the provision of <i>en route</i> air traffic services is separated in terms of organisation from the provision of CNS, AIS, ADS, MET and terminal air traffic services and that the requirement concerning the separation of accounts referred to in Article 25(3) is respected.	3. Air navigation services provider shall ensure that the provision of <i>en route</i> air traffic services is functionally and organisationally separated in terms of organisation from the individual provision of CNS, AIS, ADS, MET and terminal air traffic services and that the requirement concerning the separation of individual accounts referred to in Article 25(3) is respected. Member States shall take all necessary measures to ensure compliance with this paragraph.	[...]	C

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602.		<i>Article 8 - paragraph 3a (new)</i>		
603.		<i>3 a. The Commission is empowered to adopt delegated acts in accordance with Article 36 laying down rules on the imposition of fines and periodic penalty payments applicable to infringements of paragraph 3 of this Article.</i>		C
604.	<i>Article 8 - paragraph 4</i>	<i>Article 8 - paragraph 4</i>	<i>Article 8 - paragraph 4</i>	
605.	4. A provider of CNS, AIS, ADS, MET or terminal air traffic services may only be selected to provide services in a Member State, when:	4. A provider, <i>individually or in a package</i> , of CNS, AIS, ADS, MET or terminal air traffic services may only be selected to provide services in a Member State, when:	4. A provider of CNS, AIS, ADS, MET or air traffic services for aerodrome control or for approach control may only be selected and, if appropriate, designated to provide services in a Member State as a result of a procurement pursuant to paragraphs 1, 1a or 1b, on the condition that it complies with the following cumulative conditions:	B
606.	(a) it is certified in accordance with Article 6(1) and 6(2);	(a) it is certified in accordance with Article 6(1) and <i>Article 41 of Regulation (EU) No 2018/1139</i> ;	(a) holds a certificate pursuant to Article 41 of Regulation (EU) 2018/1139 or a valid declaration pursuant to Article 41(5) of	C

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			Regulation (EU) 2018/1139, unless exempted from the certification requirement pursuant to Article 2(3)c) of Regulation (EU) 2018/1139;	
607.	(b) its principal place of business is located in the territory of a Member State;		(b) its principal place of business is located in the territory of a Member State;	
608.	(c) Member States or nationals of Member States own more than 50% of the service provider and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except as provided for in an agreement with a third country to which the Union is a party; and		(c) Member States or nationals of Member States own more than 50% of the service provider and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except as provided for in an agreement with a third country to which the Union is a party; and	
609.	(d) the service provider fulfils national security and defence requirements.		(d) the service provider complies with national security and defence requirements.	
610.		<i>By way of derogation from the first subparagraph of this paragraph, a provider of global satellite services that was granted a certificate pursuant to Article 41 of Regulation</i>	By way of derogation from points b) and c), any provider of global satellite services that was granted a certificate pursuant to Article 41 of Regulation (EU) 2018/1139 to	A

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		<i>(EU) 2018/1139 prior to the adoption of this Regulation may be selected to provide services in the Union even if it does not comply with the conditions set out in points (b) and (c) of this paragraph.</i>	provide services within the Union prior to the adoption of this Regulation may be selected to provide such services in the Union even if it does not comply with the conditions set out in points b) and c).	
611.	Article 8 - paragraph 5	Article 8 - paragraph 5	Article 8 - paragraph 5	
612.	5. Articles 14, 17 and 19 to 22 shall not apply to the terminal air traffic service providers designated as a result of a procurement procedure in accordance with the second and third subparagraphs of paragraph 1. Those terminal air traffic service providers shall provide data on the performance of air navigation services in the key performance areas of safety, the environment, capacity and cost-efficiency to national supervisory authority and the Agency acting as PRB for monitoring purposes.	5. Articles 14, 17 and 19 to 22 shall not apply to the terminal air traffic service providers designated as a result of a procurement procedure in accordance with the second and third subparagraphs of paragraph 1. Those terminal air traffic service providers shall provide data on the performance of air navigation services in the key performance areas of safety, the environment and climate , capacity and cost-efficiency to national supervisory authority and the Agency acting as PRB for monitoring purposes.	5. Articles 13, 13a, 13b and 17 and the implementing rules relating to those Articles adopted on the basis of Article 18 shall not apply to the MET services provided by MET providers selected or to the air traffic service providers designated as a result of a procurement procedure conducted in accordance with paragraphs 1a and 1b. The air traffic service providers concerned shall provide relevant data on the performance of air navigation services in the key performance areas referred to in Article 10(2)a) and in safety area to the national supervisory authority and the	C

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			Commission for monitoring purposes.	
613.	<i>Article 8 - paragraph 6</i>	<i>Article 8 - paragraph 6</i>	<i>Article 8 - paragraph 6</i>	
614.	6. National supervisory authorities shall ensure that procurement by air traffic service providers and airport operators as referred to in paragraph 1 complies with paragraph 2, and where necessary shall apply corrective measures. In the case of terminal air traffic services, they shall be responsible for approving tender specifications for terminal air traffic services, which shall include requirements on service quality. The national supervisory authorities shall refer to the national competition authority referred to in Article 11 of Council Regulation (EC) No 1/2003 matters relating to the application of competition rules.	6. National supervisory authorities shall ensure that procurement by air traffic service providers and airport operators as referred to in paragraph 1 complies with paragraph 2, and where necessary shall apply corrective measures. In the case of terminal air traffic services, they shall be responsible for approving tender specifications for terminal air traffic services, which shall include requirements on service quality, <i>in particular for respecting the implementation of the European ATM Master Plan, the interoperability and ground/air investment coordination.</i> The national supervisory authorities shall refer to the national competition authority referred to in Article 11 of Council Regulation (EC) No	[...]	C

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		1/2003 matters relating to the application of competition rules.		
615.	<i>Article 9</i>	<i>Article 9</i>	<i>Article 9</i>	
616.	Provision of support services	Provision of support services	Provision of support services	
617.	<i>Article 9 - paragraph 1</i>	<i>Article 9 - paragraph 1</i>	<i>Article 9 - paragraph 1</i>	
618.	1. Where common information services are provided, the data disseminated shall present the integrity and quality necessary to enable the safe provision of services for the management of traffic of unmanned aircraft.	1. Where common information services are provided, the data disseminated shall present the integrity and quality necessary to enable the safe <i>and integrated</i> provision of services for the management of traffic of unmanned aircraft <i>in a way that enables the shared use of the airspace together with manned aircraft.</i>	1. Where CIS are provided, the data disseminated shall present the integrity and quality necessary to enable the safe and secure provision of services for the management of traffic of unmanned aircraft.	B
619.			<i>Article 9 - paragraph 2</i>	
620.			2. The CIS provider shall fulfil the following cumulative requirements: (a) they comply with the national security and defence requirements; (b) their principal place of	C

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			business is located in the territory of a Member State and (c) Member States or nationals of Member States own more than 50% of the service provider and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except where otherwise provided for in an agreement with a third country to which the Union is a party.	
621.	<i>Article 9 - paragraph 2</i>	<i>Article 9 - paragraph 2</i>		
622.	2. The price for common information services shall be based on the fixed and variable costs of providing the service concerned and may, in addition, include a mark-up reflecting an appropriate risk-return trade-off.	2. The price for common information services shall be based on the fixed, structural and variable costs of providing the service concerned and may, in addition, include a reasonable mark-up reflecting an appropriate risk-return trade-off.		B
623.	<i>Article 9 - paragraph 3</i>		<i>Article 9 - paragraph 3</i>	
624.	3. The costs referred to in the first subparagraph shall be set out in an		3. The costs on the basis of which the price for CIS is based shall be set	B

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	account separate from the accounts for any other activities of the operator concerned and shall be made publicly available.		out in an account separate from the accounts for any other activities of the operator concerned and shall be accessible by the national supervisory authority concerned.	
625.			Where CIS are provided on an exclusive basis, Member States shall impose that the price for CIS is based on the fixed and variable costs of providing the service concerned and/or includes a mark-up reflecting an appropriate risk-return trade-off.	B
626.	<i>Article 9 - paragraph 3</i>			
627.	3. The common information service provider shall set the price in accordance with paragraph 2, subject to assessment and approval by the national supervisory authority concerned.		<i>Article 9(4)</i>	B
628.			<i>Article 9 - paragraph 4</i>	
629.			4. The price set by the CIS provider shall be subject to assessment and approval by the national	B

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			supervisory authority concerned. The price of such services shall be made publicly available.	
630.	Article 9 - paragraph 4	Article 9 - paragraph 4		
631.	4. As far as operations in specific volumes of airspace designated by the Member States for unmanned aircraft operations are concerned, relevant operational data shall be made available in real-time by air navigation service providers. Common information service providers shall use those data only for operational purposes of the services they provide. Access to relevant operational data shall be granted to common information service providers, on a non- discriminatory basis, without prejudice to security or defence policy interests.	4. <i>Where manned and unmanned</i> operations <i>are expected to take</i> <i>place, including in U-Space</i> <i>airspace</i> , relevant operational data shall be made available in real-time by air navigation service providers. Common information service providers <i>or U-Space service</i> <i>providers, as applicable</i> , shall use those data only for operational purposes of the services they provide. Access to relevant operational data shall be granted to common information service providers <i>or U-Space service</i> <i>providers, as applicable</i> , on a non- discriminatory basis, without prejudice to security or defence policy interests.	Article 9(5)	B

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632.	Prices for access to such data shall be based on the marginal cost of making the data available.		Article 9(5)	B
633.		Article 9 - paragraph 4a (new)		
634.		4a. The Commission is empowered to adopt delegated acts in accordance with Article 36 to supplement certain non-essential elements of the legislative act, with regard to requirements for traffic management of unmanned and manned aircraft operations that support safe and shared use of the airspace, including the making available of and the access to data, and the methodology to set the prices in accordance with paragraphs 2 and 3.		C
635.			Article 9 - paragraph 5 (new)	
636.			5. Data necessary for the safe operation of unmanned aircraft in the U-Space airspace shall be made available , on a non-discriminatory	B

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			basis, without prejudice to national security, public order and defence policy interests, by air navigation service providers. CIS providers shall use those data only for operational purposes of the services they provide.	
637.			Prices for access to such data shall be based on the additional costs of making the data available and the cost for generating the data, where the latter costs are not covered under Article 20 and unless other financial resources are used by Member States to cover such costs.	B
638.			<i>Article 9a (new)</i>	
639.			Availability of and access to operational data for general air traffic	
640.			<i>Article 9a - paragraph 1 (new)</i>	
641.			1. With regard to general air traffic, relevant operational data shall be made available in real-time, on a non-discriminatory basis and	B (<i>Moved from COM Article 31(1)</i>)

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			without prejudice to national security, public order and defence policy interests, by all air navigation service providers, airspace users, airports and the Network Manager, including on a cross-border and a Union-wide basis. Such availability shall be to the benefit of certified or declared air navigation service providers, military entities in charge of security and defense activities, military air navigation service providers, airspace users and airports as well as the Network Manager. The data shall be used only for operational purposes.	
642.			Article 9a - paragraph 2 (new)	
643.			2. Access to relevant operational data as referred to in paragraph 1 shall be granted free of charge to the authorities in charge of security, public order, and defence, to national supervisory authorities, to national competent authorities, to	B (Moved from COM Article 31(3))

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			the Network Manager, and to the Agency in accordance with Regulation (EU) 2018/1139.	
644.			<i>Article 9a - paragraph 3 (new)</i>	
645.			3. The Commission shall, in accordance with the examination procedure referred to in Article 37(3), determine the specific operational data covered by this Article and define the technicalities of such data provision.	C (<i>Moved from COM Article 31(4)</i>)
646.			<i>Article 9b</i>	
647.			Performance review body	
648.			<i>Article 9b - paragraph 1</i>	
649.			1. In accordance with the examination procedure referred to in Article 37(3), the Commission may, by means of an implementing act, designate an independent and impartial Performance Review Body (PRB). The PRB shall have no regulatory function or other decision-making power. The role of the PRB shall be limited to	C

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			providing advice and assistance to the Commission and the national supervisory authorities on request in particular as regard the collection, examination, validation and dissemination of relevant data as well as the implementation of the performance scheme set out in Articles 10 to 18 and of the charging scheme set out in Articles 19 to 23. The Commission and the national supervisory authorities shall remain responsible for the implementation of their tasks and obligations under this Regulation. The Commission shall supervise the proper execution of the PRB tasks.	
650.			<i>Article 9b - paragraph 2</i>	
651.			2. In case the Commission decides to designate a PRB pursuant to paragraph 1, it shall, in accordance with the examination procedure referred to in Article 37(3), adopt detailed rules regarding in	C

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			particular the period of designation of the PRB, the composition of the PRB, the selection and appointment procedure as well as term of office of the PRB members, including, where relevant, of the PRB chair, the allowances, expenses and remuneration of the PRB members, the tasks of the PRB in accordance and within the limits of this Regulation as well as the specific financing modalities of the PRB activities.	
652.	<i>Article 10</i>	<i>Article 10</i>	<i>Article 10</i>	
653.	Performance scheme	Performance scheme	Performance scheme	
654.	<i>Article 10 - paragraph 1</i>		<i>Article 10 - paragraph 1</i>	
655.	1. To improve the performance of air navigation services and network functions in the Single European Sky, a performance scheme for air navigation services and network functions shall apply in accordance with this Article and		1. To improve the performance of air navigation services and network management in the Single European Sky, a performance scheme for air navigation services and network management shall apply in accordance with this	

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	Articles 11 to 18.		Article and Articles 11 to 18.	
656.	<i>Article 10 - paragraph 2</i>	<i>Article 10 - paragraph 2</i>	<i>Article 10 - paragraph 2</i>	
657.	2. The performance scheme shall be implemented over reference periods, which shall be a minimum of two years and a maximum of five years. The performance scheme shall include:	2. The performance scheme shall be implemented over reference periods, which shall be a minimum of two years and a maximum of three years. The performance scheme shall include:	2. The performance scheme shall be implemented over reference periods, which shall be a minimum of three years and a maximum of five years. The performance scheme shall include:	B
658.	(a) Union -wide performance targets in the key performance areas of the environment, capacity and cost-efficiency for each reference period;	(a) Union -wide performance targets in the key performance areas of the climate and the environment, capacity and cost-efficiency for each reference period ;	(a) Union -wide performance targets for en route air navigation services in the key performance areas of the environment, capacity and cost-efficiency for each reference period;	B
659.	(b) performance plans including binding performance targets in the key performance areas mentioned in point (a) for each reference period;		(b) performance plans including binding performance targets and where applicable, incentive schemes in the key performance areas mentioned in point (a) for each reference period;	B

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660.	(c) periodic review, monitoring and benchmarking of performance in the key performance areas of safety, the environment, capacity and cost-efficiency.	(c) periodic review, monitoring and benchmarking of performance in the key performance areas of safety, the <i>climate and</i> environment, capacity and cost-efficiency .	(c) periodic review, monitoring and benchmarking of performance in the key performance areas mentioned in point (a) and in the light of relevant safety indicators defined in coordination with the Agency.	B
661.	The Commission may add additional key performance areas for performance target setting or monitoring purposes, where necessary to improve performance.	The Commission <i>is empowered to adopt delegated acts in accordance with Article 36 to supplement this Regulation by laying down</i> additional key performance areas for performance target setting or monitoring purposes, where, <i>on the basis of an impact assessment, these are considered to be</i> necessary to improve performance.	[...]	C
662.	<i>Article 10 - paragraph 3</i>		<i>Article 10 - paragraph 3</i>	
663.	3. Points (a), (b) and (c) of paragraph 2 shall be based on :		3. The performance scheme referred to in paragraphs 1 and 2 shall be based on :	B
664.	(a) the collection, validation, examination, evaluation and dissemination of relevant data related to the performance of air navigation		(a) the collection, validation, examination, evaluation and dissemination of relevant data related to the performance of air navigation	A

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	services and network functions from all relevant parties, including air navigation service providers, airspace users, airport operators, national supervisory authorities, national competent authorities, Member States, the Agency, the Network Manager and Eurocontrol;		services and network management from all relevant parties, including air navigation service providers, airspace users, airport operators, national supervisory authorities, national competent authorities, and other national authorities, the Agency, the Network Manager and EUROCONTROL;	
665.	(b) key performance indicators for target setting in the key performance areas of the environment, capacity and cost-efficiency;	(b) key performance indicators for target setting in the key performance areas of the <i>climate and the</i> environment, capacity and cost-efficiency;	(b) key performance indicators for target setting in the key performance areas referred to in paragraph 2(a) ;	A
666.	(c) indicators for monitoring performance in the key performance areas of safety, the environment, capacity and cost-efficiency;	(c) indicators for monitoring performance in the key performance areas of safety, the <i>climate and the</i> environment, capacity and cost-efficiency;	(c) indicators for monitoring performance in the key performance areas referred to in paragraph 2(a) and relevant safety indicators defined in coordination with the Agency;	B
667.			(cc) a methodology to calculate breakdown values;	B
668.	(d) a methodology for the		(d) principles governing the	B

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	development of performance plans and of performance targets for air navigation services, and methodology for the development of the performance plan and performance targets for the network functions;		establishment of performance plans and of performance targets for air navigation services, and for the network management, as well as the content of such plans;	
669.	(e) the assessment of the draft performance plans and targets for air navigation services and network functions;		(e) the assessment of the draft performance plans and targets for air navigation services and network management;	A
670.	(f) monitoring of performance plans, including appropriate alert mechanisms for revision of performance plans and targets and for the revision of Union-wide performance targets in the course of a reference period;		(f) monitoring of performance plans, including appropriate alert mechanisms for revision of performance plans and targets and for the revision of Union-wide performance targets in the course of a reference period;	
671.	(g) benchmarking of air navigation service providers;		(g) benchmarking of air navigation service providers where relevant;	B
672.	(h) incentive schemes including for financial disincentives applicable where an air traffic service provider does not comply with the relevant binding performance targets during	(h) <i>balanced and symmetrical incentivisation</i> schemes for air traffic service providers <i>that reward performance that exceeds binding performance targets during the</i>	(h) incentive schemes including both financial positive incentives and disincentives applicable where an air traffic service provider goes beyond or does not comply with the relevant	C

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	the reference period or where it has not implemented the relevant common projects referred to in Article 35. Such financial disincentives shall in particular take account of the deterioration in the level of service quality provided by that provider, as a result of not complying with the performance targets or not implementing the common projects, and the impact thereof on the network;	<i>reference period with a financial payment proportionate to the magnitude of the variation between the achieved performance and that target and penalises performance that falls short of those targets or a failure to implement relevant common projects referred to in Article 35 by imposing a fine that takes account of the deterioration in the level of service quality provided by that provider;</i>	binding performance targets for air navigation services during the reference period unless this under- or overachievement is due to reasons outside the air traffic service provider's control;	
673.	(i) risk sharing mechanisms in respect of traffic and costs;		(i) risk sharing mechanisms in respect of traffic and costs;	
674.	(j) timetables for target setting, assessment of performance plans and targets, monitoring and benchmarking;		(j) timetables for target setting, assessment of performance plans and targets, monitoring and benchmarking;	
675.	(k) a methodology for the allocation of costs common to <i>en route</i> and terminal air navigation services between the two categories of services;		[...]	B

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676.	(l) mechanisms to address unforeseeable and significant events which have a material impact on the implementation of the performance and charging schemes.		(l) mechanisms to address unforeseeable and significant events which have a material impact on the implementation of the performance and charging schemes.	
677.	<i>Article 10 - paragraph 3a (new)</i>			
678.		<i>3 a. The Commission shall be assisted by the Agency acting as PRB and national supervisory authorities in the implementation of the performance scheme referred to in paragraph 1 of this Article and the charging scheme referred to in Article 19 to 23 of this Regulation.</i>		C
679.			<i>Article 10 - paragraph 4 (new)</i>	
680.			4. The setting of the performance targets included in the performance plans, the preparation and the assessment of draft performance plans, including the allocation of costs between services, as well as the monitoring and benchmarking of performance of the air navigation services and network	C

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			management shall take into account the impact of local circumstances as well as factors that fall outside the air traffic service provider's and the Network Manager's control.	
681.	<i>Article 11</i>	<i>Article 11</i>	<i>Article 11</i>	
682.	Establishment of the Union-wide performance targets	Establishment of the Union-wide performance targets	Establishment of the Union-wide performance targets	
683.	<i>Article 11 - paragraph 1</i>	<i>Article 11 - paragraph 1</i>	<i>Article 11 - paragraph 1</i>	
684.	1. The Commission shall adopt the Union-wide performance targets for <i>en route</i> air navigation services and for terminal air navigation services in the key performance areas of environment, capacity and cost-efficiency for each reference period, in accordance with the advisory procedure referred to in Article 37(2) and with paragraphs 2 to 3 of this Article. In conjunction with the Union-wide performance targets, the	1. The Commission shall adopt the Union-wide performance targets for en route air navigation services and for terminal air navigation services in the key performance areas of <i>climate and the</i> environment, capacity and cost-efficiency, for each reference period, in accordance with paragraphs 2 to 3 of this Article. <i>The Union-wide performance targets for terminal air navigation services shall take account of differences in the provision of</i>	1. In accordance with the examination procedure referred to in Article 37(3) and with paragraphs 2 to 3 of this Article, the Commission shall adopt the Union-wide performance targets for en route air navigation services in the key performance areas referred to in Article 10(2)a) for each reference period, and define the duration of that period. In conjunction with those Union-wide performance targets, the Commission may define complementary baseline values,	C

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	Commission may define complementary baseline values, breakdown values or benchmark groups, for the purpose of enabling the assessment and approval of draft performance plans in accordance with the criteria referred to in Article 13(3).	<i>those services due to local circumstances. The Union-wide performance target in the key performance area of climate must contribute to the achievement of the Union's climate neutrality goal by producing CO₂ emissions savings of up to 10 %. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 37(2).</i> In conjunction with the Union-wide performance targets, the Commission may define complementary baseline values, breakdown values or benchmark groups, for the purpose of enabling the assessment and approval of draft performance plans in accordance with the criteria referred to in Article 13(3).	alert thresholds, breakdown values and benchmark groups, for the purpose of enabling the assessment and approval of draft performance plans in accordance with the criteria referred to in Article 13 , paragraphs 3 and 3a, and with Article 13a.	

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685.	<i>Article 11 - paragraph 2</i>		<i>Article 11 - paragraph 2</i>	
686.	2. Union-wide performance targets referred to in paragraph 1 shall be defined on the basis of the following essential criteria:		2. Union-wide performance targets referred to in paragraph 1 shall be defined on the basis of the following essential criteria:	
687.	(a) they shall drive gradual, continuous improvements in respect of the operational and economic performance of air navigation services;		(a) they shall strive gradual improvements in respect of the environmental, operational and economic performance of air navigation services;	B
688.	(b) they shall be realistic and achievable during the reference period concerned, whilst fostering longer term structural and technological developments enabling the efficient, sustainable and resilient provision of air navigation services.	(b) they shall be realistic and achievable during the reference period concerned <i>and shall promote</i> longer term structural and technological developments enabling the efficient, sustainable and resilient provision of air navigation services.	(b) they shall be realistic and achievable during the reference period concerned, enabling the efficient, sustainable and resilient provision of air navigation services whilst fostering longer term technological developments;	A

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689.			(c) they shall take into account the economic and operational context of the reference period, including traffic forecast and operational data, as well as the interdependencies between the key performance areas referred to in Article 10(2)a) and the need to fulfil EU environmental objectives.	C
690.			(d) they shall take into account the safety indicators referred to in article 10(2)c).	C
691.	<i>Article 11 - paragraph 3</i>	<i>Article 11 - paragraph 3</i>	<i>Article 11 - paragraph 3</i>	
692.	3. For the purposes of preparing its decisions on Union-wide performance targets, the Commission shall collect any necessary input from stakeholders. Upon request of the Commission, the Agency acting as PRB shall provide assistance to the Commission for the analysis and preparation of those decisions, by way of an opinion.	3. For the purposes of preparing its decisions on Union-wide performance targets, <i>and, if the case, on complementary baseline values and breakdown values or bench mark groups</i> the Commission shall collect any necessary input from stakeholders <i>and the relevant national authorities</i> . Upon request of the Commission, the Agency acting as PRB shall provide assistance to the	3. For the purposes of preparing its decisions on Union-wide performance targets, the Commission shall consult and collect any necessary input from national authorities, EUROCONTROL, and operational stakeholders and may request the opinion of the PRB where a PRB has been designated in accordance with Article 9b.	B

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		Commission for the analysis and preparation of those decisions, by way of an opinion.		
693.	<i>Article 12</i>	<i>Article 12</i>	<i>Article 12</i>	
694.	Classification of <i>en route</i> and terminal air navigation services	Classification of <i>en route</i> and terminal air navigation services	Classification of <i>en route</i> and terminal air navigation services	
695.	<i>Article 12 - paragraph 1</i>		<i>Article 12 - paragraph 1</i>	
696.	1. Before the start of each reference period, each Member State shall notify to the Commission which air navigation services to be provided during that period in the airspace under their responsibility it intends to classify as <i>en route</i> air navigation services and as terminal air navigation services respectively. At the same time, each Member State shall notify the Commission of the designated air traffic service providers of those respective services.		[...]	C

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697.	<i>Article 12 - paragraph 2</i>	<i>Article 12 - paragraph 2</i>		
698.	2. In due time before the start of the relevant reference period, the Commission, shall adopt implementing decisions addressed to each Member State as to whether the intended classification of the services concerned complies with the criteria set out in points (28) and (55) of Article 2. Upon request of the Commission, the Agency acting as PRB shall provide assistance to the Commission for the analysis and preparation of those decisions, by way of an opinion.	2. In due time before the start of the relevant reference period, the Commission, shall adopt implementing <i>acts in the form of</i> decisions addressed to each Member State <i>stating</i> whether <i>their</i> intended classification of the services concerned complies with the criteria set out in points (29) and (55) of Article 2. <i>At the</i> request of the Commission, the Agency acting as PRB shall provide the Commission <i>with information, in the form of an opinion, to assist it in its analysis of compliance by the Member States</i> and <i>in the</i> preparation of those decisions.	[...]	C

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699.	<i>Article 12 - paragraph 3</i>	<i>Article 12 - paragraph 3</i>		
700.	3. Where a decision adopted under paragraph 2 finds that the intended classification does not comply with the criteria set out in points (28) and (55) of Article 2, the Member State concerned shall, having regard to that decision, submit a new notification whose terms comply with those criteria. The Commission shall take a decision on this notification in accordance with paragraph 2.	3. Where a decision adopted under paragraph 2 <i>states</i> that the intended classification does not comply with the criteria set out in points (29) and (55) of Article 2, the Member State concerned shall, having regard to that decision, submit a new notification whose terms comply with those criteria. The Commission shall take a decision on this notification in accordance with paragraph 2.	[...]	C
701.	<i>Article 12 - paragraph 4</i>	<i>Article 12 - paragraph 4</i>		
702.	4. The designated air traffic service providers concerned shall base their draft performance plans for <i>en route</i> and terminal air navigation services on the classifications the Commission has found to be in compliance with the criteria set out in points (28) and (55) of Article 2. The Agency acting as PRB shall base	4. The designated air traffic service providers concerned shall base en route and terminal air navigation services on the classifications, <i>referred to in paragraph 1, that</i> the Commission has found to be in compliance with the criteria set out in points (29) and (55) of Article 2. The Agency acting as PRB shall base itself on those same	[...]	C

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	itself on those same classifications when assessing the allocation of costs between <i>en route</i> and terminal air navigation services under Article 13(3).	classifications when assessing the allocation of costs between en route and terminal air navigation services under Article 13(4).		
703.	<i>Article 13</i>	<i>Article 13</i>	<i>Article 13</i>	
704.	Performance plans and performance targets for <i>en route</i> air navigation services of designated air traffic service providers	Performance plans and performance targets for <i>en route</i> air navigation services of designated air traffic service	Performance plans and performance targets for <i>en route</i> air navigation services of designated air traffic service	
705.	<i>Article 13 - paragraph 1</i>		<i>Article 13 - paragraph 1</i>	
706.	1. The designated air traffic service providers for <i>en route</i> air traffic services shall, for each reference period, adopt draft performance plans in respect of all the <i>en route</i> air navigation services which they provide and, where applicable, procure from other providers.		1. Member States shall, for each reference period, individually or collectively at functional airspace block level, adopt a draft performance plan, as prepared by the national supervisory authority, with inputs from other national authorities if relevant, based in particular on the input of the designated air traffic service provider(s) in respect of all the air navigation services which that	C

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			service provider provides and, where applicable, procures from other providers.	
707.	The draft performance plans shall be adopted after the setting of Union-wide performance targets and before the start of the reference period concerned. They shall contain performance targets for <i>en route</i> air navigation services in the key performance areas of the environment, capacity and cost-efficiency, consistent with the Union-wide performance targets. Those draft performance plans shall take account of the European ATM Master Plan. The draft performance plans shall be made publicly available.	The draft performance plans shall be adopted after the setting of Union-wide performance targets, and before the start of the reference period concerned. They shall contain performance targets for <i>en route</i> air navigation services in the key performance areas of the <i>climate and the</i> environment, capacity and cost-efficiency, consistent with the Union-wide performance targets. Those draft performance plans shall take account of <i>and contribute to the implementation</i> of the European ATM Master Plan. The draft performance plans shall be made publicly available.	The draft performance plan shall be adopted after the setting of Union-wide performance targets and before the start of the reference period concerned.	B
708.			<i>Article 13 - paragraph 1a (new)</i>	
709.			1a. Before the start of each reference period, each national supervisory	B

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			authority shall lay down the criteria to allocate the costs common to en route and terminal air navigation services between the two categories of services taking into account the principle of cost-relatedness. It shall include this information in the draft performance plan. The national supervisory authority shall ensure that the cost bases for charges comply with those criteria and the requirements of Article 20.	
710.			1b. For each reference period, the national supervisory authority shall set and include in the draft performance plan, in the key performance areas referred to in Article 10(2)a), performance targets for en route air navigation services consistent with the Union-wide performance targets and performance targets for terminal air navigation services. Those draft performance plans shall take	C

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			account of the European ATM Master Plan and the interdependencies between the key performance areas referred to in Article 10(2)a) and the need to fulfil the relevant EU safety requirements and EU environmental objectives.	
711.	Article 13 - paragraph 2	Article 13 - paragraph 2	Article 13 - paragraph 2	
712.	2. The draft performance plans for <i>en route</i> air navigation services referred to in paragraph 1 shall include relevant information provided by the Network Manager. Before adopting those draft plans, designated air traffic service providers shall consult airspace users' representatives and, where relevant, military authorities, airport operators and airport coordinators. The designated air traffic service providers shall also submit those plans to the national competent authority responsible for their	2. The draft performance plans for <i>en route</i> air navigation services referred to in paragraph 1 shall include relevant information provided by the Network Manager. Before adopting those draft plans, designated air traffic service providers shall consult airspace users' representatives, <i>airport operators and airport coordinators, scientific experts in the domains of climate and environment, professional staff representative bodies</i> and, where relevant, military authorities. The designated air traffic service	2. The draft performance plan referred to in paragraph 1 shall include relevant information , in particular traffic forecasts and operational data, provided by EUROCONTROL and the Network Manager or local sources as appropriate.	B

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	certification, which shall verify the compliance with Regulation (EU) 2018/1139 and the delegated and implementing acts adopted on the basis thereof.	providers shall also submit those plans to the national competent authority responsible for their certification, which shall verify the compliance with Regulation (EU) 2018/1139 and the delegated and implementing acts adopted on the basis thereof.		
713.			In preparing the draft performance plan the national supervisory authority shall consult airspace users' representatives and, where relevant, military authorities, airport operators and airport coordinators as well as the national competent authority in case the national supervisory authority and the national competent authority are two different entities. The compliance with Regulation (EU) 2018/1139 and the delegated and implementing acts adopted on the basis thereof shall be verified.	B

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714.	<i>Article 13 - paragraph 3</i>	<i>Article 13 - paragraph 3</i>	<i>Article 13 - paragraph 3</i>	
715.	3. Draft performance plans for <i>en route</i> air navigation services shall contain performance targets for <i>en route</i> air navigation services that are consistent with the respective Union-wide performance targets in all key performance areas and fulfil the additional conditions laid down in the third subparagraph.	3. Draft performance plans for <i>en route</i> air navigation services shall contain performance targets for <i>en route</i> air navigation services that are consistent with the respective Union-wide performance targets in all key performance areas, <i>including those regarding climate and the environment</i> , and fulfil the additional conditions laid down in the third subparagraph. <i>Data concerning military training and operations shall not be included in the assessment of performance objectives.</i>	[...]	B
716.	Consistency of performance targets for <i>en route</i> air navigation service with Union-wide performance targets shall be established according to the following criteria:		Consistency of performance targets for <i>en route</i> air navigation services, to be included in the draft performance plan, with Union-wide performance targets shall be established taking into account local circumstances and interdependencies between the key performance areas referred to in	C

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			Article 10(2)a) and safety and according to all or part of the following criteria:	
717.	(a) where breakdown values have been established in conjunction with Union-wide performance targets, comparison of the performance targets contained in the draft performance plan with those breakdown values;		(a) where breakdown values have been established in conjunction with Union-wide performance targets, comparison of the performance targets contained in the draft performance plan with those breakdown values;	
718.	(b) evaluation of performance improvements over time, for the reference period covered by the performance plan, and additionally for the overall period comprising both the preceding reference period and the reference period covered by the performance plan;		(b) evaluation of performance improvements over time, for the reference period covered by the performance plan, and additionally for the overall period comprising both the preceding reference period and the reference period covered by the performance plan;	
719.	(c) comparison of the planned level of performance of the air traffic service provider concerned with other air traffic service providers being part of the same benchmark group.		(c) comparison of the planned level of performance of the air traffic service provider concerned within the relevant benchmark group.	B

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720.			The assessment of the consistency of performance targets in the key performance area of cost-efficiency shall exclude the costs referred to in point (b) (d) and (e) of Article 20(3).	C
721.			<i>Article 13 - paragraph 3a (new)</i>	
722.	In addition, the draft performance plan must comply with the following conditions:		3a. In addition, the adopted draft performance plan must comply with the following conditions:	
723.	(a) key assumptions applied as a basis for target setting and measures intended to achieve the targets during the reference period, including baseline values, traffic forecasts and economic assumptions used, must be accurate, adequate and coherent;		(a) key assumptions applied as a basis for target setting and measures intended to achieve the targets during the reference period, including baseline values, traffic forecasts and economic assumptions used, must be accurate, adequate and coherent at the time of preparing the performance plan;	B
724.	(b) the draft performance plan must be complete in terms of data and supporting material;		(b) the adopted draft performance plan must be complete in terms of data and supporting material;	
725.	(c) cost bases for charges must comply with Article 20.		(c) cost bases for charges must comply with Article 20.	

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726.			<i>Article 13 - paragraph 3b (new)</i>	
727.			3b. The adopted draft performance plans shall be made publicly available, without prejudice to confidentiality of sensitive information.	B (<i>Correspond to COM Article 13(1) second subpara</i>)
728.	<i>Article 13- paragraph 4</i>	<i>Article 13- paragraph 4</i>	<i>Article 13- paragraph 4</i>	
729.	4. The allocation of costs between <i>en route</i> and terminal air navigation services shall be assessed by the Agency acting as PRB on the basis of the methodology referred to in Article 10(3)(k) and the classification of the different services as assessed by the Commission pursuant to Article 12.	4. <i>Where relevant</i> , the allocation of costs between <i>en route</i> and terminal air navigation services shall be <i>evaluated</i> by the <i>national supervisory authority</i> on the basis of the methodology referred to in Article 10(3)(k) and the classification of the different services as assessed by the Commission pursuant to Article 12.	[...]	C
730.	<i>Article 13 - paragraph 5</i>	<i>Article 13 - paragraph 5</i>	<i>Article 13 - paragraph 5</i>	
731.	5. The draft performance plans for <i>en route</i> air navigation services referred to in paragraph 1, including where relevant the allocation of costs between <i>en route</i> and terminal air navigation	5. The draft performance plans for <i>en route</i> air navigation services referred to in paragraph 1, including where relevant the allocation of costs between <i>en route</i> and terminal air navigation	5. The adopted draft performance plans shall be submitted to the Commission for assessment and approval in accordance with Article 13a.	C

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	services, shall be submitted to the Agency acting as PRB for assessment and approval.	services, shall, <i>once they have been evaluated by the national supervisory authority</i> , be submitted to the Agency acting as PRB for assessment and approval.		
732.	Article 13 - paragraph 6	Article 13 - paragraph 6	Article 13 - paragraph 6	
733.	6. In the case of a designated air traffic service provider providing both <i>en route</i> air navigation services and terminal air navigation services, the Agency acting as PRB shall first assess the allocation of costs between the respective services in accordance with paragraph 4.	6. In the case of a designated air traffic service provider providing both <i>en route</i> air navigation services and terminal air navigation services, the Agency acting as PRB shall first assess the allocation of costs between the respective services <i>on the basis of the evaluation by the national supervisory authority and in accordance with the methodology and classification referred to in</i> paragraph 4.	[...]	C
734.	Where the Agency acting as PRB finds that the allocation of costs does not comply with the methodology or with the classification referred to in paragraph 4, the designated air		[...]	C

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	traffic service provider concerned shall present a new draft performance plan complying with that methodology and with that classification.			
735.	Where the Agency acting as PRB finds that the allocation of costs complies with that methodology and with that classification, it shall take a decision to that effect, notifying the designated air traffic service provider and national supervisory authority concerned. The national supervisory authority shall be bound by the conclusions of that decision in respect of the allocation of costs for the purposes of the assessment of the draft performance plan for terminal air navigation services referred to in Article 14.		[...]	C

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736.	<i>Article 13 - paragraph 7</i>	<i>Article 13 - paragraph 7</i>	<i>Article 13 - paragraph 7</i>	
737.	7. The Agency acting as PRB shall assess the performance targets for <i>en route</i> air navigation services and the performance plans according to the criteria and conditions set out in paragraph 3. Where paragraph 6 applies, this assessment shall take place after a decision on the allocation of costs has been taken in accordance with the fourth subparagraph of paragraph 6.	7. The Agency acting as PRB shall assess the performance targets for en route air navigation services and the performance plans according to the criteria and conditions set out in paragraph 3, <i>including regarding climate and environment.</i> Where paragraph 6 applies, this assessment shall take place after a decision on the allocation of costs has been taken in accordance with the <i>third</i> subparagraph of paragraph 6.	[...]	C
738.	Where the Agency acting as PRB finds that the draft performance plan meets those criteria and conditions, it shall approve it.		[...]	C
739.	Where the Agency acting as PRB finds that one or several performance targets for <i>en route</i> air navigation services are not consistent with the Union-wide performance targets or the		[...]	C

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	performance plan does not meet the additional conditions set out in paragraph 3, it shall deny the approval.			
740.	Article 13 - paragraph 8	Article 13 - paragraph 8		
741.	8. Where the Agency acting as PRB has denied approval of a draft performance plan in accordance with paragraph 7, a revised draft performance plan shall be presented by the designated air traffic service provider concerned, including where necessary revised targets.	8. Where the Agency acting as PRB has denied approval of a draft performance plan in accordance with paragraph 7, a revised draft performance plan shall be presented by the designated air traffic service provider concerned, including where necessary revised targets <i>for climate and the environment, capacity and cost efficiency. The revised draft performance plan shall be evaluated by the national supervisory authority.</i>	[...]	C

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742.	<i>Article 13 - paragraph 9</i>	<i>Article 13 - paragraph 9</i>	<i>Article 13 - paragraph 9</i>	
743.	9. The Agency acting as PRB shall assess the revised draft performance plan referred to in paragraph 8 in accordance with the criteria and conditions set out in paragraph 3. Where a revised draft performance plan meets those criteria and conditions, the Agency acting as PRB shall approve it.	9. The Agency acting as PRB shall assess the revised draft performance plan <i>taking in account the evaluation referred to</i> in paragraph 8 in accordance with the criteria and conditions set out in paragraph 3. Where a revised draft performance plan meets those criteria and conditions, the Agency acting as PRB shall approve it.	[...]	C
744.	Where a revised draft performance plan does not meet those criteria and conditions, the Agency acting as PRB shall deny its approval and shall require the designated air traffic service provider to present a final draft performance plan.		[...]	C
745.	Where the revised draft performance plan submitted in accordance with paragraph 8 is denied because it contains performance targets for <i>en route</i> air navigation services that are not	Where the revised draft performance plan submitted in accordance with paragraph 8 is denied because it contains performance targets for <i>en route</i> air navigation services that are not	[...]	C

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	consistent with the Union-wide performance targets, the Agency acting as PRB shall establish performance targets in consistency with the Union-wide performance targets for the designated air traffic service provider concerned, taking into account the findings made in the decision referred to in paragraph 7. The final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets thus established by the Agency acting as PRB, as well as the measures to achieve those targets.	consistent with the Union-wide performance targets, <i>including that regarding climate and the environment</i> , the Agency acting as PRB shall establish performance targets in consistency with the Union-wide performance targets for the designated air traffic service provider concerned, taking into account the findings made in the decision referred to in paragraph 7. The final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets thus established by the Agency acting as PRB, as well as the measures to achieve those targets, <i>including for climate and the environment</i> .		
746.	Where approval of the revised draft performance plan submitted in accordance with paragraph 8 is denied only because it does not comply with the conditions set out	Where approval of the revised draft performance plan submitted in accordance with paragraph 8 is denied only because it does not comply with the conditions set out	[...]	C

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	in the third subparagraph of paragraph 3, the final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets contained in the draft performance plan and found to be consistent with the Union-wide performance targets by the Agency acting as PRB, and shall contain the amendments necessary in view of the conditions the Agency acting as PRB has found not being met.	in the third subparagraph of paragraph 3, the final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets contained in the draft performance plan and found to be consistent with the Union-wide performance targets by the Agency acting as PRB, and shall contain the amendments necessary in view of the conditions the Agency acting as PRB has found not being met, <i>including those regarding climate and the environment.</i>		
747.	Where approval of the revised draft performance plan submitted in accordance with paragraph 8 is denied because it contains performance targets for <i>en route</i> air navigation services that are not consistent with the Union-wide performance targets and because, in addition, it does not comply with	Where approval of the revised draft performance plan submitted in accordance with paragraph 8 is denied because it contains performance targets for <i>en route</i> air navigation services that are not consistent with the Union-wide performance targets and because, in addition, it does not comply with	[...]	C

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	the conditions set out in the third subparagraph of paragraph 3, the final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets established by the Agency acting as PRB in accordance with the third subparagraph and the measures to achieve those targets and shall and shall contain the amendments necessary in view of the conditions the Agency acting as PRB has found not being met.	the conditions set out in the third subparagraph of paragraph 3, the final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets established by the Agency acting as PRB in accordance with the third subparagraph and the measures to achieve those targets and shall contain the amendments necessary in view of the conditions the Agency acting as PRB has found not being met <i>including those regarding climate and the environment.</i>		
748.	<i>Article 13 - paragraph 10</i>		<i>Article 13 - paragraph 10</i>	
749.	10. Draft performance plans approved by the Agency acting as PRB shall be adopted by the designated air traffic service providers concerned as definitive plans, and shall be made publicly available.		[...]	C

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750.	<i>Article 13 - paragraph 11</i>	<i>Article 13 - paragraph 11</i>	<i>Article 13 - paragraph 11</i>	
751.	11. The Agency acting as PRB shall issue regular reports, within the time limits referred to in the implementing acts to be adopted in accordance with Article 18, on the monitoring of performance of <i>en route</i> air navigation services and network functions, including regular assessments of the achievement of the <i>en route</i> Union-wide performance targets and of performance targets for <i>en route</i> air navigation services for air traffic service providers and making the results of those assessments publicly available.	11. The Agency acting as PRB shall issue regular reports, within the time limits referred to in the implementing acts to be adopted in accordance with Article 18, on the monitoring of performance of <i>en route</i> air navigation services and network functions, including regular reports on the achievement of the <i>en route</i> Union-wide performance targets, including that regarding climate and the environment , and of performance targets for <i>en route</i> air navigation services for air traffic service providers and making the results of those assessments publicly available.	[...]	C
752.	The designated air traffic service provider shall provide the information and data necessary for the monitoring of the performance of air navigation services. This shall include information and data	The designated air traffic service provider shall provide the information and data necessary for the monitoring of the performance of air navigation services. This shall include information and data	[...]	C

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	related to actual costs and revenues. Where performance targets are not reached or the performance plan is not correctly implemented, the Agency acting as PRB shall issue decisions requiring corrective measures to be implemented by the air traffic service providers. These corrective measures may include, where objectively necessary, a requirement for an air traffic service provider to delegate the provision of the relevant services to another air traffic service provider. Where the performance targets continue to be missed, or where the performance plan continues to be incorrectly implemented or where corrective measures imposed are not or not properly applied, the Agency acting as PRB shall conduct an investigation and provide an opinion to the Commission in accordance with	related to actual costs and revenues. <i>National supervisory authority shall report on an annual basis to the Agency acting as PRB on the achievement of performance targets by the designated air traffic service providers for the purpose of the regular reports referred to in the first subparagraph.</i> Where performance targets are not reached or the performance plan is not correctly implemented, <i>including those regarding climate and the environment</i> , the Agency acting as PRB <i>after consultation with the Network Manager</i> , shall issue decisions requiring corrective measures, <i>including fines and periodic penalty payments in accordance with Article 42a of this Regulation and Article 84 of the [Regulation (EU) 2018/1139 as amended by Regulation PRB]</i> ,		

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	Article 24(2). The Commission may take action in accordance with Article 24(3).	to be implemented by the air traffic service providers. These corrective measures may include, where objectively necessary, a requirement <i>addressed to a Member State</i> to delegate the provision of the relevant services to another air traffic service provider. Where the performance targets continue to be missed, or where the performance plan continues to be incorrectly implemented or where corrective measures imposed are not or not properly applied, <i>including those regarding climate and the environment</i> the Agency acting as PRB shall conduct an investigation and provide an opinion to the Commission in accordance with Article 24(2). The Commission may take action in accordance with Article 24(3).		

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753.			<i>Article 13a (new)</i>	
754.			Assessment of performance targets and performance plans by the Commission	
755.			<i>Article 13a - paragraph 1 (new)</i>	
756.			1. The Commission shall assess the performance targets for en route air navigation services and the adopted draft performance plans referred to in Article 13 according to the criteria and conditions set out in Article 13(3) and (3a).	C
757.			<i>Article 13a - paragraph 2 (new)</i>	
758.			2. Where consistency of performance targets for en route air navigation services with the Union-wide performance targets cannot be established on the basis of the criteria laid down in Article 13(3), the Commission shall assess whether the divergence from these criteria can be justified by local circumstances and/or interdependencies between key	C

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			performance areas referred to in Article 10(2)a), in the light of the information provided in the draft performance plans and safety considerations. If that is the case, performance targets for en route air navigation services shall be considered consistent with Union-wide targets.	
759.			The Commission may allow a deviation of performance targets for en route air navigation services from Union-wide performance targets with respect to cost-efficiency, or capacity key performance areas where necessary to ensure consistency of performance targets for those services with the Union-wide performance targets with respect to environment key performance area. In addition, deviations shall be allowed to enable compliance with the relevant EU safety requirements set out in Regulation	

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			(EU) 2018/1139 and the implementing and delegated acts adopted on the basis thereof.	
760.			<i>Article 13a - paragraph 3 (new)</i>	
761.			3. Where the Commission finds that the adopted draft performance plan meets the criteria and conditions set out in Article 13(3) and (3a) read in combination with paragraph 2 of this Article, it shall approve it in accordance with the examination procedure referred to in Article 37(3).	C
762.			<i>Article 13a - paragraph 4 (new)</i>	
763.			4. Where the Commission finds that there are doubts about the compliance of the draft performance plan with the criteria and conditions set out in Article 13(3) and (3a) read in combination with paragraph 2 of this Article, it shall initiate a detailed examination of that draft performance plan, requesting additional information	C

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			from the Member State concerned if necessary.	
764.			<i>Article 13a - paragraph 5 (new)</i>	
765.			5. Where, having carried out the detailed examination, the Commission finds that the draft performance plan meets the criteria and conditions set out in Article 13(3) and (3a) read in combination with paragraph 2 of this Article, it shall approve it in accordance with the examination procedure referred to in Article 37(3).	C
766.			Where however the Commission finds that the draft performance plan is not consistent with those criteria and conditions, the Commission shall adopt a decision setting out the corrective measures which the Member State(s) concerned is to take, in accordance with the examination procedure referred to in Article 37(3).	C

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767.			The Member State(s) concerned shall communicate to the Commission the measures that it has taken pursuant to that decision, as well as information demonstrating that those measures comply with that decision.	C
768.			Where the Commission finds that those measures are sufficient to ensure compliance with its decision, it shall notify the Member State(s) concerned thereof and approve the draft performance plan in accordance with the examination procedure referred to in Article 37(3).	C
769.			Where the Commission finds that those measures are not sufficient to ensure compliance with the decision, it shall notify the Member State concerned and take, where appropriate, action to address the non-compliance, including through actions provided for in Article 258 of the Treaty on the Functioning of	C

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			the European Union.	
770.			<i>Article 13a - paragraph 6 (new)</i>	
771.			6. Draft performance plans approved by the [...] Commission in accordance with this Article shall be adopted by the Member States concerned as definitive plans, and shall be made publicly available, without prejudice to confidentiality of sensitive information.	C
772.			<i>Article 13b (new)</i>	
773.			Performance monitoring	
774.			<i>Article 13b - paragraph 1 (new)</i>	
775.			1. The national supervisory authority, in cooperation with the national competent authority where it is a different entity, shall assess whether the air navigation services provided in the airspace under their responsibility meet the performance targets contained in the performance plans approved in accordance with Article 13a, whether those plans are	C

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			implemented correctly and whether it shall implement the positive or negative incentives following from the schemes referred to in Article 10(3)h).	
776.			<i>Article 13b - paragraph 2 (new)</i>	
777.			2. The national supervisory authority shall issue regular reports on the monitoring of performance of air navigation services provided by the designated air traffic service providers and make the results of those assessments publicly available without prejudice to confidentiality of sensitive information.	C
778.			The designated air traffic service providers shall provide the information and data necessary for such monitoring . This shall include information and data related to actual costs of the services provided and, where applicable, without prejudice to	

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			confidentiality of sensitive information, and data related to actual costs of the services procured from other service providers.	
779.			<i>Article 13b - paragraph 2a (new)</i>	
780.			2a. Where performance targets contained in the performance plans are not reached or the performance plan is not correctly implemented, the national supervisory authority shall assess whether this is due to safety considerations or external factors beyond the air traffic service provider's control. In particular, the national supervisory authority shall assess the impact of any detrimental effect of measures adopted in order to improve the overall functioning of the network on the actual performance of the air traffic service provider. In case the underperformance cannot be justified by safety considerations or external factors, the national	C

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			supervisory authority shall require corrective measures to be implemented by the air traffic service provider.	
781.			<i>Article 13b - paragraph 2b (new)</i>	
782.			2b. Financial incentives and disincentives shall take into account the deterioration of service and be proportionate to the magnitude of the variation between the achieved performances and the performance targets set in the approved performance plans.	C
783.			Financial incentives and disincentives may only be applied where the over or under performance is attributable to the air traffic service provider concerned. Such disincentives shall not be such as to affect the financial viability of that air traffic service provider and the safety and quality of the services provision.	C

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784.			<i>Article 13b - paragraph 3 (new)</i>	
785.			3. The Commission shall carry out regular assessments of the overall achievement of the Union-wide performance targets and present the results to the committee referred to in Article 37(1).	B
786.	<i>Article 14</i>	<i>Article 14</i>	<i>Article 14</i>	
787.	Performance plans and performance targets for terminal air navigation services of designated air traffic service providers	Performance plans and performance targets for terminal air navigation services of designated air traffic service providers	Performance plans and performance targets for terminal air navigation services of designated air traffic service providers	
788.	<i>Article 14 - paragraph 1</i>	<i>Article 14 - paragraph 1</i>	<i>Article 14 - paragraph 1</i>	
789.	1. The designated air traffic service providers for terminal air traffic services shall, for each reference period, adopt draft performance plans in respect of all the terminal air navigation services which they provide and, where applicable, procure from other providers.		[...]	C

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790.	The draft performance plans shall be adopted after the setting of Union-wide performance targets and before the start of the reference period concerned. They shall contain performance targets for terminal air navigation services in the key performance areas of environment, capacity and cost-efficiency, consistent with the Union-wide performance targets. Those draft performance plans shall take account of the European ATM Master Plan. The draft performance plans shall be made publicly available.	The draft performance plans shall be adopted after the setting of Union-wide performance targets and before the start of the reference period concerned. They shall contain performance targets for terminal air navigation services in the key performance areas of <i>climate and the</i> environment, capacity and cost-efficiency, consistent with the Union-wide performance targets. Those draft performance plans shall take account <i>and shall contribute to the implementation</i> of the European ATM Master Plan. The draft performance plans shall be made publicly available.	[...]	C
791.	Article 14 - paragraph 2	Article 14 - paragraph 2	Article 14 - paragraph 2	
792.	2. The draft performance plans for terminal air navigation services referred to in paragraph 1 shall include relevant information provided by the Network Manager. Before adopting those	2. The draft performance plans for terminal air navigation services referred to in paragraph 1 shall include relevant information provided by the Network Manager. Before adopting those draft plans,	[...]	C

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	draft plans, designated air traffic service providers shall consult airspace users' representatives and, where relevant, military authorities, airport operators and airport coordinators. The designated air traffic service providers shall also submit those plans to the national competent authority responsible for their certification, which shall verify the compliance with Regulation (EU) 2018/1139 and the delegated and implementing acts adopted on the basis thereof.	designated air traffic service providers shall consult airspace users' representatives, <i>airport operators and airport coordinators, scientific experts in the fields of climate and the environment, professional staff representative bodies</i> and, where relevant, military authorities, The designated air traffic service providers shall also submit those plans to the national competent authority responsible for their certification, which shall verify the compliance with Regulation (EU) 2018/1139 and the delegated and implementing acts adopted on the basis thereof.		
793.	<i>Article 14 - paragraph 3</i>	<i>Article 14 - paragraph 3</i>	<i>Article 14 - paragraph 3</i>	
794.	3. Draft performance plans for terminal air navigation services shall contain performance targets for terminal air navigation services that are consistent with the respective Union-wide	3. Draft performance plans for terminal air navigation services shall contain performance targets for terminal air navigation services that are consistent with the respective Union-wide	[...]	C

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	performance targets in all key performance areas and fulfil the additional conditions laid down in the third subparagraph.	performance targets in all key performance areas and fulfil the additional conditions laid down in the third subparagraph.		
795.	Consistency of performance targets for terminal air navigation service with Union-wide performance targets shall be established according to the following criteria:		[...]	C
796.	(a) where breakdown values have been established in conjunction with Union-wide performance targets, comparison of the performance targets contained in the draft performance plan with those breakdown values;		[...]	C
797.	(b) evaluation of performance improvements over time, for the reference period covered by the performance plan, and additionally for the overall period comprising both the preceding reference period and the reference period covered by the performance plan;		[...]	C

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798.	(c) comparison of the planned level of performance of the air traffic service provider concerned with other air traffic service providers being part of the same benchmark group.		[...]	C
799.	In addition, the draft performance plan must comply with the following conditions:		[...]	C
800.	(a) key assumptions applied as a basis for target setting and measures intended to achieve the targets during the reference period, including baseline values, traffic forecasts and economic assumptions used, must be accurate, adequate and coherent;		[...]	C
801.	(b) the draft performance plan must be complete in terms of data and supporting material;		[...]	C
802.	(c) cost bases for charges must comply with Article 20.		[...]	C

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803.		<i>(ca) description of how the plan and targets within it contribute to the overall objectives of the Single European Sky referred to in Article 1(1).</i>		C
804.	Article 14 - paragraph 4		Article 14 - paragraph 4	
805.	4. The draft performance plans for terminal air navigation services referred to in paragraph 1, shall be submitted to the national supervisory authority for assessment and approval.		[...]	C
806.	Article 14 - paragraph 5		Article 14 - paragraph 5	
807.	5. In the case of a designated air traffic service provider providing both <i>en route</i> air navigation services and terminal air navigation services, the draft performance plan for terminal air navigation services to be submitted to the national supervisory authority shall be the plan subject to a positive decision on the allocation of costs taken by		[...]	C

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	the Agency acting as PRB in accordance with the third subparagraph of Article 13(6).			
808.	Article 14 - paragraph 6	Article 14 - paragraph 6	Article 14 - paragraph 6	
809.	6. The national supervisory authority shall assess the performance targets for terminal air navigation services and the performance plans according to the criteria and conditions set out in paragraph 3. Where paragraph 5 applies, the national supervisory authority shall base its assessment on the conclusions of the decision taken by the Agency acting as PRB in respect of the allocation of costs.	6. The national supervisory authority shall assess the performance targets for terminal air navigation services and the performance plans according to the criteria and conditions set out in paragraph 3, including those regarding climate and the environment. Where paragraph 5 applies, the national supervisory authority shall base its assessment on the conclusions of the decision taken by the Agency acting as PRB in respect of the allocation of costs.	[...]	C
810.	Where the national supervisory authority finds that the draft performance plan meets those criteria and conditions, it shall approve it.		[...]	C

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811.	Where the national supervisory authority finds that one or several performance targets for terminal air navigation services are not consistent with the Union-wide performance targets or the performance plan does not meet the additional conditions set out in paragraph 3, it shall deny the approval.		[...]	C
812.	<i>Article 14 - paragraph 7</i>	<i>Article 14 - paragraph 7</i>		
813.	7. Where the national supervisory authority has denied approval of a draft performance plan in accordance with paragraph 6, a revised draft performance plan shall be presented by the designated air traffic service provider concerned, including where necessary revised targets.	7. Where the national supervisory authority has denied approval of a draft performance plan in accordance with paragraph 6, a revised draft performance plan shall be presented by the designated air traffic service provider concerned, including where necessary revised targets, <i>including those regarding climate and the environment.</i>	[...]	C

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814.	<i>Article 14 - paragraph 8</i>		<i>Article 14 - paragraph 8</i>	
815.	8. The national supervisory authority shall assess the revised draft performance plan referred to in paragraph 7 in accordance with the criteria and conditions set out in paragraph 3. Where a revised draft performance plan meets those criteria and conditions, the national supervisory authority shall approve it.		[...]	C
816.	Where a revised draft performance plan does not meet those criteria and conditions, the national supervisory authority shall deny its approval and shall require the designated air traffic service provider to present a final draft performance plan.		[...]	C
817.	Where the revised draft performance plan submitted in accordance with paragraph 7 is denied because it contains performance targets for terminal air	Where the revised draft performance plan submitted in accordance with paragraph 7 is denied because it contains performance targets for terminal air	[...]	C

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	navigation services that are not consistent with the Union-wide performance targets, the national supervisory authority shall establish performance targets in consistency with the Union-wide performance targets for the designated air traffic service provider concerned, taking into account the findings made in the decision referred to in paragraph 6. The final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets thus established by the national supervisory authority as well as the measures to achieve those targets.	navigation services that are not consistent with the Union-wide performance targets, <i>including those regarding climate and the environment</i> , the national supervisory authority shall establish performance targets in consistency with the Union-wide performance targets for the designated air traffic service provider concerned, taking into account the findings made in the decision referred to in paragraph 6. The final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets thus established by the national supervisory authority as well as the measures to achieve those targets, <i>including those regarding the climate and the environment</i> .		

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818.	Where approval of the revised draft performance plan submitted in accordance with paragraph 7 is denied only because it does not comply with the conditions set out in the third subparagraph of paragraph 3, the final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets contained in the draft performance plan and found to be consistent with the Union-wide performance targets by the national supervisory authority, and shall contain the amendments necessary in view of the conditions the national supervisory authority has found not being met.	Where approval of the revised draft performance plan submitted in accordance with paragraph 7 is denied only because it does not comply with the conditions set out in the third subparagraph of paragraph 3, the final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets contained in the draft performance plan and found to be consistent with the Union-wide performance targets by the national supervisory authority, and shall contain the amendments necessary in view of the conditions the national supervisory authority has found not being met, <i>including those regarding climate and the environment.</i>	[...]	C
819.	Where approval of the revised draft performance plan submitted in accordance with paragraph 7 is denied because it contains	Where approval of the revised draft performance plan submitted in accordance with paragraph 7 is denied because it contains	[...]	C

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	performance targets for terminal air navigation services that are not consistent with the Union-wide performance targets and because, in addition, it does not comply with the conditions set out in the third subparagraph of paragraph 3, the final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets established by the national supervisory authority in accordance with the third subparagraph and the measures to achieve those targets and shall contain the amendments necessary in view of the conditions the national supervisory authority has found not being met.	performance targets for terminal air navigation services that are not consistent with the Union-wide performance targets and because, in addition, it does not comply with the conditions set out in the third subparagraph of paragraph 3, the final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets established by the national supervisory authority in accordance with the third subparagraph and the measures to achieve those targets and shall contain the amendments necessary in view of the conditions the national supervisory authority has found not being met, <i>including regarding those regarding climate and the environment.</i>		

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820.	<i>Article 14 - paragraph 9</i>		<i>Article 14 - paragraph 9</i>	
821.	9. Draft performance plans approved by the national supervisory authority shall be adopted by the designated air traffic service providers concerned as definitive plans, and shall be made publicly available.		[...]	C
822.	<i>Article 14 - paragraph 10</i>	<i>Article 14 - paragraph 10</i>	<i>Article 14 - paragraph 10</i>	
823.	10. The national supervisory authority concerned shall issue regular reports on the monitoring of performance of terminal air navigation services, including regular assessments of the achievement of the performance targets for terminal air navigation services for air traffic service providers and making the results of those assessments publicly available.	10. The national supervisory authority concerned shall issue regular reports on the monitoring of performance of terminal air navigation services, including regular assessments of the achievement of the performance targets for terminal air navigation services for air traffic service providers, <i>including those regarding climate and the environment</i> , and making the results of those assessments publicly available.	[...]	C

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824.	The designated air traffic service provider shall provide the information and data necessary for the monitoring of the performance of air navigation services. This shall include information and data related to actual costs and revenues.		[...]	C
825.	Where performance targets are not reached or the performance plan is not correctly implemented, the national supervisory authority shall issue decisions requiring corrective measures to be implemented by the air traffic service providers. These corrective measures may include, where objectively necessary, a requirement for an air traffic service provider to delegate the provision of the relevant services to another air traffic service provider. Where the performance targets continue to be missed, or where the performance plan continues to be incorrectly implemented, or where	Where performance targets are not reached or the performance plan is not correctly implemented, <i>including those regarding climate and the environment</i> , the national supervisory authority shall issue decisions requiring corrective measures, <i>including fines and periodic penalty payments</i> to be implemented by the air traffic service providers. These corrective measures may include, where objectively necessary, a requirement for an air traffic service provider to delegate the provision of the relevant services to another air traffic service provider.	[...]	C

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	corrective measures imposed are not or not properly applied, the national supervisory authority shall request the Agency acting as PRB to conduct an investigation in accordance with Article 24(2), and the Commission may take action in accordance with Article 24(3).	Where the performance targets continue to be missed, or where the performance plan continues to be incorrectly implemented, or where corrective measures imposed are not or not properly applied, <i>including regarding climate and the environment</i> , the national supervisory authority shall request the Agency acting as PRB to conduct an investigation in accordance with Article 24(2), and the Commission may take action in accordance with Article 24(3).		
826.	<i>Article 14 - paragraph 11</i>			
827.	11. Member States shall ensure that decisions taken by the national supervisory authority pursuant to this Article are subject to judicial review.		[...]	C
828.	<i>Article 14 - paragraph 12</i>			
829.	12. Where the Agency acting as PRB carries out the tasks of a national supervisory authority in		[...]	C

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	<p>accordance with Article 3(8), the draft performance plans for terminal air navigation services shall be submitted to the Agency acting as PRB together with the draft performance plans for <i>en route</i> air navigation services. Where the Agency has taken a decision in respect of the allocation of costs as referred to in the third subparagraph of Article 13(6), this decision shall be binding on it for the purposes of the assessment of the draft performance plans for terminal air navigation services.</p>			

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830.	<i>Article 15</i>	<i>Article 15</i>	<i>Article 15</i>	
831.	Role of the Agency acting as PRB as regards the monitoring of Union-wide performance targets for terminal air navigation services	Role of the Agency acting as PRB as regards the monitoring of Union-wide performance targets for terminal air navigation services	Role of the Agency acting as PRB as regards the monitoring of Union-wide performance targets for terminal air navigation services	
832.	<i>Article 15 - paragraph 1</i>	<i>Article 15 - paragraph 1</i>		
833.	1. The Agency acting as PRB shall on a regular basis establish a Union-wide overview of the performance of terminal air navigation services and of how it relates to Union-wide performance targets.	1. The Agency acting as PRB shall on a regular basis <i>once per year</i> , establish a Union-wide overview of the performance of terminal air navigation services and of how it relates to Union-wide performance targets, <i>including those regarding climate and the environment</i> .	[...]	C
834.	<i>Article 15 - paragraph 2</i>			
835.	2. For the purpose of the preparation of the overview referred to in point 1, the national supervisory authorities shall notify their reports referred to in Article 14(10) to the Agency acting as PRB and shall provide any other information the Agency acting as PRB may request for those		[...]	C

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	purposes.			
836.	<i>Article 16</i>	<i>Article 16</i>	<i>Article 16</i>	
837.	Network Performance Plan	Network Performance Plan	Network Performance Plan	
838.	<i>Article 16 - paragraph 1</i>	<i>Article 16 - paragraph 1</i>	<i>Article 16 - paragraph 1</i>	
839.	1. The Network Manager shall, for each reference period, draw up a draft Network Performance Plan in respect of all the network functions which it delivers.	1. The Network Manager shall, for each reference period, draw up a draft Network Performance Plan in respect of all the network functions which it <i>supports and</i> delivers.	1. The Network Manager shall, for each reference period, draw up, in accordance with the cooperative decision-making process referred to in Article 27(7), a draft Network Performance Plan.	B
840.	The draft Network Performance Plan shall be drawn up after the setting of Union-wide performance targets and before the start of the reference period concerned. It shall contain performance targets in the key performance areas of the environment, capacity and cost-efficiency.	The draft Network Performance Plan shall be drawn up after the setting of Union-wide performance targets and before the start of the reference period concerned. It shall contain <i>specific</i> performance targets <i>for Network Manager</i> in the key performance areas of <i>climate and the</i> environment, capacity and cost-efficiency.	The draft Network Performance Plan shall be drawn up after the setting of Union-wide performance targets and before the start of the reference period concerned. It shall contain performance targets in the key performance areas referred to in Article 10(2)a).	B

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841.	<i>Article 16 - paragraph 2</i>		<i>Article 16 - paragraph 2</i>	
842.	2. The draft Network Performance Plan shall be submitted to the Agency acting as PRB and to the Commission.		2. The draft Network Performance Plan shall be submitted to the Commission for assessment and adoption.	C
843.	The Agency acting as PRB shall, upon request from the Commission, deliver an opinion to the Commission on the draft Network Performance Plan based on the following essential criteria:		2a. The Commission shall assess the draft Network Performance Plan based on the following essential criteria:	C
844.	(a) consideration of performance improvements over time, for the reference period covered by the performance plan, and additionally for the timeframe comprising both the preceding reference period and the reference period covered by the performance plan;		(a) consideration of performance improvements over time, for the reference period covered by the performance plan, and for the timeframe comprising both the preceding reference period and the reference period covered by the performance plan as well as contribution towards Union wide performance targets;	B
845.	(b) completeness of the draft Network Performance Plan in terms of data and supporting materials.		(b) completeness and consistency of the draft Network Performance Plan in terms of data and supporting	B

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			materials, including key assumptions applied and traffic forecasts.	
846.	Where the Commission finds that the draft Network Performance Plan is complete and shows adequate performance improvements, it shall adopt the draft Network Performance Plan as a definitive plan. Otherwise, the Commission may request the Network Manager to submit a revised draft Network Performance Plan.		2b. Where the Commission finds that the draft Network Performance Plan is complete and shows adequate performance improvements, it shall adopt the draft Network Performance Plan as a definitive plan. Otherwise, the Commission shall request the Network Manager to submit a revised draft Network Performance Plan.	B
847.	<i>Article 17</i>	<i>Article 17</i>	<i>Article 17</i>	
848.	Revision of performance targets and performance plans during a reference period	Revision of performance targets and performance plans during a reference period	Revision of performance targets and performance plans during a reference period	
849.	<i>Article 17 - paragraph 1</i>	<i>Article 17 - paragraph 1</i>	<i>Article 17 - paragraph 1</i>	
850.	1. Where, during a reference period, Union-wide performance targets are no longer adequate, in light of significantly changed circumstances, and where the revision of targets is necessary	1. Where, during a reference period, Union-wide performance targets are no longer adequate, in light of significantly changed circumstances, and where the revision of targets is necessary and	1. Where, during a reference period, Union-wide performance targets are no longer adequate, in light of significantly changed circumstances or safety considerations, and where the	B

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	and proportionate, the Commission shall revise those Union-wide performance targets. Article 11 shall apply to such decision. Subsequent to such revision, designated air traffic service providers shall adopt new draft performance plans, to which Articles 13 and 14 shall apply. The Network Manager shall draw up a new draft Network Performance Plan, to which Article 16 shall apply.	proportionate, the Commission shall revise those Union-wide performance targets, <i>including those regarding climate and the environment</i> . Article 11 shall apply to such decision. Subsequent to such revision, designated air traffic service providers shall adopt new draft performance plans, to which Articles 13 and 14 shall apply. The Network Manager shall draw up a new draft Network Performance Plan, to which Article 16 shall apply.	revision of one or several targets is necessary and proportionate, the Commission shall revise those Union-wide performance targets. Article 11 shall apply to such decision.	
851.			Where, following such revision, the performance targets contained in the performance plans adopted pursuant to Article 13a(6) are no longer consistent with the Union-wide performance targets, Member States shall revise those plans with respect to the performance targets concerned. Articles 13 and 13a shall apply to the revision of those plans. The consultation referred to	B


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			in Article 13(2) may be limited, for the purpose of this subparagraph, to the performance targets and parts of the draft performance plans which are directly or indirectly affected by the revision.	
852.			Following the revision referred to in the first subparagraph, the Network Manager shall draw up a new draft Network Performance Plan. Article 16 shall apply to the adoption of that new plan.	B
853.	<i>Article 17- paragraph 2</i>		<i>Article 17- paragraph 2</i>	
854.	2. The decision on the revised Union-wide performance targets referred to in paragraph 1 shall include transitional provisions for the time period until the definitive performance plans adopted pursuant to Article 13(6) and Article 14(6) become applicable.		2. The decision on the revised Union-wide performance targets referred to in paragraph 1 shall include transitional provisions for the time period until the definitive revised performance plans become applicable. Revised Union-wide targets and transitional provisions shall not apply retroactively.	B

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855.			<i>Article 17- paragraph 2a (new)</i>	
856.			2a. In case of a network crisis which prevents the issuing of reliable traffic forecasts, the transitional provisions mentioned in paragraph 2 may include the suspension of the performance system until new reliable forecasts are available. In such a case, the Commission shall define the relating conditions, including necessary adaptations to applicable charges, in the decision referred to in paragraph 1.	B
857.	<i>Article 17- paragraph 3</i>		<i>Article 17- paragraph 3</i>	
858.	3. Designated air traffic service providers may request permission from the Agency acting as PRB as regards <i>en route</i> air navigation services, or from national supervisory authority concerned as regards terminal air navigation services, to revise one or several performance targets during a reference period. Such a request		3. Member States may revise one or several performance targets, during a reference period where alert thresholds are reached, or where it is demonstrated that the initial data, assumptions and rationales underpinning the performance targets are to a significant and lasting extent no longer accurate due to circumstances that were	C

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	can be made where alert thresholds are reached, or where the designated air traffic service providers demonstrate that the initial data, assumptions and rationales underpinning the performance targets are to a significant and lasting extent no longer accurate due to circumstances that were unforeseeable at the time of the adoption of the performance plan.		unforeseeable at the time of the adoption of the performance plan.	
859.			In such a case, Member States shall revise the performance plans with respect to the targets concerned, in accordance with the procedures set out in Articles 13 and 13a. The consultation referred to in Article 13(2) may be limited, for the purpose of this paragraph, to the performance targets and parts of the performance plans which are directly or indirectly affected by the revision.	C

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860.	<i>Article 17- paragraph 4</i>	<i>Article 17- paragraph 4</i>		
861.	4. The Agency acting as PRB as regards <i>en route</i> air navigation services, or the national supervisory authority concerned as regards terminal air navigation services, shall authorise the designated air traffic service provider concerned to proceed with the intended revision only if it is necessary and proportionate, and where the revised performance targets ensure that consistency with the Union-wide performance targets is maintained. Where the revision has been authorised, designated air traffic service providers shall adopt new draft performance plans, in accordance with the procedures set out in Articles 13 and 14.	4. The Agency acting as PRB as regards <i>en route</i> air navigation services, or the national supervisory authority concerned as regards terminal air navigation services, shall authorise the designated air traffic service provider concerned to proceed with the intended revision only if it is necessary and proportionate, and where the revised performance targets ensure that consistency with the Union-wide performance targets is maintained, <i>including those regarding climate and the environment.</i> Where the revision has been authorised, designated air traffic service providers shall adopt new draft performance plans, in accordance with the procedures set out in Articles 13 and 14.	[...]	C

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862.	<i>Article 18</i>	<i>Article 18</i>	<i>Article 18</i>	
863.	Implementation of the performance scheme	Implementation of the performance scheme	Implementation of the performance scheme	
864.	For the implementation of the performance scheme, the Commission shall adopt detailed requirements and procedures in respect of Articles 10(3), 11, 12, 13, 14, 15, 16 as well as 17, in particular as regards the development of draft performance plans, the setting of performance targets, the criteria and conditions for their assessment, the methodology for allocation of costs between <i>en route</i> and terminal air navigation services, the monitoring of performance and issuance of corrective measures, and the timetables for all procedures. Those requirements and procedures shall be set out in an implementing act adopted in accordance with the advisory procedure referred to in Article 37(2).	<i>In order to ensure uniform implementation of and compliance with the requirements referred to in Articles 10 to 17</i> , the Commission shall <i>with a view to achieving the objectives set out in Article 1</i> , adopt <i>implementing acts laying down detailed provisions concerning:</i> <i>(a) the rules, procedures and methodology for the development, , assessment, monitoring and revision of the draft performance plans for air navigation services and network functions referred to in Articles 13, 14 and 16;</i> <i>(b) the rules and procedures for the setting of performance targets, the criteria and conditions for their assessment, referred to in Articles 10(3), 13 and 14;</i> <i>(c) the rules and procedures for classification of en route and</i>	For the implementation of the performance scheme, the Commission shall, by means of implementing acts adopted in accordance with the examination procedure referred to in Article 37(3), adopt detailed requirements and procedures in respect of Articles 10(3), 11, 13, 13a, 13b, 16 and 17, in particular as regards the preparation, assessment, approval and revision of performance plans, the setting of performance targets, the monitoring of performance , methodology for benchmarking, the incentive schemes, the issuance of corrective measures, and the timetables for all procedures.	B

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		<p><i>terminal air navigation services, referred to in Article 12;</i></p> <p><i>(d) the rules and procedures for elaboration of the methodology for allocation of costs between en route and terminal air navigation services, referred to in Articles 10(3), 13 and 14;</i></p> <p><i>(e) the rules and procedures for the monitoring of performance plans, alert mechanisms for revision of performance plans and targets and for the revision of Union-wide performance targets during the course of a reference period and targets and issuance of corrective measures, referred to in Articles 10(3), 13, 14, 15 and 17;</i></p> <p><i>(f) the rules and procedures for the timetables for all procedures, referred in Article 10(3)</i></p> <p><i>(g) the rules and procedures for a mechanism to address unforeseeable and significant events, referred to in Article 10(3).</i></p>		

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		<p><i>(h) rules and procedures for the collection, validation, examination, evaluation and dissemination of relevant data related to the performance of air navigation services and network functions;</i></p> <p><i>(i) rules and procedures for the setting of key performance indicators and indicators for monitoring. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 37(2).</i></p>		
865.	<i>Article 19</i>	<i>Article 19</i>	<i>Article 19</i>	
866.	Principles for the charging scheme	Principles for the charging scheme	Principles for the charging scheme	
867.	<i>Article 19- paragraph 1</i>	<i>Article 19- paragraph 1</i>	<i>Article 19- paragraph 1</i>	
868.	1. Without prejudice to the possibility for Member States to finance the provision of air traffic services covered in this Article through public funds, charges for air navigation services shall be determined, imposed and enforced on airspace users.	1. Without prejudice to the possibility for Member States, within the limits of Union competition law, to finance the provision of air navigation traffic services covered in this Article through public funds, charges for air navigation services shall be determined,	1. Without prejudice to the possibility for Member States to finance the provision of air navigation services covered in this Article through public funds, charges for air navigation services shall be determined, imposed and enforced on airspace users in accordance	B

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		imposed and enforced on airspace users.	with Article 15 of the Chicago Convention and with this Article as well as Articles 20 to 22 and the implementing acts adopted on the basis of Article 23. The charging scheme set up under this Article as well as Articles 20 to 22 shall be consistent with the charging system for en route charges established by EUROCONTROL, in particular EUROCONTROL Principles for Establishing the Cost-Base for En-Route Charges and the Calculation of the Unit Rates.	
869.	<i>Article 19- paragraph 2</i>		<i>Article 19- paragraph 2</i>	
870.	2. Charges shall be based on the costs of air traffic service providers in respect of services and functions delivered for the benefit of airspace users over fixed reference periods as defined in Article 10(2). Those costs may include a reasonable return on assets to contribute towards necessary capital improvements.		2. Charges shall be based on the costs of air navigation service providers incurred in relation to the provision of services and functions made available to, or for the benefit of, airspace users over fixed reference periods as defined in Article 10(2). Those costs may include a reasonable return on assets.	B

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871.	<i>Article 19- paragraph 3</i>	<i>Article 19- paragraph 3</i>	<i>Article 19- paragraph 3</i>	
872.	3. Charges shall encourage the safe, efficient, effective and sustainable provision of air navigation services with a view to achieving a high level of safety and cost-efficiency and meeting the performance targets and they shall stimulate integrated service provision, whilst reducing the environmental impact of aviation.	3. Charges shall encourage the safe, efficient, effective and sustainable provision of air navigation services with a view to achieving a high level of safety and meeting the performance targets, <i>including those regarding climate and the environment</i> , and they shall stimulate integrated service provision, whilst reducing the environmental impact of aviation.	3. Charges shall encourage the safe, efficient, effective and sustainable provision of air navigation services with a view to achieving a high level of safety and cost-efficiency whilst reducing the environmental impact of aviation.	B
873.	<i>Article 19- paragraph 4</i>		<i>Article 19- paragraph 4</i>	
874.	4. Revenues from charges imposed on airspace users may result in financial surpluses or losses for air traffic service providers due to the application of the incentive schemes referred to in point (h) of Article 10(3) and the risk sharing mechanisms referred to in point (i) of Article 10(3).		[...]	C

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875.	<i>Article 19- paragraph 5</i>	<i>Article 19- paragraph 5</i>	<i>Article 19- paragraph 5</i>	
876.	5. Revenues from charges imposed on airspace users in accordance with this Article shall not be used to finance services which are provided under market conditions in accordance with Article 8.	5. Revenues <i>received by an air traffic service provider</i> from charges imposed on airspace users in accordance with this Article shall not be used to finance services which <i>that air traffic service provider may provide</i> under market conditions in accordance with Article 8 <i>or any other commercial activity performed by that provider.</i>	5. Revenues received by an air navigation service provider from charges imposed on airspace users in accordance with this Article shall not be used to finance services which that air navigation service provider provides under market conditions in accordance with Article 8 or to finance any other commercial activity performed by that provider.	B
877.	<i>Article 19- paragraph 6</i>	<i>Article 19- paragraph 6</i>	<i>Article 19- paragraph 6</i>	
878.	6. Financial data on determined costs, actual costs and revenues of designated air traffic service providers shall be reported to national supervisory authorities and the Agency acting as PRB and shall be made publicly available.	6. Financial data on determined costs, actual costs and revenues of designated air traffic service providers shall be reported to national supervisory authorities, <i>Eurocontrol</i> and the Agency acting as PRB and shall be made publicly available <i>subject to the protection of confidential information.</i>	6. Financial data on determined and actual costs of designated air traffic service providers shall be reported to national supervisory authorities.	C

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879.	<i>Article 20</i>	<i>Article 20</i>	<i>Article 20</i>	
880.	Cost bases for charges	Cost bases for charges	Cost bases for charges	
881.	<i>Article 20- paragraph 1</i>	<i>Article 20- paragraph 1</i>	<i>Article 20- paragraph 1</i>	
882.	1. The cost bases for charges for <i>en route</i> air navigation services and charges for terminal air navigation services shall consist of the determined costs related to the provision of those services in the <i>en route</i> charging zone and terminal charging zone concerned, as established in the performance plans adopted in accordance with Articles 13 and 14.		1. The cost bases for charges for air navigation services shall consist of the determined costs, as established in the performance plans adopted in accordance with Article 13a(6), related to the provision of those services in the en route charging zone and terminal charging zone concerned.	B
883.	<i>Article 20- paragraph 2</i>		<i>Article 20- paragraph 2</i>	
884.	2. The determined costs referred to in paragraph 1 shall include the costs of relevant facilities and services, appropriate amounts for interest on capital investment and depreciation of assets, as well as the costs of maintenance, operation, management and administration.		2. The determined costs referred to in paragraph 1 shall include the costs of relevant facilities and services, cost of capital and depreciation of assets, as well as the costs of maintenance, operation, management and administration and other staff costs.	B

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885.	<i>Article 20- paragraph 3</i>		<i>Article 20- paragraph 3</i>	
886.	3. The determined costs referred to in paragraph 1 shall also include the following costs:		3. The determined costs referred to in paragraph 1 shall also include the following costs:	
887.	(a) costs incurred by the air traffic service providers for fees and charges paid to the Agency acting as PRB;		[...]	C
888.	(b) costs or parts thereof incurred by the air traffic service providers, in relation to their oversight and certification by national supervisory authorities, unless other financial resources are used by Member States to cover such costs;	(b) costs or parts thereof incurred by the air traffic service providers, in relation to their oversight and certification by <i>the competent</i> national supervisory authorities, unless other financial resources are used by Member States to cover such costs;	(b) costs related to the oversight of air navigation services incurred by national supervisory authorities, national competent authorities, and other national authorities, where the Member State so decides ;	C
889.	(c) costs incurred by the air traffic service providers in relation to the provision of air navigation services and network functions, including the tasks entrusted to the Network Manager, unless other financial resources are used by Member States to cover such costs.		(c) costs incurred by the air navigation service providers in relation to the provision of air navigation services , where the Member States so decides;	C

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890.		<i>(ca) costs of Eurocontrol in relation to the provision of air navigation services, unless other financial resources are used by Member States to cover these costs.</i>		C
891.		<i>(cb) other costs incurred by the Member States in relation to the provision of air navigation services such as the costs stemming from international agreements, except Eurocontrol, if such costs are not covered by other financial resources.</i>		C
892.			(d) costs incurred by the air navigation service providers in relation to network functions, in particular in relation to the cooperation with the Network Manager and other functions as described in Article 2(9);	C
893.			(e) costs stemming from the EUROCONTROL International Convention relating to cooperation for the safety of air navigation of 13 December 1960 as last amended, where the Member State so decides.	C

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894.	<i>Article 20- paragraph 4</i>		<i>Article 20- paragraph 4</i>	
895.	4. Determined costs shall not include the costs of penalties imposed by Member States referred to in Article 42 nor the costs of any corrective measures referred to in Article 13(11) and Article 14(10).		4. Determined costs shall not include the costs of penalties imposed by Member States in accordance with Article 42.	C
896.	<i>Article 20- paragraph 5</i>		<i>Article 20- paragraph 5</i>	
897.	5. Cross-subsidy shall not be allowed between <i>en route</i> air navigation services and terminal air navigation services. Costs that pertain to both <i>en route</i> air navigation services and terminal air navigation services shall be allocated in a proportional way between <i>en route</i> air navigation services and terminal air navigation services on the basis of a transparent methodology. Cross-subsidy shall be allowed between different air navigation services in either one of those two categories only when justified for objective		5. Costs that pertain to both en route air navigation services and terminal air navigation services shall be allocated in compliance with the criteria laid down by the national supervisory authority in accordance with Article 13(1a). Cross-subsidy between en route air navigation services and terminal air navigation services shall not be allowed. Cross-subsidy shall be allowed between different air navigation services within either one of those two categories only when justified for objective reasons, subject to transparent identification in	B

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	reasons, subject to transparent identification in accordance with Article 25(3).		accordance with Article 25(3).	
898.	Article 20- paragraph 6	Article 20- paragraph 6	Article 20- paragraph 6	
899.	6. Designated air traffic service providers shall provide details of their cost base to the Agency acting as PRB, the national supervisory authorities, and the Commission. To this end, costs shall be broken down in line with the separation of accounts referred to in Article 25(3), and by distinguishing staff costs, operating costs other than staff costs, depreciation costs, cost of capital, costs incurred for fees and charges paid to the Agency acting as PRB, and exceptional costs.	6. Designated air traffic service providers shall provide full details of their cost base to the Agency acting as PRB, the national supervisory authorities, and the Commission. To this end, costs shall be broken down in line with the separation of accounts referred to in Article 25(3), and by distinguishing staff costs, operating costs other than staff costs, depreciation costs, cost of capital, costs referred to in Article 20(3) and exceptional costs.	6. Designated air traffic service providers shall provide details of their cost base to the national supervisory authority, and the Commission. To this end, costs shall be broken down by distinguishing staff costs, operating costs other than staff costs, depreciation costs, cost of capital, costs referred to in Article 20(3) , and exceptional costs.	B

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900.	<i>Article 21</i>	<i>Article 21</i>	<i>Article 21</i>	
901.	Setting of unit rates		Charging zone and unit rates	
902.	<i>Article 21- paragraph 1</i>		<i>Article 21- paragraph 1</i>	
903.	1. Unit rates shall be set per calendar year and for each charging zone, on the basis of the determined costs and the traffic forecasts established in the performance plans as well as applicable adjustments deriving from previous years and other revenues.		1. Unit rates shall be set per calendar year and for each charging zone, on the basis of the determined costs and the traffic forecasts established in the performance plans as well as applicable adjustments deriving from previous years and other revenues.	B
904.			1a. Without prejudice to Article 20(5), first subparagraph, Member States shall define, before the start of a reference period, the charging zones for air navigation services and shall identify the air traffic service providers falling under the scope of each charging zone. The Commission shall, by means of an implementing act adopted in accordance with the examination procedure referred to in Article 37(3) define the conditions under	B

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			which Member States may modify or establish a new terminal charging zone during a reference period.	
905.	<i>Article 21- paragraph 2</i>	<i>Article 21- paragraph 2</i>	<i>Article 21- paragraph 2</i>	
906.	2. Unit rates shall be set by the national supervisory authorities, after verification by the Agency acting as PRB that they comply with Article 19, Article 20 and with this Article. Where the Agency acting as PRB finds that a unit rate does not fulfill those requirements, the unit rate shall be reviewed accordingly by the national supervisory authority concerned. Where a unit rate continues to not fulfill those requirements, the Agency acting as PRB shall conduct an investigation and provide an opinion to the Commission in accordance with Article 24(2), and the Commission may take action in accordance with Article		2. Unit rates shall be set by the Member States, and be subject to verification by the Commission that they comply with Article 19, Article 20 and with this Article. Where the Commission finds that a unit rate does not fulfil those requirements, the unit rate shall be reviewed accordingly by the Member State concerned, and amended as appropriate.	C

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	24(3).			
907.	For charging purposes, and when congestion causes significant network problems including deterioration of environmental performance, the Commission may define, by way of an Implementing Regulation adopted in accordance with the examination procedure referred to in Article 37(3), a common unit rate for <i>en route</i> air navigation services across the Single European Sky airspace, and detailed rules and procedures for its application. The common unit rate referred to in the first subparagraph shall be calculated on the basis of a weighted average of the different unit rates of the air navigation service providers concerned. The proceeds of the common unit rate shall be reallocated so as to achieve revenue neutrality for those air traffic service providers concerned.	For charging purposes, and when congestion causes significant network problems including deterioration of <i>climate and</i> environmental performance, the Commission may define, by way of an Implementing Regulation adopted in accordance with the examination procedure referred to in Article 37(3), a common unit rate for en route air navigation services across the Single European Sky airspace, and detailed rules and procedures for its application.	[...]	C

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908.	<i>Article 22</i>	<i>Article 22</i>	<i>Article 22</i>	
909.	Establishment of charges	Establishment of charges	Establishment of charges	
910.	<i>Article 22- paragraph 1</i>		<i>Article 22- paragraph 1</i>	
911.	1. Charges shall be levied on airspace users for the provision of air navigation services, under non-discriminatory conditions, taking into account the relative productive capacities of the different aircraft types concerned. When imposing charges on different airspace users for the use of the same service, no distinction shall be made in relation to the nationality or category of the user.		1. Charges shall be levied on airspace users for the provision of air navigation services, under non-discriminatory conditions, taking into account the relative productive capacities of the different aircraft types concerned. When imposing charges on different airspace users for the use of the same service, no distinction shall be made in relation to the nationality or category of the user.	
912.	<i>Article 22- paragraph 2</i>		<i>Article 22- paragraph 2</i>	
913.	2. The charge for <i>en route</i> air navigation services for a given flight in a given <i>en route</i> charging zone shall be calculated on the basis of the unit rate established for that <i>en route</i> charging zone and the <i>en route</i> service units for that flight. The charge shall be		2. The en-route charge for air navigation services for a given flight in a given en route charging zone shall be calculated on the basis of the unit rate established for that en route charging zone and the en route service units for that flight.	B

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	made out of one or more variable components, each based on objective factors.			
914.	<i>Article 22- paragraph 3</i>		<i>Article 22- paragraph 3</i>	
915.	3. The charge for terminal air navigation services for a given flight in a given terminal charging zone shall be calculated on the basis of the unit rate established for that terminal charging zone and the terminal service units for that flight. For the purpose of calculating the charge for terminal air navigation services, the approach and departure of a flight shall count as a single flight. The charge shall be made out of one or more variable components, each based on objective factors.		3. The terminal charge for air navigation services for a given flight in a given terminal charging zone shall be calculated on the basis of the unit rate established for that terminal charging zone and the terminal service units for that flight. For the purpose of calculating the terminal charge, the approach and departure of a flight shall count as a single flight.	B

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916.	<i>Article 22- paragraph 4</i>		<i>Article 22- paragraph 4</i>	
917.	4. Exemption of certain airspace users from air navigation charges, especially light aircraft and State aircraft, may be permitted, provided that the cost of such exemption is covered by other resources and is not passed on to other airspace users.		4. Exemption of certain airspace users from air navigation charges, especially light aircraft and State aircraft, may be permitted, provided that the cost of such exemption is covered by other resources and is not passed on to other airspace users.	
918.	<i>Article 22- paragraph 5</i>	<i>Article 22- paragraph 5</i>	<i>Article 22- paragraph 5</i>	
919.	5. Charges shall be modulated to encourage air navigation service providers, airports and airspace users to support improvements in environmental performance, or service quality such as increased use of sustainable alternative fuels, increased capacity, reduced delays and sustainable development, while maintaining an optimum safety level, in particular for implementing the European ATM Master Plan. The modulation shall consist of	5. Charges shall be modulated to encourage ■ airspace users to support improvements in environmental performance, ■ such as increased use of <i>alternative clean propulsion technologies, and</i> sustainable ■ development, <i>to support improvements in service quality such as those leading to reduced delays, more direct-routing or to support the implementation of the European ATM Master Plan</i> , while maintaining an optimum safety	5. Charges may be modulated to encourage air traffic service providers and airspace users to support improvements in environmental performance, or service quality such as the use of the most fuel-efficient available routing, increased use of sustainable alternative fuels, increased capacity, reduced delays and sustainable development, while maintaining an optimum safety level, in particular for implementing the European ATM	C

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	financial advantages or disadvantages and shall be revenue neutral for air traffic service providers.	level. ■ The modulation shall consist of financial advantages ■ and shall be <i>preceded by an analysis confirming how</i> revenue <i>neutrality</i> for air traffic service providers <i>will be ensured</i> .	Master Plan. The modulation shall consist of financial advantages or disadvantages and shall be revenue neutral for air traffic service providers.	
920.			5a. The Commission shall, in consultation with the Member States, air traffic service providers and airspace users conduct a feasibility study, on the impact of the modulation of charges on air traffic and on stakeholders, including on flight paths, capacity, fleet composition and costs of airspace users, as well as on mechanisms to ensure revenue neutrality of air traffic service providers. This study shall also cover the contribution of that modulation to achievement of the Single European Sky objectives referred to in Article 1(1) and in the Commission's communication on the European Green Deal,	C

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			taking into consideration competitiveness aspects, existing incentive schemes and other known alternatives. On the basis of that study, the Commission may adopt guidelines to enable Member States to implement modulation of charges on a voluntary basis.	
921.	<i>Article 23</i>	<i>Article 23</i>	<i>Article 23</i>	
922.	Implementation of the charging scheme	Implementation of the charging scheme	Implementation of the charging scheme	
923.	For the implementation of the charging scheme, the Commission shall adopt detailed requirements and procedures in respect of Articles 19, 20, 21 and 22 in particular regarding the cost bases and determined costs, the setting of unit rates, the incentives schemes and risk sharing mechanisms and the modulation of charges. Those requirements and procedures shall be set out in an implementing act adopted in accordance with the advisory	<i>The Commission is empowered to adopt delegated acts in accordance with Article 36 to supplement this Regulation, with regard to:</i> <i>(a) setting of determined cost and cost bases, referred to in Articles 19 and 20;'</i> <i>(b) setting of the unit rate, referred to in Article 21;</i> <i>(c) establishing charges referred to in Article 22, including their modulation in accordance with that Article; and</i>	For the implementation of the charging scheme, the Commission shall, by means of implementing acts adopted in accordance with the examination procedure referred to in Article 37(3), adopt detailed requirements and procedures in respect of Articles 19, 20, 21 and 22 in particular regarding the cost bases and determined costs, the setting of unit rates, and risk sharing mechanisms and the modulation of charges.	C

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	procedure referred to in Article 37(2).	<i>(d) establishing the incentives schemes and risk sharing mechanisms, referred to in Article 10(3).</i>		
924.	<i>Article 24</i>	<i>Article 24</i>	<i>Article 24</i>	
925.	Review of compliance with the performance and charging schemes	Review of compliance with the performance and charging schemes	Review of compliance with the performance and charging schemes	
926.	<i>Article 24- paragraph 1</i>	<i>Article 24- paragraph 1</i>	<i>Article 24- paragraph 1</i>	
927.	1. The Commission shall regularly review the compliance with Articles 10 to 17 and 19 to 22 and the implementing acts referred to in Articles 18 and 23, by the air traffic service providers and the Member States, as the case may be. The Commission shall act in consultation with the Agency acting as PRB and with national supervisory authorities.	1. <i>Without prejudice to the tasks of the national supervisory authorities and the Agency acting as PRB</i> Commission shall <i>provide for ongoing</i> review of compliance with Articles 10 to 17 and 19 to 22, <i>including the delegated acts referred to in Article 23</i> , and the implementing acts referred to in Articles 18, by the air traffic service providers and the Member States, as the case may be. The Commission shall act in consultation with the Agency acting as PRB and with national	1. The Commission shall regularly review the compliance with Articles 10 to 17 and 19 to 22 and the implementing acts referred to in Articles 18 and 23, by the Member States, in particular the national supervisory authorities . The Commission shall act in consultation with the PRB, where a PRB has been designated in accordance with Article 9b, and with national supervisory authorities.	C

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		supervisory authorities <i>and airspace users</i> .		
928.	<i>Article 24- paragraph 2</i>	<i>Article 24- paragraph 2</i>	<i>Article 24- paragraph 2</i>	
929.	2. At the request of one or more Member States, of a national supervisory authority or of the Commission, the Agency acting as PRB shall carry out an investigation into any allegation of non-compliance as referred to in paragraph 1. Where it has indications of such non-compliance, the Agency acting as PRB may initiate an investigation on its own initiative. It shall conclude the investigation within four months of receipt of a request, after having heard the Member State, the national supervisory authority concerned and the designated air traffic service provider concerned. Without prejudice to Article 41(1), the Agency acting as PRB shall share the results of the	2. At the request of one or more Member States, of a national supervisory authority, █ of the Commission, <i>of airspace users or a relevant group representing them</i> , the Agency acting as PRB shall carry out an investigation into any allegation of non-compliance as referred to in paragraph 1. Where it has indications of such non-compliance, the Agency acting as PRB <i>shall</i> initiate an investigation on its own initiative. It shall conclude the investigation within four months of receipt of a request, after having heard the Member State, the national supervisory authority concerned and the designated air traffic service provider concerned. <i>When such non-compliance concerns requirements regarding climate</i>	2. Where the Commission, has indications of non-compliance with the provisions referred to in paragraph 1, it may initiate an investigation . It shall conclude the investigation within four months, after having heard the Member State, and the national supervisory authority concerned.	C

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	investigation with the Member States concerned, the air traffic service providers concerned and the Commission.	<i>and the environment, the Agency acting as PRB shall provide for consultation with scientific experts in the domain of climate.</i> Without prejudice to Article 41(1), the Agency acting as PRB shall share the results of the investigation with the Member States concerned, the air traffic service providers concerned and the Commission.		
930.	Article 24- paragraph 3	Article 24- paragraph 3	Article 24- paragraph 3	
931.	3. The Commission may issue an opinion on whether Articles 10 to 17 and 19 to 22 and the implementing acts referred to in Articles 18 and 23 have been complied with by Member States and/or air traffic service providers and shall notify this opinion to the Member State or Member States and the air traffic service provider concerned.	3. The Commission <i>shall</i> issue an opinion on whether Articles 10 to 17 and 19 to 22, <i>delegated acts referred to in Article 23</i> , and the implementing acts referred to in Articles 18 have been complied with by Member States and/or air traffic service providers and shall notify <i>that</i> opinion to the Member State or <i>the</i> Member States <i>concerned</i> and the air traffic service provider concerned. <i>That opinion may be subject to appeal.</i>	3. Without prejudice to Article 41(1), the Commission shall share the results of the investigation with the Member State and, where appropriate, the air traffic service provider concerned and may issue an opinion on whether Articles 10 to 17 and 19 to 22 and the implementing acts referred to in Articles 18 and 23 have been complied with by that Member States . It shall notify this opinion to the Member State concerned.	C

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932.	<i>Article 25</i>	<i>Article 25</i>	<i>Article 25</i>	
933.	Transparency of accounts of air navigation service providers	Transparency of accounts of air navigation service providers	Transparency of accounts of air navigation service providers	
934.	<i>Article 25- paragraph 1</i>	<i>Article 25- paragraph 1</i>	<i>Article 25- paragraph 1</i>	
935.	1. Air navigation service providers, independently of their system of ownership or legal structures, shall annually draw up and publish their financial accounts. These accounts shall comply with the international accounting standards adopted by the Union. Where, owing to the legal status of the air navigation service provider, full compliance with the international accounting standards is not possible, the provider shall achieve such compliance to the maximum possible extent. Air navigation service providers shall publish an annual report and regularly undergo an independent audit for the accounts referred to in this paragraph.	1. Air navigation service providers, independently of their system of ownership or legal structures, shall annually draw up and publish their financial accounts. These accounts shall comply with the international accounting standards adopted by the Union. Where, owing to the legal status of the air navigation service provider, full compliance with the international accounting standards is not possible, the provider shall achieve such compliance <i>by ... [OJ: one year from the entry in force of this Regulation]</i> . Air navigation service providers shall publish an annual report and regularly undergo an independent audit for the accounts referred to in this paragraph.	1. Air navigation service providers, independently of their system of ownership or legal structures, shall annually draw up and publish their financial accounts. These accounts shall comply with the international accounting standards adopted by the Union. Where, owing to the legal status of the air navigation service provider, full compliance with the international accounting standards is not possible, the provider shall achieve such compliance to the maximum possible extent. Air navigation service providers shall publish an annual report and regularly undergo an independent audit for the accounts referred to in this paragraph.	C

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936.	<i>Article 25- paragraph 2</i>	<i>Article 25- paragraph 2</i>	<i>Article 25- paragraph 2</i>	
937.	2. National supervisory authorities and the Agency acting as PRB shall have the right to access the accounts of the air navigation service providers under their supervision. Member States may decide to grant access to these accounts to other supervisory authorities.	2. National supervisory authorities and the Agency acting as PRB shall have the right to access the accounts of the air navigation service providers under their supervision. Member States may decide to grant access to these accounts to other supervisory authorities.	2. National supervisory authorities shall have the right to access the accounts of the air navigation service providers under their supervision. Member States may decide to grant access to these accounts to national supervisory authorities of other Member States.	C
938.	<i>Article 25- paragraph 3</i>	<i>Article 25- paragraph 3</i>	<i>Article 25- paragraph 3</i>	
939.	3. Air navigation service providers shall, in their internal accounting, keep separate accounts for each air navigation service as they would be required to do if these services were carried out by separate undertakings with a view to avoiding discrimination, cross-subsidisation and distortion of competition. An air navigation service provider shall also keep separate accounts for each activity where:	3. Air navigation service providers shall, in their internal accounting, keep separate accounts for each air navigation service as they would be required to do if these services were carried out by separate undertakings with a view to avoiding discrimination, cross-subsidisation <i>without prejudice to Article 20(5)</i> and distortion of competition. An air navigation service provider shall also keep separate accounts for each activity	3. Air navigation service providers shall, in their internal accounting, keep separate accounts for each air navigation service as they would be required to do if these services were carried out by separate undertakings with a view to avoiding discrimination, cross-subsidisation and distortion of competition. An air navigation service provider shall also keep separate accounts for each activity where:	C

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		where:		
940.	(a) it provides air navigation services procured in accordance with Article 8(1) and air navigation services not covered by that provision;		(a) it provides air navigation services procured in accordance with Article 8(1) and air navigation services not covered by that provision;	
941.	(b) it provides air navigation services and carries out other activities, of whatever kind, including common information services;		(b) it provides air navigation services and carries out other activities, of whatever kind, including CIS;	
942.	(c) it provides air navigation services in the Union and in third countries.		(c) it provides air navigation services in the Union and in third countries.	
943.	The determined costs, actual costs and revenues deriving from air navigation services shall be broken down into staff costs, operating costs other than staff costs, depreciation costs, cost of capital, costs incurred for fees and charges paid to Agency acting as PRB, and exceptional costs and they shall be made publicly available, subject to the protection of confidential	The determined costs, actual costs and revenues deriving from air navigation services shall be broken down into staff costs, operating costs other than staff costs, depreciation costs, cost of capital, costs incurred for fees and charges paid to <i>the national supervisory authority, the national competent authority, the Agency and the</i> Agency acting as PRB, and	The determined and actual costs deriving from air navigation services shall be broken down into costs categories in accordance with article 20(6) and they shall be made publicly available, subject to the protection of confidential information.	C

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	information.	exceptional costs and they shall be made publicly available, subject to the protection of confidential information.		
944.	<i>Article 25- paragraph 4</i>		<i>Article 25- paragraph 4</i>	
945.	4. The financial data on costs and revenues reported in accordance with Article 19(6) and other information relevant for the calculation of unit rates shall be audited or verified by the national supervisory authority or an entity independent of the air navigation service provider concerned and approved by the national supervisory authority. The conclusions of the audit shall be made publicly available.		4. The financial data on costs reported in accordance with Article 19(6) and other information relevant for the calculation of unit rates shall be audited or verified by the national supervisory authority or an entity independent of the air navigation service provider concerned and approved by the national supervisory authority. Without prejudice to confidentiality of sensitive information, the conclusions of the audit shall be made publicly available.	B

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946.	CHAPTER IV	CHAPTER IV	CHAPTER IV	
947.	NETWORK MANAGEMENT	NETWORK MANAGEMENT	NETWORK MANAGEMENT	
948.	Article 26	Article 26	Article 26	
949.	Network functions	Network functions	Network functions	
950.	Article 26- paragraph 1	Article 26- paragraph 1	Article 26- paragraph 1	
951.	1. The air traffic management network functions shall ensure the sustainable and efficient use of the airspace and of scarce resources. They shall also ensure that airspace users can operate environmentally optimal trajectories, while allowing maximum access to airspace and air navigation services. Those network functions, enumerated in paragraphs 2 and 3, shall support the achievement of the Union-wide performance targets and shall be based on operational requirements.	1. The air traffic management network functions shall ensure the sustainable and efficient use of the airspace and of scarce resources. They shall also ensure that airspace users can operate <i>climate-optimised flight trajectories</i> , while allowing maximum access to airspace and air navigation services <i>and avoiding congestion</i> . Those network functions, enumerated in paragraphs 2 and 3, shall support the achievement of the Union-wide performance targets, <i>including those regarding climate and the environment</i> and shall be based on operational requirements.	1. The air traffic management network functions shall contribute to the sustainable and efficient use of the airspace and of scarce resources. They shall also ensure that airspace users can operate environmentally optimised trajectories and profiles, while allowing fair and reasonable access to airspace and air navigation services and minimizing congestion. Those network functions, enumerated in paragraph 2, shall support seamless access to air navigation services by airspace users as well as the achievement of the performance targets while supporting initiatives at regional and local level and shall be based on operational requirements . They	B

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			shall be without prejudice to Member States' sovereignty over their airspace and to their responsibilities relating to public order, public security and defence matters.	
952.			<i>Article 26- paragraph 1a (new)</i>	
953.			1a. Without prejudice in particular to Articles 44 and 46 of Regulation (EU) 2018/1139 and the delegated and implementing acts adopted on the basis thereof, Member States shall retain the complete and exclusive competence for the design and management of their airspace structures and of their route network. In this regard, Member States shall take into account environmental aspects, air traffic demands, seasonality and complexity of air traffic and of performance plans. Before deciding on those aspects, they shall consult airspace users concerned or groups representing	C

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			such airspace users and military authorities as appropriate.	
954.	<i>Article 26- paragraph 2</i>	<i>Article 26- paragraph 2</i>	<i>Article 26- paragraph 2</i>	
955.	2. The network functions referred to in paragraph 1 include the following:		2. The network functions referred to in paragraph 1 are the following:	
956.	(a) the design and management of the European airspace structures;	(a) the design and management of the European airspace structures <i>taking in account, among other targets, those regarding climate and the environment</i> ;	(a) design of an airspace structure offering the required level of safety, capacity, flexibility, responsiveness, environmental performance and seamless provision of expeditious air navigation services, with due regard to security and defence needs;	B
957.	(b) air traffic flow management;	(b) air traffic flow management, including, <i>including climate- optimised flight trajectories</i> ;	(b) ATFM;	B
958.	(c) the coordination of scarce resources within aviation frequency bands used by general air traffic, in particular radio frequencies as well as coordination of radar transponder codes.		(c) the coordination of scarce resources within aviation frequency bands used by general air traffic, in particular radio frequencies as well as coordination of radar transponder codes.	B

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959.			(d) delivery of air traffic control capacity in the network in accordance with commitments set out in the NOP;	B
960.			(e) management of network crisis.	B
961.			(f) ATFM delay attribution;	B
962.			(g) planning and implementation activities of the deployment of infrastructure in the European ATM network, in accordance with the European ATM Master Plan .	B
963.	<i>Article 26- paragraph 3</i>		<i>Article 26- paragraph 3</i>	
964.	3. The network functions referred to in paragraph 1 also include the following:		3. Member States and all relevant operational stakeholders shall execute network functions with the support of the Network Manager which shall execute the tasks specified in Article 27(4).	C
965.	(a) optimisation of airspace design for the network and facilitation of delegation of air traffic services provision through co-operation with the air traffic service providers and Member State authorities;	(a) optimisation of airspace design <i>and airspace structures</i> for the network and facilitation of delegation of air traffic services provision through co-operation with the air traffic service providers and Member State authorities;	[...]	C

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966.	(b) management of the delivery of air traffic control capacity in the network as set out in the binding Network Operations Plan (NOP);		[...] (<i>moved to Article 26(2)(d)</i>)	B
967.	(c) function for coordination and support in case of network crisis;		[...] (<i>moved to Article 26(2)(e)</i>)	B
968.	(d) air traffic flow and capacity management;	(d) air traffic flow and capacity management, <i>in order to fulfill key performance targets;</i>	[...]	B
969.	(e) the management of the planning, monitoring and coordination of implementation activities of the deployment of infrastructure in the European ATM network, in accordance with the European ATM Master Plan, taking into account operational needs and associated operational procedures;		[...] (<i>moved to Article 26(2)(g)</i>)	B
970.	(f) the monitoring of the functioning of the European ATM network infrastructure.		[...]	B
971.	Article 26- paragraph 4			
972.	4. The functions listed in paragraphs 2 and 3 shall not involve the		4. The measures taken for the implementation of the functions	C

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	adoption of binding measures of a general scope or the exercise of political discretion. They shall be performed in coordination with military authorities in accordance with agreed procedures concerning the flexible use of airspace.		listed in paragraphs 2 shall be of purely operational or technical nature and shall not involve the exercise of political discretion. They shall take into account of the specificities of the Member States and of proposals established at local level. They shall be performed in coordination with civil and military authorities, in particular in accordance with agreed procedures concerning the flexible use of airspace.	
973.	<i>Article 26- paragraph 5</i>	<i>Article 26- paragraph 5</i>	<i>Article 26- paragraph 5</i>	
974.	5. The Commission shall be empowered to adopt delegated acts in accordance with Article 36 to amend this Regulation in order to add functions to the ones listed in paragraphs 2 and 3, where necessary for the functioning and performance of the network.	5. The Commission shall be empowered to adopt delegated acts in accordance with Article 36 to amend this Regulation in order to add functions to the ones listed in paragraphs 2 and 3, where necessary for the functioning and performance of the network. <i>Such new functions shall not extend the existing scope of Union competence and shall be without</i>	[...]	C

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		<i>prejudice to the prerogatives and responsibilities of the Member States.</i>		
975.	<i>Article 27</i>	<i>Article 27</i>	<i>Article 27</i>	
976.	The Network Manager	The Network Manager	The Network Manager	
977.	<i>Article 27 - paragraph 1</i>	<i>Article 27 - paragraph 1</i>	<i>Article 27 - paragraph 1</i>	
978.	1. In order to achieve the objectives referred to in Article 26, the Commission, supported by the Agency where relevant, shall ensure that the Network Manager contributes to the execution of the network functions set out in Article 26, by carrying out the tasks referred to in paragraph 4.	1. In order to achieve the objectives referred to in Article 26, the Commission, supported by the Agency <i>in accordance with Regulation (EU) 2018/1139</i> , shall ensure that the Network Manager contributes to the execution of the network functions set out in Article 26, by carrying out the tasks referred to in paragraph 4.	1. In order to achieve the objectives referred to in Article 26 (1), the Commission, supported by the Agency in accordance with Regulation (EU) 2018/1139, shall ensure that the Network Manager contributes to the execution of the network functions set out in Article 26 (2), in accordance with this Article. The Commission shall supervise the proper execution of its tasks by the Network Manager.	C
979.	<i>Article 27 - paragraph 2</i>	<i>Article 27 - paragraph 2</i>	<i>Article 27 - paragraph 2</i>	
980.	2. The Commission may appoint an impartial and competent body to carry out the tasks of the Network Manager. To this end, the Commission shall adopt an	2. The Commission <i>shall</i> , appoint an <i>independent</i> , impartial and competent body, to carry out the tasks of the Network Manager. <i>The appointment Decision shall</i>	2. The Commission shall , appoint EUROCONTROL or another impartial and competent body to carry out the tasks of the Network Manager. To this end, the	B

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	implementing act in accordance with the examination procedure referred to in Article 37(3). This appointment Decision shall include the terms and conditions of the appointment, including the financing of the Network Manager.	<p><i>include the terms and conditions of the appointment, including how the Network Manager will be financed.</i> To <i>that</i> end, the Commission shall adopt ■ implementing <i>acts laying down the following: ■</i></p> <p>(a) <i>the requirements and procedure for appointing the Network Manager;</i></p> <p>(b) <i>requirements that the Network Manager be free from conflicts of interests and act independently;</i></p> <p>(c) <i>requirements for functional and hierarchical separation of the Agency acting as PRB from the Agency;</i></p> <p>(d) <i>requirements concerning the qualifications and expertise of the Network Manager;</i></p> <p>(e) <i>financing of the Network Manager.</i></p> <p><i>Those implementing acts shall be adopted in accordance with the</i></p>	Commission shall adopt an implementing act in accordance with the examination procedure referred to in Article 37(3). This appointment Decision shall include the terms and conditions of the appointment, including the financing of the Network Manager, and detailed the specific tasks of the Network Manager in line with, and within the limits of, this Article and Articles 16 and 26 and the relevant implementing acts adopted on the basis of Articles 18 and 27(8). The list of tasks of the Network Manager shall be accompanied by clear specification of the required services and performance, against which the performance of the Network Manager shall be measured, and, where appropriate, by appropriate agreements to be concluded between the Commission and the Network Manager, such as service	

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		<i>examination procedure referred to in Article 37(3).</i>	level agreements.	
981.	Article 27 - paragraph 3	Article 27 - paragraph 3	Article 27 - paragraph 3	
982.	3. The tasks of the Network Manager shall be executed in an independent, impartial and cost efficient manner . They shall be subject to appropriate governance, which shall recognise separate accountabilities for service provision and regulation where the competent body designated as the Network Manager also has regulatory functions. In the execution of its tasks, the Network Manager shall take into consideration the needs of the whole ATM network and shall fully involve the airspace users, air navigation service providers, aerodrome operators and the military.	3. The Network Manager shall <i>execute its tasks</i> in an independent, impartial and cost efficient manner. <i>In the execution of its tasks, the Network Manager</i> shall be subject to appropriate governance and regulation where the competent body designated as the Network Manager also has regulatory functions. <i>The Network Manager shall respect the different accountabilities of its tasks from its activities as an entity on its own account, and shall keep them separate at all times.</i> In the execution of its tasks, the Network Manager shall take into consideration the needs of the whole ATM network and shall fully involve the airspace users, air navigation service providers,	3. The Network Manager shall execute its tasks in an impartial and cost efficient manner and shall be subject to appropriate governance and independence. If the competent body appointed as the Network Manager has also regulatory functions, organisational separation with such functions shall be ensured. In the execution of its tasks, the Network Manager shall take into consideration the needs of the whole ATM network while safeguarding defence capabilities.	B

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		aerodrome operators and the military.		
983.	<i>Article 27 - paragraph 4</i>	<i>Article 27 - paragraph 4</i>	<i>Article 27 - paragraph 4</i>	
984.	4. The Network Manager shall contribute to the execution of the network functions through support measures aimed at safe and efficient planning and operations of the network under normal and crisis conditions and through measures aimed at the continuous improvement of network operations in the Single European Sky and the overall performance of the network, especially regarding the implementation of the performance scheme. The action taken by the Network Manager shall take account of the need to fully integrate the airports in the network.	4. The Network Manager shall contribute to the execution of the network functions through support measures aimed at safe and efficient planning and operations of <i>the stakeholders within</i> the network under normal and <i>network</i> crisis conditions and through measures aimed at the continuous improvement of network operations in the Single European Sky and the overall performance of the network, especially regarding the implementation of the performance scheme <i>including in respect of climate and the environment</i> . The action taken by the Network Manager shall take account of the need to fully integrate the airports in the network <i>and aim to ensure compliance with the performance</i>	4. The Network Manager shall execute the following tasks in support of the network functions referred to in Article 26(2): (a) support the development of an airspace structure, offering the required level of safety, capacity, flexibility, responsiveness, environmental performance and seamless provision of expeditious air navigation services, with due regard to security and defence needs; (b) coordination of ATFM ; (c) coordination of scarce resources within aviation frequency bands used by general air traffic, in particular radio frequencies as well as coordination of radar transponder codes; (d) facilitation of delegation of air traffic services provision where	C

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		<i>plans and performance targets of designated air traffic service providers.</i>	approved by the concerned Member State taking into account the necessary agreements for the coordination of general and operational air traffic and the need to maintain adequate coordination in the relevant airspace structures; (da) preparation of the NSP and establishment of the NOP; (e) coordination and support in the delivery of air traffic control capacity in the network in accordance with commitments by operational stakeholders as set out in the NOP; (f) coordination and support in the management of network crisis; (g) support to ATFM delay attribution including the post operations adjustment process involving air navigation service providers, airports and national authorities to address issues that relate to ATFM delay measurement, classification and	

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			<p>attribution;</p> <p>(h) coordination and support in the planning and implementation activities of the deployment of infrastructure in the European ATM network, in accordance with the European ATM Master Plan, through active participation of operational stakeholders in management and governance, and taking into account military and operational needs and associated operational procedures, where appropriate;</p> <p>(i) the monitoring of the functioning of the European ATM network infrastructure.</p>	
985.			Article 27 - paragraph 4a (new)	
986.			4a. The Network Manager shall propose support measures on operational matters aimed at safe and efficient planning and operations of the network under normal and network crisis conditions and measures aimed at	C

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			the continuous improvement of network operations in the Single European Sky and the overall performance of the network, especially regarding the implementation of the performance scheme. The action taken by the Network Manager shall fully integrate the airports in the network.	
987.	<i>Article 27 - paragraph 5</i>	<i>Article 27 - paragraph 5</i>	<i>Article 27 - paragraph 5</i>	
988.	5. The Network Manager shall cooperate closely with the Agency acting as PRB in order to ensure that the performance targets referred to in Article 10 are adequately reflected in the capacity to be delivered by individual air navigation service providers and agreed between the Network Manager and those air navigation service providers in the Network Operations Plan.	5. The Network Manager shall cooperate closely with the Agency acting as PRB in order to ensure that the performance targets referred to in Article 10, <i>including those relating to climate and the environment</i> , are adequately reflected in the <i>overall capacity planning, as well as the</i> capacity to be delivered by individual air navigation service providers and agreed between the Network Manager and those air <i>traffic</i> service providers in the Network	5. The Network Manager shall propose measures in case the performance targets referred to in Article 10 are not adequately reflected in the capacity to be delivered by individual air traffic service providers and agreed between the Network Manager and those air traffic service providers in the NOP.	C

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		Operations Plan.		
989.	<i>Article 27 - paragraph 6</i>		<i>Article 27 - paragraph 6</i>	
990.	6. The Network Manager shall:		6. The Network Manager shall, in coordination with relevant parties, advise the Commission on the deployment of the ATM network infrastructure in accordance with the European ATM Master Plan, in particular to identify investments necessary for the network.	C
991.	(a) decide on individual measures to implement the network functions and to support the effective implementation of the binding Network Operations Plan and the achievement of the binding performance targets;	(a) decide on individual measures to implement the network functions and to support the effective implementation of the binding Network Operations Plan and the achievement of the binding performance targets. <i>Those measures shall include flight plan corrections in order to provide climate-optimized flight trajectories. In such case, paragraph 7 shall not apply.</i>	[...]	C

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992.	(b) advise the Commission and provide relevant information to the Agency acting as PRB on the deployment of the ATM network infrastructure in accordance with the European ATM Master Plan, in particular to identify investments necessary for the network.		[...]	B
993.	Article 27 - paragraph 7		Article 27 - paragraph 7	
994.	7. The Network Manager shall take decisions through a cooperative decision-making process. Parties to the cooperative decision-making process shall act to the maximum extent possible with a view to improving the functioning and performance of the network. The cooperative decision-making process shall promote the interest of the network.		7. All measures taken by the Network Manager in the execution of its tasks shall be taken through a cooperative decision-making process. Parties to the cooperative decision-making process shall act to the maximum extent possible with a view to improving the functioning and performance of the network, in particular as regards the achievement of the Union wide targets in the key performance area of environment, taking into account essential security interests and regional and local circumstances.	C

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995.			<i>Article 27 - paragraph 7a (new)</i>	
996.			7a. The cooperative decision-making process referred to in paragraph 7 shall be based on: a) the appropriate and regular consultation of operational stakeholders, airport slot coordinators, Member States and, where relevant, the Agency and the Commission; b) detailed working arrangements established by the Network Manager together with, in particular operational stakeholders and Member States, as well as processes for operations established by the Network Manager to address planning and operational aspects related to the execution of network functions.	B
997.			The consultation referred to in point a) and the detailed working arrangements referred to in point b) shall take into account the specific features and requirements of each	B

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			network function.	
998.			The cooperative decision-making process shall aim at consensus. Where Member States' sovereignty over their airspace is concerned, the consent of the Member State(s) concerned is required.	C
999.			When measures related to the execution of the Network Manager's tasks are disputed by one or several operational stakeholder(s), the issue shall be referred for resolution to the Network Management Board.	B
1000.			Article 27 - paragraph 7b (new)	
1001.			7b. A Network Management Board shall be established by means of the implementing acts referred to in paragraph 8 in view of ensuring appropriate governance over the execution of the Network functions.	B
1002.			The Network Management Board shall be responsible for approving	B

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			or endorsing measures taken or proposed by the Network Manager in the conditions set out in the implementing act referred to in paragraph 8, for approving the specifications for the consultation and the detailed working arrangements referred to in paragraph 7a, a) and b), for approving the NOP and endorsing the NSP before it is approved by the Commission together with Member States, for monitoring the implementation of network functions and for providing opinions or recommendations on specific issues.	
1003.			The Network Management Board shall be composed of representatives of the operational stakeholders, of slot coordinators, of representatives of the Commission, of representatives of the Network Manager and of representatives of Eurocontrol.	B

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1004.			<i>Article 27 - paragraph 7c (new)</i>	
1005.			7c. Member States shall be fully involved in decisions of strategic importance.	C
1006.	<i>Article 27 - paragraph 8</i>		<i>Article 27 - paragraph 8</i>	
1007.	8. By way of implementing acts adopted in accordance with the examination procedure referred to in Article 37(3), the Commission shall establish detailed rules for the execution of the network functions, the tasks of the Network Manager, governance mechanisms including decision-making processes and crisis management.		8. By way of implementing acts adopted in accordance with the examination procedure referred to in Article 37(3), the Commission shall establish detailed rules for the implementation of Article 26 and this Article, in particular for the execution of the network functions, including on crisis management; on the appointment of the Network Manager, the terms and conditions of such appointment and on the detailed tasks of the Network Manager in relation to the network functions; on the composition, the functioning, the decision-making and the detailed tasks of the Network Management Board including in relation with crisis	B

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			management; on the cooperative decision-making process; the criteria and factors that the Network Manager and the Network Management Board must follow when exercising the tasks conferred on them and on the network governance mechanisms.	
1008.	<i>Article 27 - paragraph 9</i>	<i>Article 27 - paragraph 9</i>	<i>Article 27 - paragraph 9</i>	
1009.	9. Aspects of design of airspace structures other than those referred to in paragraphs 2 and 3 of Article 26 shall be addressed by Member States. In this regard, Member States shall take into account air traffic demands, seasonality and complexity of air traffic and of performance plans. Before deciding on those aspects, they shall consult airspace users concerned or groups representing such airspace users and military authorities as appropriate.	9. Aspects of design of airspace structures other than those referred to in paragraphs 2 and 3 of Article 26 shall be addressed by Member States. In this regard, Member States shall take into account air traffic demands, seasonality and complexity of air traffic and of performance plans <i>including those regarding climate and the environment.</i> Before deciding on those aspects, they shall <i>give due consideration to the needs of the</i> airspace users concerned or <i>to</i> groups representing such airspace users and military authorities as	[...]	C

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		appropriate.		
1010.	<i>Article 28</i>	<i>Article 28</i>	<i>Article 28</i>	
1011.	Transparency of accounts of the Network Manager	Transparency of accounts of the Network Manager	Transparency of accounts of the Network Manager	
1012.	<i>Article 28- paragraph 1</i>		<i>Article 28- paragraph 1</i>	
1013.	1. The Network Manager shall draw up, submit to and publish its financial accounts. Those accounts shall comply with the international accounting standards adopted by the Union. Where, due to the legal status of the Network Manager, full compliance with the international accounting standards is not possible, the Network Manager shall achieve such compliance to the maximum possible extent.		1. The financial accounts of the Network Manager shall be drawn up, and published annually. Those accounts shall comply with the international accounting standards adopted by the Union. Where, due to the legal status of the Network Manager, full compliance with the international accounting standards is not possible, the Network Manager shall achieve such compliance to the maximum possible extent.	B
1014.	<i>Article 28 - paragraph 2</i>		<i>Article 28 - paragraph 2</i>	
1015.	2. The Network Manager shall publish an annual report and regularly undergo an independent audit.		2. The Network Manager shall publish an annual report on its activities and regularly undergo an independent audit.	B

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1016.	<i>Article 29</i>	<i>Article 29</i>	<i>Article 29</i>	
1017.	Relations with stakeholders	Relations with stakeholders	Relations with stakeholders	
1018.	The air traffic service providers shall establish consultation mechanisms to consult the relevant airspace users and aerodrome operators on all major issues related to services provided, including relevant changes to airspace configurations, or strategic investments which have a relevant impact on air traffic management and air navigation service provision and/or charges. The airspace users shall also be involved in the process of approving strategic investment plans. The Commission shall adopt measures detailing the modalities of the consultation and of the involvement of airspace users in approving investment plans. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).	The air traffic service providers shall establish consultation mechanisms to consult the <i>stakeholders, as necessary, referred to in Article 38(3)</i> , on all major issues related to services provided, including relevant changes to airspace configurations <i>such as those resulting from the required emission reduction efforts</i> , or strategic investments which have a relevant impact on air traffic management and air navigation service provision and/or charges. The airspace users shall also be involved in the process of approving strategic investment plans, <i>especially as regards aspects requiring synchronisation between air and ground equipment deployment</i> . The Commission shall adopt <i>implementing acts laying down detailed arrangements for</i> the consultation and the involvement of	[...] (<i>moved to Article 38a</i>)	C

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		airspace users <i>and the Agency acting as PRB and Network Manager in drafting and</i> approving investment plans <i>to ensure in particular their consistency with the ATM Master Plan and common projects referred to in Article 35.</i> Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).		
1019.	<i>Article 30</i>		<i>Article 30</i>	
1020.	Relations with military authorities		Relations with military authorities	
1021.	Member States shall, within the context of the common transport policy, ensure that written agreements between the competent civil and military authorities or equivalent legal arrangements are established or renewed in respect of the management of specific airspace blocks and notify the Commission thereof.		Member States shall, within the context of the common transport policy, ensure that written agreements between the competent civil and military authorities or equivalent legal arrangements are established or renewed in respect of the management of specific airspace blocks.	B

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1022.	<i>Article 31</i>	<i>Article 31</i>	<i>Article 31</i>	
1023.	Availability of and access to operational data for general air traffic	Availability of and access to operational data for general air traffic	Availability of and access to operational data for general air traffic	
1024.	<i>Article 31 - paragraph 1</i>	<i>Article 31 - paragraph 1</i>	<i>Article 31 - paragraph 1</i>	
1025.	1. With regard to general air traffic, relevant operational data shall be made available in real-time, on a non-discriminatory basis and without prejudice to security or defence policy interests, by all air navigation service providers, airspace users, airports, and the Network Manager, including on cross-border basis and on a Union-wide basis. Such availability shall be to the benefit of certified or declared air traffic service providers, entities having a proven interest in considering the provision of air navigation services, airspace users and airports as well as the Network Manager. The data shall be used only for	1. With regard to general air traffic, relevant operational data shall be made available in <i>an interoperable format in</i> real-time, on a <i>transparent and</i> non-discriminatory basis and without prejudice to security or defence policy interests, by all air navigation service providers, airspace users, airports, and the Network Manager, including on cross-border basis and on a Union-wide basis. Such availability shall be to the benefit of certified or declared air <i>navigation</i> service providers, entities having a proven interest in considering the provision of air navigation services, <i>military air traffic service</i>	[...] (<i>moved to Article 9a(1)</i>)	B

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	operational purposes.	<i>providers</i> , airspace users and airports as well as the Network Manager. The data shall be used only for operational purposes.		
1026.	<i>Article 31 - paragraph 2</i>			
1027.	2. Prices for the service referred to in paragraph 1 shall be based on the marginal cost of making the data available.		[...]	B
1028.	<i>Article 31 - paragraph 3</i>	<i>Article 31 - paragraph 3</i>	<i>Article 31 - paragraph 3</i>	
1029.	3. Access to relevant operational data as referred to in paragraph 1 shall be granted to the authorities in charge of safety oversight, performance oversight and network oversight, including the Agency.	3. Access to relevant operational data as referred to in paragraph 1 shall be granted to the authorities in charge of safety oversight, performance <i>including those regarding oversight of climate and the environment</i> and network oversight, including the Agency. <i>The military bodies responsible for oversight and protection of airspace shall also be granted access to that data.</i>	[...] (<i>moved to Article 9a(2)</i>)	B

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1030.	<i>Article 31 - paragraph 4</i>	<i>Article 31 - paragraph 4</i>	<i>Article 31 - paragraph 4</i>	
1031.	4. The Commission may lay down the detailed requirements for the making available of and the access to data in accordance with paragraphs 1 and 3 and the methodology to set the prices as referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).	4. The Commission may adopt implementing acts laying down the detailed requirements for the making available of and the access to data in accordance with paragraphs 1 and 3 and the methodology to set the prices as referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).	[...] (<i>moved to Article 9a(3)</i>)	B

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1032.	CHAPTER V	CHAPTER V	CHAPTER V	
1033.	AIRSPACE, INTEROPERABILITY AND TECHNOLOGICAL INNOVATION	AIRSPACE, INTEROPERABILITY AND TECHNOLOGICAL INNOVATION	AIRSPACE, INTEROPERABILITY AND TECHNOLOGICAL INNOVATION	
1034.	<i>Article 32</i>		<i>Article 32</i>	
1035.	Electronic aeronautical information		Electronic aeronautical information	
1036.	Without prejudice to the publication by Member States of aeronautical information and in a manner consistent with that publication, the Network Manager, in cooperation with the Commission, shall establish a Union-wide aeronautical information infrastructure to further the availability of electronic aeronautical information of high quality, presented in an easily accessible way and serving the requirements of all relevant users in terms of data quality and timeliness. The aeronautical information thus made available shall only be the		Without prejudice to the publication by Member States of aeronautical information and in a manner consistent with that publication, the Network Manager, in cooperation with EUROCONTROL, shall establish a Union-wide aeronautical information infrastructure to further the availability of electronic aeronautical information of high quality, presented in an easily accessible way and serving the requirements of all relevant users in terms of data quality and timeliness. The aeronautical information thus made available shall only be the	

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	information that complies with the essential requirements set out in point 2.1 of Annex VIII of Regulation (EU) 2018/1139.		information that complies with the essential requirements set out in point 2.1 of Annex VIII of Regulation (EU) 2018/1139.	
1037.			<i>Article 32a (new)</i>	
1038.			Rules of the air and airspace classification	
1039.			The Commission shall, in accordance with the examination procedure referred to in Article 37(3): a) adopt appropriate provisions on rules of the air based on ICAO standards and recommended practices; b) adopt appropriate provisions to ensure uniform implementation of the ICAO airspace classification with appropriate adaptation, with a view to ensure the seamless provision of safe and efficient air traffic services within the Single European sky.	C

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1040.	<i>Article 33</i>	<i>Article 33</i>	<i>Article 33</i>	
1041.	Flexible use of airspace	Flexible use of airspace	Flexible use of airspace	
1042.	<i>Article 33 - paragraph 1</i>	<i>Article 33 - paragraph 1</i>	<i>Article 33 - paragraph 1</i>	
1043.	1. Taking into account the organisation of military aspects under their responsibility, Member States shall ensure the application within the single European sky of the concept of the flexible use of airspace as described by ICAO and as developed by Eurocontrol, in order to facilitate airspace management and air traffic management in the context of the common transport policy and in consistency with the European ATM Master Plan.	1. Taking into account the organisation of military aspects under their responsibility, Member States shall ensure the application within the Single European sky of the concept of the flexible use of airspace as described by ICAO and as <i>provided by Union law</i> , in order to facilitate airspace management and air traffic management in the context of the common transport policy and, <i>when circumstances allow</i> , in consistency with the European ATM Master Plan.	1. Taking into account the characteristics and nature of military activity in each Member State as well as the organisation of military aspects under their responsibility, Member States shall ensure the application within the single European sky of the concept of the flexible use of airspace , in order to facilitate airspace management and air traffic management in the context of the common transport policy.	B

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1044.	<i>Article 33 - paragraph 2</i>		<i>Article 33 - paragraph 2</i>	
1045.	2. Member States shall report annually to the Commission on the application, in the context of the common transport policy, of the concept of the flexible use of airspace in respect of the airspace under their responsibility.		2. Member States shall report annually to the Commission on the application, in the context of the common transport policy, of the concept of the flexible use of airspace in respect of the airspace under their responsibility.	B
1046.	<i>Article 33 - paragraph 3</i>	<i>Article 33 - paragraph 3</i>	<i>Article 33 - paragraph 3</i>	
1047.	3. Where, in particular following the reports submitted by Member States, it becomes necessary to reinforce and harmonise the application of the concept of the flexible use of airspace within the single European sky, the Commission shall adopt measures within the context of the common transport policy. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).	3. Where, in particular following the reports submitted by Member States, it becomes necessary to reinforce and harmonise the application of the concept of the flexible use of airspace, <i>or to promote technical innovation and in particular the relevant airspace technological infrastructure,</i> within the single European sky, the Commission <i>in close cooperation with the Agency</i> shall adopt <i>implementing acts laying down</i> measures within the context of the common transport policy <i>such as</i>	3. Where, in particular in the light of the reports submitted by Member States, uniform conditions for the application of the concept of the flexible use of airspace within the single European sky are needed, the Commission shall , within the limits of the common transport policy and without prejudice to Member States' responsibilities over their airspace, adopt implementing acts in accordance with the examination procedure referred to in Article 37(3).	B

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		<i>the harmonisation of training for air traffic controllers.</i> Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).		
1048.			<i>Article 33 - paragraph 4 (new)</i>	
1049.			4. In cases where the application of this Article gives rise to significant operational difficulties, Member States may temporarily suspend such application on condition that they inform without delay the Commission and the other Member States thereof. Following the introduction of a temporary suspension, adjustments to the rules adopted under paragraph 3 may be worked out for the airspace under the responsibility of the Member State(s) concerned.	C

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1050.	<i>Article 34</i>	<i>Article 34</i>	<i>Article 34</i>	
1051.	SESAR coordination	SESAR coordination	SESAR coordination	
1052.	The entities in charge of tasks established in Union law in the areas of coordination of the SESAR definition phase, the SESAR development phase and the SESAR deployment phase, as the case may be, shall cooperate to ensure effective coordination between those three phases so as to achieve a seamless and timely transition between them.	I. The entities in charge of tasks established in Union law in the areas of coordination of the SESAR definition phase, the SESAR development phase and the SESAR deployment phase, as the case may be, shall cooperate to ensure effective coordination between those three phases so as to achieve a seamless and timely transition between them.	The entities in charge of tasks established in Union law in the areas of coordination of the SESAR definition phase, the SESAR development phase and the SESAR deployment phase, as the case may be, shall ensure effective coordination between those three phases so as to achieve a seamless and timely transition between them, focussing in particular on the industrialisation phase.	B
1053.	All relevant civil and military stakeholders shall be involved to the widest possible extent.		All relevant civil and military stakeholders shall be involved to the widest possible extent.	
1054.			The Commission shall put in place mechanisms for monitoring the effectiveness of SESAR coordination.	
1055.		<i>1a. The coordination of standardisation activities shall be executed by the Commission with assistance from the Agency. They</i>		B

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		<i>shall be subject to appropriate governance, which shall recognise the needs and priorities of operational stakeholders.</i>		
1056.		<i>3. With a view to achieving the objectives set out in Article 1, Commission shall adopt implementing acts laying down detailed provisions concerning establishment of an integrated European Aviation Standards Coordination Group for the coordination of standards necessary for aviation including decision-making and coordination processes involving operational stakeholders and aviation-related standards development organisations as referred to in paragraph 1a. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).</i>		C

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1057.	<i>Article 35</i>	<i>Article 35</i>	<i>Article 35</i>	
1058.	Common projects	Common projects	Common projects	
1059.	<i>Article 35 - paragraph 1</i>	<i>Article 35 - paragraph 1</i>	<i>Article 35 - paragraph 1</i>	
1060.	1. The Commission may set up common projects for implementing the essential operational changes identified in the European ATM Master Plan having a network-wide impact.	1. The Commission may set up common projects for implementing the essential operational changes identified in the European ATM Master Plan <i>which :</i> <i>a) have a network-wide impact;</i> <i>(b) require synchronised implementation of multiple operational stakeholders in order to achieve timely performance benefits;</i> <i>(c) have reached sufficient maturity;</i> <i>(d) aim to enable interoperable capabilities in all Member States; and</i> <i>(e) support a timely and synchronised deployment of the Union law as regards digital, climate and environment areas.</i>	1. The Commission may set up common projects, based on the needs for synchronisation amongst stakeholders, for implementing the essential operational changes identified in the European ATM Master Plan having reached sufficient maturity in order to enable interoperable capabilities in all Member States with a view to improving the performance of the Single European Sky.	B

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1061.	<i>Article 35 - paragraph 2</i>	<i>Article 35 - paragraph 2</i>	<i>Article 35 - paragraph 2</i>	
1062.	2. The Commission may also establish governance mechanisms for common projects and their implementation.	2. <i>In order to support the priorities set in paragraph 1 of this Article</i> the Commission may also establish governance mechanisms for common projects and their implementation.	2. The Commission may also establish governance mechanisms for common projects and their implementation. All relevant civil and military stakeholders shall be involved in these mechanisms to the widest possible extent and, where possible and as appropriate, have a leading role.	B
1063.	<i>Article 35 - paragraph 3</i>	<i>Article 35 - paragraph 3</i>	<i>Article 35 - paragraph 3</i>	
1064.	3. Common projects may be eligible for Union funding. To this end, and without prejudice to Member States' competence to decide on the use of their financial resources, the Commission shall carry out an independent cost-benefit analysis and appropriate consultations with Member States and with relevant stakeholders in accordance with Article 10, exploring all appropriate means for financing the implementation thereof.	3. Common projects may be eligible for Union funding. To this end, and without prejudice to Member States' competence to decide on the use of their financial resources, the Commission shall carry out an independent cost-benefit analysis and appropriate consultations with Member States and with relevant stakeholders in accordance with Article 10, exploring all appropriate means for financing the implementation thereof	3. Common projects may be eligible for Union funding within the multiannual financial framework. To this end, and without prejudice to Member States' competence to decide on the use of their financial resources, the Commission shall carry out an independent cost-benefit analysis and appropriate consultations with Member States and with relevant stakeholders in accordance with Article 38, exploring prioritisation and all	B

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		<i>including financial mechanisms to improve the synchronisation of air-based and ground-based capital expenditure related to the deployment of SESAR solutions.</i>	appropriate means for financing the implementation thereof.	
1065.	Article 35 - paragraph 4	Article 35 - paragraph 4	Article 35 - paragraph 4	
1066.	4. The Commission shall establish the common projects and governance mechanisms referred to in paragraphs 1 and 2 through implementing acts adopted in accordance with the examination procedure referred to in Article 37(3).	4. The Commission shall adopt implementing acts establishing the common projects and governance mechanisms and financial mechanism referred to in paragraphs 1, 2 and 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).	4. The Commission shall establish the common projects and governance mechanisms referred to in paragraphs 1 and 2 through implementing acts adopted in accordance with the examination procedure referred to in Article 37(3).	B

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1067.	CHAPTER VI	CHAPTER VI	CHAPTER VI	
1068.	<i>FINAL PROVISIONS</i>	<i>FINAL PROVISIONS</i>	<i>FINAL PROVISIONS</i>	
1069.	<i>Article 36</i>	<i>Article 36</i>	<i>Article 36</i>	
1070.	Exercise of the delegation	Exercise of the delegation	Exercise of the delegation	
1071.	<i>Article 36 - paragraph 1</i>		<i>Article 36 - paragraph 1</i>	
1072.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.		[...]	C
1073.	<i>Article 36 - paragraph 2</i>	<i>Article 36 - paragraph 2</i>	<i>Article 36 - paragraph 2</i>	
1074.	2. The delegation of power referred to in Articles 6 and 26 shall be conferred on the Commission for a period of seven years from [the date of the publication of this Regulation]. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.	2. The delegation of power referred to in Articles 5y , 6, 7, 8, 9, 10, 23, 26 and 42a shall be conferred on the Commission for a period of seven years from [the date of the publication of this Regulation]. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.	[...]	C

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1075.	<i>Article 36 - paragraph 3</i>	<i>Article 36 - paragraph 3</i>	<i>Article 36 - paragraph 3</i>	
1076.	3. The delegation of power referred to in Articles 6 and 26 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	3. The delegation of power referred to in Articles <i>5y</i> , 6, 7, 8, 9, 10, 23, 26 and <i>42a</i> may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	[...]	C
1077.	<i>Article 36 - paragraph 4</i>		<i>Article 36 - paragraph 4</i>	
1078.	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. As soon as it adopts a delegated		[...]	C

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	act, the Commission shall notify it simultaneously to the European Parliament and to the Council.			
1079.	Article 36 - paragraph 5	Article 36 - paragraph 5	Article 36 - paragraph 5	
1080.	5. A delegated act adopted pursuant to Articles 6 and 26 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.	5. A delegated act adopted pursuant to Articles 5y 6, 7, 8, 9, 10, 23, 26 and 42a shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.	[...]	C

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1081.	<i>Article 37</i>	<i>Article 37</i>	<i>Article 37</i>	
1082.	Committee procedure		Committee procedure	
1083.	<i>Article 37 - paragraph 1</i>		<i>Article 37 - paragraph 1</i>	
1084.	1. The Commission shall be assisted by the Single Sky Committee, hereinafter referred to as ‘the Committee’, composed of two representatives of each Member State and chaired by the Commission. The Committee shall ensure an appropriate consideration of the interests of all categories of users. The Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.		1. The Commission shall be assisted by the Single Sky Committee, hereinafter referred to as ‘the Committee’, composed of two representatives of each Member State and chaired by the Commission. The Committee shall ensure an appropriate consideration of the interests of all categories of users. The Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	
1085.	<i>Article 37 - paragraph 2</i>		<i>Article 37 - paragraph 2</i>	
1086.	2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.		[...]	C
1087.	<i>Article 37 - paragraph 3</i>		<i>Article 37 - paragraph 3</i>	
1088.	3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.		3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	

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1089.			<i>Article 37 - paragraph 4 (new)</i>	
1090.			4. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.	C
1091.	<i>Article 38</i>	<i>Article 38</i>	<i>Article 38</i>	
1092.	Consultation of stakeholders	Consultation of stakeholders	Consultation of stakeholders	
1093.	<i>Article 38 - paragraph 1</i>		<i>Article 38 - paragraph 1</i>	
1094.	1. Member States, national supervisory authorities, the Agency whether or not it is acting as PRB and the Network Manager shall establish consultation mechanisms for appropriate consultation of stakeholders for the exercise of their tasks in the implementation of this Regulation.		1. Member States, national supervisory authorities, the PRB, where a PRB has been designated in accordance with Article 9b, and the Network Manager shall establish consultation mechanisms for appropriate consultation of stakeholders for the exercise of their tasks in the implementation of this Regulation.	C

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1095.	<i>Article 38 - paragraph 2</i>	<i>Article 38 - paragraph 2</i>	<i>Article 38 - paragraph 2</i>	
1096.	2. The Commission shall establish such a mechanism at Union level to consult on matters related to the implementation of this Regulation where appropriate. The specific Sectoral Dialogue Committee set up under Commission Decision 98/500/EC shall be involved in the consultation. For the purpose of point (e) of paragraph 3, when consultation relating to military aspects is required, the Commission shall, in addition to Member States, consult the European Defence Agency and other competent military experts designated by the Member States.	2. The Commission shall establish such a mechanism at Union level to consult on matters related to the implementation of this Regulation <i>in all areas including those regarding climate and the environment.</i> The specific Sectoral Dialogue Committee set up under Commission Decision 98/500/EC shall be involved in the consultation. For the purpose of point (e) of paragraph 3, when consultation relating to military aspects is required, the Commission shall, in addition to Member States, consult the European Defence Agency and other competent military experts designated by the Member States.	2. The Commission shall establish a mechanism at Union level to consult the relevant stakeholders on matters related to the implementation of this Regulation . The specific Sectoral Dialogue Committee set up under Commission Decision 98/500/EC shall be involved in the consultation. For the purpose of point (e) of paragraph 3, when consultation relating to military aspects is required, the Commission shall, in addition to Member States, consult the European Defence Agency and national military authorities.	B

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1097.	<i>Article 38 - paragraph 3</i>		<i>Article 38 - paragraph 3</i>	
1098.	3. The stakeholders may include:		3. For the purposes of paragraphs 1 and 2, at least the following operational and non-operational stakeholders shall be consulted if relevant:	
1099.	(a) air navigation service providers or relevant groups representing them;		(a) air navigation service providers or groups representing them;	
1100.	(b) the Network Manager;		(b) the Network Manager;	
1101.	(c) airport operators or relevant groups representing them;		(c) airport operators or groups representing them;	
1102.	(d) airspace users or relevant groups representing them;		(d) airspace users or groups representing them;	
1103.	(e) the military ;		[...]	B
1104.	(f) the manufacturing industry;		(f) the manufacturing industry;	
1105.	(g) professional staff representative bodies;		(g) professional staff representative bodies;	
1106.		<i>(ga) scientific experts in the fields of climate and the environment</i>		B

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1107.	(h) relevant non-governmental organisations.		(h) national authorities, including competent national military authorities;	
1108.		<i>(ha) Expert Group on Human Dimension of the Single European Sky</i>		B
1109.			(i) airport slot coordinators.	
1110.			(j) non-governmental organisations with an interest in aviation or ATM.	
1111.		<i>Article 38 - paragraph 3a (new)</i>		
1112.		<i>3 a. The outcome of the consultations shall be made publicly available in due time.</i>		B
1113.			<i>Article 38a (new)</i>	
1114.			Relations with stakeholders	
1115.			The air traffic service providers shall establish consultation mechanisms to consult the relevant airspace users, aerodrome operators and military authorities on all major issues related to services provided, including relevant changes to airspace	C

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			configurations, or major investments which have a relevant impact on air traffic management and air navigation service provision and/or charges.	
1116.	<i>Article 39</i>		<i>Article 39</i>	
1117.	Relations with third countries		Relations with third countries	
1118.	The Union and its Member States shall aim at and support the extension of the Single European Sky to countries which are not members of the European Union. To that end, they shall endeavour, in the framework of agreements concluded with neighbouring third countries , to extend the Single European Sky to those countries. In addition, they shall endeavour to cooperate with those countries either in the context of agreements on network functions, or in the framework of the Agreement between the Union and Eurocontrol providing a general framework for enhanced cooperation, reinforcing the ‘pan-European		The Union and its Member States shall aim at and support the extension of the Single European Sky to countries which are not members of the European Union. To that end, they shall endeavour, in the framework of agreements concluded with neighbouring third countries in particular in the EUROCONTROL area or in the ICAO EUR region, to extend the Single European Sky to those countries. In addition, they shall endeavour to cooperate with those countries either in the context of agreements on cross-border service provision with third countries, on cooperation on ATM modernisation, on network functions, or in the	B

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	dimension' of ATM.		framework of the Agreement between the Union and EUROCONTROL providing a general framework for enhanced cooperation, reinforcing the 'pan-European dimension' of ATM.	
1119.			This Article shall be without prejudice to the decision of Member States on whether the Single European Sky should be extended to their overseas countries and territories or autonomous territories in other ICAO regions.	C
1120.	<i>Article 40</i>		<i>Article 40</i>	
1121.	Support by other bodies		Support by other bodies	
1122.	The Commission may request support from other bodies for the fulfilment of its tasks under this Regulation.		The Commission may request support from other bodies for the fulfilment of its tasks under this Regulation , including from EUROCONTROL in the framework of the Agreement between the Union and EUROCONTROL providing a general framework for enhanced cooperation.	B

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1123.	<i>Article 41</i>		<i>Article 41</i>	
1124.	Confidentiality		Confidentiality	
1125.	<i>Article 41 - paragraph 1</i>		<i>Article 41 - paragraph 1</i>	
1126.	1. Neither the national supervisory authorities, acting in accordance with their national legislation, nor the Commission, nor the Agency, whether or not it is acting as PRB, nor the Network Manager shall disclose information of a confidential nature, in particular information about air navigation service providers, their business relations or their cost components.		1. Neither the national supervisory authorities, acting in accordance with their national legislation, nor the national competent authorities, nor the Commission, nor the PRB, nor the Network Manager shall disclose information of a confidential nature, in particular information about air navigation service providers, their business relations or their cost and revenues components.	B
1127.	<i>Article 41 - paragraph 2</i>		<i>Article 41 - paragraph 2</i>	
1128.	2. Paragraph 1 shall be without prejudice to the right of disclosure by national supervisory authorities , the Commission or the Agency acting as PRB where this is essential for the fulfilment of their duties, in which case such disclosure shall be proportionate		2. Paragraph 1 shall be without prejudice to the right of disclosure by national supervisory authorities and the Commission where this is essential for the fulfilment of their duties. In that case such disclosure shall be proportionate and shall have regard to the legitimate	C

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	and shall have regard to the legitimate interests of air navigation service providers, airspace users, airports or other relevant stakeholders in the protection of their commercially sensitive information.		interests of air navigation service providers, airspace users, airports or other relevant stakeholders in the protection of their commercially sensitive information.	
1129.	<i>Article 41 - paragraph 3</i>		<i>Article 41 - paragraph 3</i>	
1130.	3. Information and data provided pursuant to the charging scheme laid down in Articles 19 to 24, in particular as regards determined costs, actual costs and revenues of designated air traffic service providers shall be publicly disclosed.		3. Information and data made accessible pursuant to Articles 13(3b), 13a(6), 13b(2), 25(3) and 25(4) or reported pursuant to Articles 19 (6) in particular as regards determined costs and actual costs of designated air traffic service providers shall be publicly disclosed , subject to the protection of commercial interests of a natural or legal person, including intellectual property, unless there is an overriding public interest in disclosure.	C

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1131.	<i>Article 42</i>	<i>Article 42</i>	<i>Article 42</i>	
1132.	Penalties	Penalties	Penalties	
1133.	Member States shall lay down rules on penalties applicable to infringements of this Regulation and of the delegated and implementing acts adopted on the basis thereof in particular by airspace users, airport operators and air navigation service providers, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.	Member States shall lay down rules on penalties applicable to infringements of this Regulation, <i>except for the rules on fines and periodic penalty payments when the Agency is acting in accordance with in Article 42a</i> , and of the delegated and implementing acts adopted on the basis thereof in particular by airspace users, airport operators and air navigation service providers, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.	Member States shall lay down rules on penalties applicable to infringements of this Regulation and of the implementing acts adopted on the basis thereof in particular by airspace users, airport operators and air navigation service providers, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.	C
1134.		<i>Article 42a (new)</i>		
1135.		<i>Fines and periodic penalty payments when the Agency is acting as PRB</i>		

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1136.		<i>Article 42a – paragraph 1 (new)</i>		
1137.		<p><i>1. The Commission may, at the request of the Agency acting as PRB, impose on a legal or natural person responsible for the performance of Air Navigation Service Providers, in accordance with this Regulation and Article 84 of the [Regulation (EU) 2018/1139 as amended by Regulation PRB], either one or both of the following:</i></p> <p><i>(a) a fine, where that person infringed, intentionally or negligently, one of the provisions of this Regulation;</i></p> <p><i>(b) a periodic penalty payment where that person continues to infringe one of those provisions, in order to compel that person to comply with those provisions.</i></p>		C

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1138.		<i>Article 42a – paragraph 2 (new)</i>		
1139.		<i>2. The fines and periodic penalty payments referred to in paragraph 1 shall be effective and proportionate. The amount of the fines shall not exceed 4 % of the annual income or turnover of the legal or natural person concerned. The amount of the periodic penalty shall not exceed 2,5 % of the average daily income or turnover of the legal or natural person concerned.</i>		C
1140.		<i>Article 42a – paragraph 3 (new)</i>		
1141.		<i>3. The Commission shall only impose fines and periodic penalty payments pursuant to paragraph 1 when other measures provided for in this Regulation and in the delegated and implementing acts adopted on the basis thereof to address such infringements are inadequate or disproportionate.</i>		C

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1142.		<i>Article 42a – paragraph 4 (new)</i>		
1143.		<p><i>4. With regard to the imposition of fines and periodic penalty payments in accordance with this Article, the Commission shall adopt delegated acts in accordance with Article 36, laying down:</i></p> <p><i>(a) detailed criteria and a detailed methodology for establishing the amounts of the fines and periodic penalty payments;</i></p> <p><i>(b) detailed rules for enquiries, associated measures and reporting, as well as decision-making, including provisions on rights of defence, access to file, legal representation, confidentiality and temporary provisions; and</i></p> <p><i>(c) procedures for the collection of the fines and periodic penalty payments.</i></p>		C

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1144.		<i>Article 42a – paragraph 5 (new)</i>		
1145.		<i>5. Legal or natural person who is directly effected by a decision taken by the Commission pursuant to paragraph 1 may appeal that decision to the Court of Justice of the European Union. The Court of Justice may cancel, reduce or increase the fine or periodic penalty payment imposed.</i>		C
1146.		<i>Article 42a – paragraph 6 (new)</i>		
1147.		<i>6. The decisions of the Commission taken pursuant to paragraph 1 shall not be of a criminal law nature.</i>		C

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1148.	<i>Article 43</i>	<i>Article 43</i>	<i>Article 43</i>	
1149.	Evaluation	Evaluation	Evaluation	
1150.	<i>Article 43 - paragraph 1</i>	<i>Article 43 - paragraph 1</i>	<i>Article 43 - paragraph 1</i>	
1151.	1. The Commission shall conduct an evaluation to assess the application of this Regulation by 2030. When justified for this purpose, the Commission may request from the Member States information relevant to the application of this Regulation.	1. The Commission shall conduct an evaluation to assess the application of this Regulation <i>including the effects of the different performance targets, and particularly on the overall impact on the reduction of climate-impacting emissions, by 2026.</i> When justified for this purpose, the Commission may request from the Member States information relevant to the application of this Regulation.	1. The Commission shall conduct an evaluation to assess the legal, social, economic and environmental impacts of this Regulation and its added value both at national and European level 5 to 8 years after its entry into force. When justified for this purpose, the Commission may request from the Member States, including military authorities, information relevant to the application of this Regulation.	B
1152.	<i>Article 43 - paragraph 2</i>		<i>Article 43 - paragraph 2</i>	
1153.	2. The Commission shall forward its findings to the European Parliament and to the Council. The findings of the evaluation shall be made public.		2. The Commission shall submit its findings to the European Parliament and to the Council. The findings of the evaluation shall be made public.	
1154.	<i>Article 44</i>		<i>Article 44</i>	
1155.	Safeguards		Safeguards	

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1156.	This Regulation shall not prevent the application of measures by a Member State to the extent that these are needed to safeguard essential security or defence policy interests. Such measures are in particular those which are imperative:		This Regulation shall not prevent the application of measures by a Member State to the extent that these are needed to safeguard essential security or defence policy interests. Such measures are in particular those which are imperative:	
1157.	(e) for the surveillance of airspace that is under its responsibility in accordance with ICAO Regional Air Navigation agreements, including the capability to detect, identify and evaluate all aircraft using such airspace, with a view to seeking to safeguard safety of flights and to take action to ensure security and defence needs;		(a) for the surveillance of airspace that is under its responsibility in accordance with ICAO Regional Air Navigation agreements, including the capability to detect, identify and evaluate all aircraft using such airspace, with a view to seeking to safeguard safety of flights and to take action to ensure security and defence needs;	
1158.	(f) in the event of serious internal disturbances affecting the maintenance of law and order;		(b) in the event of serious internal disturbances affecting the maintenance of law and order;	
1159.	(g) in the event of war or serious		(c) in the event of war or serious	

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	international tension constituting a threat of war;		international tension constituting a threat of war;	
1160.	(h) for the fulfilment of a Member State's international obligations in relation to the maintenance of peace and international security;		(d) for the fulfilment of a Member State's international obligations in relation to the maintenance of peace and international security;	
1161.	(i) in order to conduct military operations and training, including the necessary possibilities for exercises.	(e) in order to <i>maintain operational readiness, gather information supporting the development of national defence capacities</i> , conduct military operations and training, including the necessary possibilities for exercises.	(e) in order to conduct military operations and training, including the necessary possibilities for exercises.	B
1162.	<i>Article 45</i>		<i>Article 45</i>	
1163.	Repeal		Repeal	
1164.	Regulations (EC) Nos 549/2004, 550/2004 and 551/2004 are repealed.		Regulations (EC) Nos 549/2004, 550/2004 and 551/2004 are repealed.	
1165.	References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.		References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.	
1166.	<i>Article 46</i>	<i>Article 46</i>	<i>Article 46</i>	

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1167.	Entry into force and application	Entry into force and application	Entry into force and application	
1168.	<i>Article 46 - paragraph 1</i>		<i>Article 46 - paragraph 1</i>	
1169.	1. This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .		1. This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	
1170.	<i>Article 46 - paragraph 2</i>	<i>Article 46 - paragraph 2</i>	<i>Article 46 - paragraph 2</i>	
1171.	2. Article 3(3) shall apply from <i>[OP please insert the date - 48 months after the entry into force of this Regulation]</i> .	2. Article 3(3) shall apply from <i>[OP please insert the date - 12 months after the entry into force of this Regulation]</i> .	2. Article 3(3) and Article 25(3) shall apply from <i>[OP please insert the date - 72 months after the entry into force of this Regulation]</i> .	C
1172.	Articles 10 to 24 shall apply as from 1 July 2023. However, Article 11 of Regulation (EC) No 549/2004 and Article 15 of Regulation (EC) No 550/2004, and the implementing acts adopted on the basis thereof, shall continue to apply for the purposes of the implementation of the performance and charging schemes pertaining to		Articles 10 to 24 shall apply as from one year after its adoption. However, Article 11 of Regulation (EC) No 549/2004 and Article 15 of Regulation (EC) No 550/2004, and the implementing acts adopted on the basis thereof, shall continue to apply for the purposes of the implementation of the performance and charging schemes pertaining to	C

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	the third reference period.		the third reference period. Commission Implementing Decision (EU) 2019/709, as adopted on 6 May 2019, shall continue to apply until the end of the fourth reference period.	
1173.	Article 26(3) and Article 32 shall apply to the Network Manager from the day on which an appointment decision, adopted in accordance with Article 27(2) after the entry into force of this Regulation and encompassing those provisions, becomes applicable.		Article 27(4) and Article 32 shall apply to the Network Manager from the day on which an appointment decision, adopted in accordance with Article 27(2) becomes applicable.	C
1174.			Article 42 shall apply from <i>[OP please insert the date of entry into force of this Regulation]</i> . Measures adopted by Member States pursuant to that Article shall apply from: - <i>[OP please insert the date - 72 months after the entry into force of this Regulation]</i> with respect to	C

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			infringements of Article 3(3) and Article 25(3); - from one year after the adoption of this Regulation with respect to infringements to Articles 10 to 24.	
1175.	This Regulation shall be binding in its entirety and directly applicable in all Member States.		This Regulation shall be binding in its entirety and directly applicable in all Member States.	

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1176.	ANNEX I			
1177.	CONDITIONS THAT MAY BE ATTACHED TO CERTIFICATES REFERRED TO IN ARTICLE 6			
1178.	Additional conditions attached to certificates may, as appropriate, be related to:		[...]	C
1179.	(a) ring-fencing or restriction of operations of services other than those related to the provision of air navigation services;		[...]	C
1180.	(b) contracts, agreements or other arrangements between the service provider and a third party and which concern the service(s);		[...]	C
1181.	(c) provision of information reasonably required for the verification of the requirements of Article 6(1);		[...]	C
1182.	(d) any other legal conditions which are not specific to air navigation services, such as conditions relating to the suspension or revocation of the certificate.		[...]	C

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1183.	ANNEX II			
1184.	Repealed Regulations with the amendment thereto			
1185.	[not reproduced here]			

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1186.	ANNEX III			
1187.	Correlation table			
1188.	[not reproduced here]			[to be revised after negotiations]
1189.	-0-			