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DOCUMENT DE TRAVAIL

Origine: Secrétariat général du Conseil

Destinataire: délégations

Objet: Proposition modifiée de règlement du Parlement européen et du Conseil
relatif à la mise en œuvre du ciel unique européen (refonte)

- Document de travail soumis par le rapporteur concernant le chapitre III

Les délégations trouveront, en annexe, un document de travail soumis par le rapporteur sur le chapitre III de la proposition en objet.

SES2+ Decisions and opinions in respect of performance and charging scheme compared to existing legislation

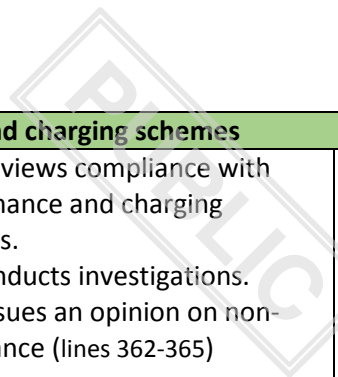
		Existing legislation	European Parliament's compromise proposal	Council's proposal
Union-wide performance targets				
1	Adoption of the Union-wide targets	<p>COM adopts an implementing Decision, with examination procedure (with no-opinion clause). This Decision can cover both <i>en route</i> and terminal services (Art 11 of Regulation 549/2004)</p> <p>COM adopts with examination procedure baseline values, alert thresholds & comparator groups (Art 9(4) of IR 2019/317).</p>	<p>COM adopts implementing Decision, with advisory procedure for <i>en route</i> and terminal services. That Decision may include the setting of baseline values, breakdown values or benchmark groups (line 200).</p>	<p>COM adopts implementing Decision, with examination procedure (with no-opinion clause) for <i>en route</i> services. That Decision may include the setting of baseline values, breakdown values or benchmark groups (line 200).</p>
2	Revision of the Union-wide targets during a reference period	<p>COM adopts an implementing Decision, with examination procedure (with no-opinion clause) (Article 11(3) of Regulation 549/2004).</p>	<p>COM adopts Implementing Decision on the revision of Union-wide performance targets with advisory procedure (line 303).</p>	<p>COM adopts Implementing Decision on the revision of Union-wide performance targets with examination procedure (with no-opinion clause) (line 303).</p>
Performance plans				
2a	Classification of <i>en route</i> and terminal services		<p>MS shall notify COM the classified <i>en route</i> and terminal services and the respective service providers.</p> <p>COM assesses classification of services between <i>en route</i> & terminal (lines 209-211).</p>	Deletion

		Existing legislation	European Parliament's compromise proposal	Council's proposal
			COM adopts IA for each MS.	
3	Assessment of the allocation of costs between <i>en route</i> and terminal services	<p>COM assesses the allocation of costs as part of its assessment of a single performance plan (Article 22(5) and Annex II point 3.3 of IR 2019/317; Articles 14(1) & 15(1) in conjunction with Annex IV, point 2.1(vii) of IR 2019/317).</p> <p>NSAs lay down criteria for allocation of costs on the basis of higher-level criteria set out in Article 15(2)(e) of Regulation 550(2004) and Article 22(5) of IR 2019/317).</p>	<p>NSA makes a first evaluation of the allocation of costs, on the basis of the methodology established at Union level & of the classification between <i>en route</i> and terminal services assessed by the COM pursuant to Art 12. (line228)</p> <p>PRB assesses the allocation of costs on the basis of the NSA evaluation and in accordance with the methodology and classification of services (line 231).</p>	<p>NSA lays down criteria for allocation of costs (line 228). COM assesses whether the cost base for charges complies with the related requirements, which include a requirement that cost allocation is done in compliance with the criteria set by the NSA (lines 226, 234, 343).</p>
4	Submission of performance plans	<p>NSAs drafts the plans, MS submits (Art 11(3)(b) of Regulation 549/2004)). Submitted to the COM.</p>	<p>ATSP drafts/submits the plan (line 213). Submitted to the NSA (<i>both en route</i> & terminal, lines 229 &229a), and to the PRB (only <i>en route</i> – line 229)</p>	<p>NSAs drafts the plans, MS submits (line 213). Submitted to the COM (line 229).</p>
5	Approval or rejection of performance plan (<i>en route</i> services)	<p><u>First loop</u>: COM adopts Implementing Decision with advisory procedure.</p> <p><u>Intermediate loop</u>: COM conducts an investigation.</p> <p><u>Second loop</u>: COM adopts</p>	<p><u>First loop</u>: NSA does a first evaluation of the <i>en route</i> plan (line 229). Then PRB takes decision on approval or rejection of draft performance plans in respect of <i>en route</i> services (lines 234, 237, 238).</p> <p><u>Intermediate loop</u>: In case of rejection ATSP presents a revised PP. NSA does evaluation of revised PP (line 239).</p>	<p><u>First loop</u>: COM adopts Implementing decision for <i>en route</i> with examination procedure (lines 234, 237).</p> <p><u>Intermediate loop</u>: In case of rejection COM conducts investigation (line 238).</p>

		Existing legislation	European Parliament's compromise proposal	Council's proposal
		<p>Implementing Decision requesting corrective measures with examination procedure.</p> <p>(Art 11(3) of Regulation 549/2004), Articles 14 &15 of IR 2019/317)</p> <p>In case of persisting issues, COM may open infringement procedure (Article 15(7) of IR 2019/317).</p> <p><u>Appeal</u>: MS to appeal to the CJEU.</p>	<p><u>Second loop</u>: PRB assesses taking into account NSA evaluation (lines 240, 241).</p> <p><u>Third loop</u>: for the targets still considered inconsistent, PRB establishes performance targets consistent with Union-wide targets (lines 244-246). ATSP deliver a final PP including the performance targets established by PRB and the other PRB observations regarding lines 219-227</p> <p><u>Appeal</u>: Interested parties appeal first to Appeal Board for Performance Review. Then to CJEU.</p>	<p><u>Second loop</u>: COM adopts Implementing Decision requesting corrective measures with examination procedure (line 241).</p> <p><u>Third loop</u>: In case of persisting issues, COM may open infringement procedure (line 244).</p> <p><u>Appeal</u>: MS to appeal to the CJEU.</p>
6	Approval or rejection of performance plan (terminal services)	<p><u>First loop</u>: COM adopts Implementing Decision with advisory procedure.</p> <p><u>Intermediate loop</u>: COM conducts an investigation.</p> <p><u>Second loop</u>: COM adopts Implementing Decision requesting corrective measures with examination procedure.</p> <p>(Art 11(3) of Regulation 549/2004),</p>	<p><u>First loop</u>: NSA adopts a decision (lines 274-276)</p> <p><u>Second loop</u>: In case of rejection ATSP presents a revised PP. NSA adopts a decision (lines 278-279).</p> <p><u>Third loop</u>: for the targets still considered inconsistent, NSA establishes performance targets consistent with Union-wide targets (lines 280-282).</p>	<p>No assessment/approval for targets for terminal services. COM assesses only whether the performance plan complies with the conditions related to accuracy/coherence, completeness and compliance with requirement for cost base for charges (line 234).</p>

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		<p>Articles 14 &15 of IR 2019/317)</p> <p>In case of persisting issues, COM may open infringement procedure (Article 15(7) of IR 2019/317).</p> <p><u>Appeal:</u> MS to appeal to the CJEU.</p>	<p><u>Appeal:</u> Interested parties appeal first to Appeal Board for Performance Review. Then to CJEU.</p>	<p><u>Appeal:</u> MS to appeal to the CJEU</p>
7	Revision of performance targets during a reference period	<p>COM Decision following MS request (examination procedure only where COM disagrees to such revision) (Art 18 of IR 2019/317).</p>	<p>Following ATSP request, PRB decision for <i>en route</i>, NSA decision for terminal (lines 308, 309).</p>	<p>MS may revise the plan (without PRB or COM agreement) (line 308).</p>
8	Network Performance Plan (NPP)	<p>Network Manager submits the plan to the COM.</p> <p>COM assesses and adopts the approved NPP (Art 19 of IR 2019/317).</p>	<p>NM submits the plan to the PRB and to the COM.</p> <p>PRB provides opinion to the COM on the NPP.</p> <p>COM adopts the approved NPP (lines 297-301).</p>	<p>NM submits the plan to the COM.</p> <p>COM assesses and adopts the approved NPP (lines 297-301).</p>
Performance monitoring				
9	Assessment of achievement of performance targets	<p>COM assesses and reports to the Single Sky Committee (Art 11(3)(e) of Regulation 549/2004).</p> <p>For this purpose, NSAs monitor performance in airspace under their responsibility. MS or NSA apply appropriate measures in case of underperformance (Art 37 of IR 2019/317).</p>	<p>PRB monitors for <i>en route</i> services, NSAs for terminal services (line 284).</p> <p>On the basis of NSA inputs, PRB aggregates a Union-wide overview of the performance of terminal air navigation services (line 292).</p> <p>In case of underperformance, PRB takes decision on corrective measures after consultation of the Network Manager and the</p>	<p>NSA monitors performance (lines 249, 250/284). In case of underperformance, NSA takes decision on corrective measures (lines 253/286).</p> <p>COM assesses achievement of Union-wide targets and reports to the Single Sky Committee (line 257).</p>

		Existing legislation	European Parliament's compromise proposal	Council's proposal
			<p>NSA where <i>en route</i> performance targets are not met during reference period (line 286).</p> <p>In case of persisting underperformance, PRB conducts an investigation (for <i>en route</i>), or the NSA requests the PRB to conduct an investigation (for terminal). PRB issues an opinion to the COM. COM may issue an opinion on non-compliance (lines 288, 364).</p>	
Unit rates				
	Setting of unit rates & verification of compliance with requirements	<p>MS sets the unit rates. COM adopts decision on compliance of the unit rates (without comitology) (Art 29 of IR 2019/317).</p>	<p>NSA sets the unit rates. PRB adopts decision on compliance.</p> <p>In case of persisting non-compliance, PRB conducts an investigation and provides an opinion to the COM. COM may issue an opinion on non-compliance (lines 348, 349, 364).</p>	<p>MS sets the unit rates. COM adopts decision on compliance of the unit rates (lines 348, 349).</p>



Review of compliance with performance and charging schemes				
	Review of compliance	COM reviews compliance with charging scheme and conducts investigations. COM takes decision. Council may take a different decision by QMV (Article 16 of Regulation 550/2004).	COM reviews compliance with performance and charging schemes. PRB conducts investigations. COM issues an opinion on non-compliance (lines 362-365)	COM reviews compliance with performance and charging schemes. COM may conduct an investigation. COM may issue an opinion on non-compliance (lines 362-365).