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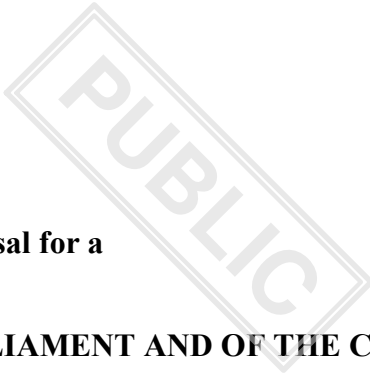
WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Delegations
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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) – Outcome of the Technical Meeting with the EP of 26 September 2022

Delegations will find in annex a revised four-column document for Chapter IV of the SES 2+ recast proposal. The fourth column presents the outcome of the technical meeting with the EP of 26 September 2022.

In the fourth column, cells with blue background contain suggestions for possible compromises, while those in red show where the positions of the Council and the EP are still divergent - differences in the EP proposals compared to Council proposals are underlined with yellow. Cells with green background were already agreed at the trilogue of 22 November 2021.

Changes to the Commission proposal are marked **in bold**.



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 COM(2020) 579 final	EP amendments (updated first reading) PE662.138v01-00	Council document 9616/21	Options for compromises
376.	CHAPTER IV - NETWORK MANAGEMENT	CHAPTER IV - NETWORK MANAGEMENT	CHAPTER IV - NETWORK MANAGEMENT	
377.	Article 26 - Network functions	Article 26 - Network functions	Article 26 - Network functions	
378.	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 climate-optimised flight trajectories , while allowing maximum access to airspace and air navigation services and avoiding congestion . Those network functions, enumerated in paragraphs 2 and 3, shall support the achievement of the Union-wide performance targets including those regarding climate and the	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	Poss. compromise (TM 26/9): 1. The air traffic management network functions shall lead to the sustainable and efficient use of the airspace and of scarce resources. They shall also ensure that airspace users can operate environmentally [...] including climate optimised flight trajectories and profiles , while allowing [...] fair and reasonable access to airspace and air navigation services and avoiding congestion . Those network functions, enumerated in paragraphs 2 [...], shall support seamless access to air navigation services by airspace

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		environment and shall be based on operational requirements.	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 shall be without prejudice to Member States' sovereignty over their airspace and to their responsibilities relating to public order, public security and defence matters.	users as well as the achievement of the Union-wide performance targets, referred to in Article 10(2)(a) and shall be based on operational requirements. The implementation of the network functions shall respect the provisions of Article 1.
90.	<i>Article 1 - paragraph 2</i>	<i>Article 1 - paragraph 2</i>	<i>Article 1 - paragraph 2</i>	
91.	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	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. [...]. Coordination with the military authorities shall	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	

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	operations and training.	be ensured in order to address the potential impacts of the application of this Regulation on military operations and training, which are outside its scope.	coordination with military authorities shall be ensured to identify and address potential impacts of the application of this Regulation on military activities.	
379.			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.	Council suggested compromise text: <i>Deletion suggested See compromise text proposed in line 423</i>

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			Before deciding on those aspects, they shall consult airspace users concerned or groups representing such airspace users and military authorities as appropriate.	
380.	2. The network functions referred to in paragraph 1 include the following:		2. The network functions referred to in paragraph 1 [...] are the following:	Poss. compromise (TM 26/9): 2. The network functions referred to in paragraph 1 [...] are the following:
381.	(a) the design and management of the European airspace structures;	(a) the design and management of the European airspace structures taking in account, among other targets, those regarding climate and the environment;	(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;	Poss. compromise (TM 26/9): (a) [...] design [...], management and optimisation of [...] airspace structures across the EU with a view to offering the required level of safety, capacity, flexibility, responsiveness, environmental performance, and fulfilling EU-wide performance targets, with due regard to security and defence needs and without prejudice to the responsibilities of Member

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				States with regard to national routes and airspace structures;
382.	(b) air traffic flow management;	(b) air traffic flow management, including, including climate- optimised flight trajectories ;	(b) [...] ATFM;	Provisional agreement: (b) [...] ATFM;
383.	(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.	Provisional agreement: (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.
384.	3. The network functions referred to in paragraph 1 also include the following:		[...]	Provisional agreement: [...]
385.	(a) optimisation of airspace design for the network and facilitation of delegation of air traffic services	(a) optimisation of airspace design and airspace structures for the network and facilitation of	[...]	Poss. compromise (TM 26/9): (d) [...] facilitation of delegation of air traffic services provision through co-operation with the air

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	provision through co-operation with the air traffic service providers and Member State authorities;	delegation of air traffic services provision through co-operation with the air traffic service providers and Member State authorities;		traffic service providers and Member State authorities;
386.	(b) management of the delivery of air traffic control capacity in the network as set out in the binding Network Operations Plan (NOP);		(d) delivery of air traffic control capacity in the network in accordance with commitments set out in the NOP;	Poss. compromise (TM 26/9): (e) [...] delivery of air traffic control capacity in the network [...] in accordance with commitments agreed through network operational performance requirements and local reference values as set out in the [...] NOP;
387.	(c) function for coordination and support in case of network crisis;		(e) management of network crisis.	Provisional agreement: (f) management of network crisis;
388.			(f) ATFM delay attribution;	Provisional agreement: (g) ATFM delay attribution;
389.	(d) air traffic flow and capacity management;	(d) air traffic flow and capacity management, in order to fulfil key performance targets;	[...]	Provisional agreement: [...]
390.	(e) the management of the planning, monitoring and		(g) [...] planning and implementation activities of the	Provisional agreement: (h) the management of the

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	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;		deployment of infrastructure in the European ATM network, in accordance with the European ATM Master Plan .	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;
391.	(f) the monitoring of the functioning of the European ATM network infrastructure.		[...]	Poss. compromise (TM 26/9): (i) the monitoring of the functioning of the European ATM network infrastructure.

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392.			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).	Poss. compromise (TM 26/9): 3. Member States and all relevant operational stakeholders shall execute network functions with the contribution of the Network Manager.
393.	4. The functions listed in paragraphs 2 and 3 shall not involve the 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.		4. The measures taken for the implementation of the functions 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.	Poss. compromise (TM 26/9): 4. The functions listed in paragraphs 2 [...] shall not involve the adoption of binding measures of a general scope or the exercise of political discretion. They shall be performed in coordination with civil and military authorities, in particular in accordance with agreed procedures concerning the flexible use of airspace. The measures taken for the implementation of the functions listed in paragraphs 2 shall be of purely operational or technical

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				nature and shall take into account of the specificities of the Member States.
394.	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. Such new functions shall not extend the existing scope of Union competence and shall be without prejudice to the prerogatives and responsibilities of the Member States.	[...]	Poss. compromise (TM 26/9): [...]
394a				Presidency proposal <i>(not discussed at the TM 26/9)</i> In order to ensure the uniform implementation of and compliance with the provisions referred to in this Article, the

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				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 rules regarding the execution of the network functions, including on crisis management.
395.	Article 27 - The Network Manager	Article 27 - The Network Manager	Article 27 - The Network Manager	
396.	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 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, 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	Poss. compromise (TM 26/9): 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) , by carrying out the tasks

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			shall supervise the proper execution of its tasks by the Network Manager.	referred to in paragraph 4. The Commission shall supervise the proper execution of the tasks of the Network Manager.
397.	2. The Commission may appoint an impartial and competent body to carry out the tasks of the Network Manager.	2. The Commission shall appoint an independent , impartial and competent body to carry out the tasks of the Network Manager.	2. The Commission [...] shall , appoint EUROCONTROL or another impartial and competent body to carry out the tasks of the Network Manager.	Poss. compromise (TM 26/9): 2. The Commission [...] shall appoint an independent , impartial and competent body to carry out the tasks of the Network Manager. + <i>Recital:</i> Commission appointed Eurocontrol, in 2011 and 2019 as Network Manager; in order to ensure business continuity in the performance of the ATM network functions, the mandate could be renewed subject to the conditions laid down in this Regulation.
397.a	To this end, the Commission shall adopt an implementing act in accordance with the		To this end, the Commission shall adopt an implementing act in accordance with the	Provisional agreement: 2a. To this end, the Commission shall adopt an implementing

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	examination procedure referred to in Article 37(3).		examination procedure referred to in Article 37(3),	act in accordance with the examination procedure referred to in Article 37(3).
397aa.	This appointment Decision shall include the terms and conditions of the appointment, including the financing of the Network Manager.	The appointment Decision shall include the terms and conditions of the appointment, including how the Network Manager will be financed.	This appointment Decision shall include the terms and conditions of the appointment, including the financing of the Network Manager,	Provisional agreement: This appointment Decision shall include the terms and conditions of the appointment, including the financing of the Network Manager.
397ab.			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,	Provisional agreement: [...]

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			and, where appropriate, by appropriate agreements to be concluded between the Commission and the Network Manager, such as service level agreements.	
397b.		To that end, the Commission shall adopt [...] implementing acts laying down the following: [...]		Tentatively agreed text: 2b. In order to ensure the uniform implementation of and compliance with the provisions referred to in Paragraph 2, the Commission shall, with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions including:
397c.		(a) the requirements and procedure for appointing the Network Manager; (b) requirements that the Network Manager be free from conflicts of interests and act independently;		Tentatively agreed text: a) Appointment requirements and procedure; b) independence requirements; + Recital 32c (32c): In case the Network Manager resides in another

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		<p>(c) requirements for functional and hierarchical separation of the Agency acting as PRB from the Agency;</p> <p>(d) requirements concerning the qualifications and expertise of the Network Manager;</p> <p>(e) financing of the Network Manager.</p> <p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).</p>		<p><i>entity, there should be functional, hierarchical and financial separation from that entity.]</i></p> <p>d) requirements of expertise e) financing f) Commission supervision of execution by the Network Manager of its tasks; g) Requirements for measuring the performance of the Network Manager.</p>
397d.		<p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).</p>		<p>Provisional agreement: Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).</p>
398.	<p>3. The tasks of the Network Manager shall be executed in an independent, impartial and cost efficient manner . They</p>	<p>3. The Network Manager shall execute its tasks in an independent, impartial and cost efficient manner. In the</p>	<p>3. The[...] Network Manager shall execute its tasks in an [...] impartial and cost efficient manner [...] and</p>	<p>Poss. compromise (TM 26/9): 3. The [...] Network Manager shall execute its tasks in an [...] impartial and cost</p>

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	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.	execution of its tasks, the Network Manager shall be subject to appropriate governance and regulation where the competent body designated as the Network Manager also has regulatory functions. 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. 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	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.	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 [...] and the need to safeguard defence capabilities and it shall fully involve [...] the operational stakeholders.
399.	4. The Network Manager shall contribute to the execution of the network functions	4. The Network Manager shall contribute to the execution of the network functions	4. The Network Manager shall execute following tasks in support of the network	Poss. compromise (TM 26/9): 4. The Network Manager shall, within the limits of Article

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			functions referred to in Article 26(2):	<p>26(4), contribute to the execution of the network functions through tasks related to:</p> <ul style="list-style-type: none"> (a) preparation of the Network Operations Plan and the establishment of the Network Strategy Plan; (b) support to the design, management and optimisation of the airspace structures; (c) facilitation of delegation of air traffic services provision; (d) coordination and support in the delivery of air traffic control capacity in the network and in accordance with commitments agreed through network operational performance requirements and local reference values as set out in the NOP; (e) coordination and support in the management of network

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				<p>crises, (f) coordination of scarce resources; (g) coordination of ATFM; (h) ATFM delay attribution; (i) the management of the planning, monitoring and coordination of implementation activities of the deployment of infrastructure in the European ATM network; (j) the monitoring of the functioning of the ATM infrastructure; (k) the coordination with ICAO and ICAO regions in relation with the execution of the network functions; (l) the establishment of the Network Manager’s work programme and budget, (m) the provision of data on flight plans in relation to Regulation (EC) No 2111/2005 or with other safety and</p>

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				<p>security measures.</p> <p>and through any other tasks necessary for, and intrinsically linked to, the contribution by the Network Manager to the execution of the network functions, as specified in the implementing acts referred to in paragraph 6.</p>
400.			<p>(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;</p>	<p><i>See new suggested compromise text in line 399 - point (b)</i></p>
401.			<p>(b) coordination of ATFM ;</p>	<p><i>See new suggested compromise text in line 399 - point (g)</i></p>

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402.			(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;	<i>See new suggested compromise text in line 399 - point (f)</i>
403.			(d) facilitation of delegation of air traffic services provision where 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;	<i>See new suggested compromise text in line 399. - point (c)</i>

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404.			(da) preparation of the NSP and establishment of the NOP;	<i>See new suggested compromise text in line 399 - point (a)</i>
405.			(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;	<i>See new suggested compromise text in line 399 - point (d)</i>
406.			(f) coordination and support in the management of network crisis;	<i>See new suggested compromise text in line 399 - point (e)</i>
407.			(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	<i>See new suggested compromise text in line 399 - point (h)</i>

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			attribution;	
408.			(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;	<i>See new suggested compromise text in line 399 - point (i)</i>
409.			(i) the monitoring of the functioning of the European ATM network infrastructure.	<i>See new suggested compromise text in line 399 - point (j)</i>

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410.	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.	through support measures aimed at safe and efficient planning and operations of the stakeholders within the network under normal and network 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 including in respect of climate and the environment . The action taken by the Network Manager shall take account of the need to fully integrate the airports in the network and aim to ensure compliance with the performance plans and performance targets of designated air traffic service providers .	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 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.	Poss. compromise (TM 26/9): 4a. In the execution of its tasks, the Network Manager shall take support measures aimed at safe and efficient planning and operations of the stakeholders within the network under normal and network crisis conditions and [...] 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 including in respect of climate and the environment . The action taken by the Network Manager shall take account of the need to fully integrate the airports in the network and aim to ensure compliance with the performance plans and performance targets of

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				designated air traffic service providers.
411.	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, including those relating to climate and the environment , are adequately reflected in the overall capacity planning, as well as the capacity to be delivered by individual air navigation service providers and agreed between the Network Manager and those air traffic service providers in the Network Operations Plan.	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 .	Council position: <i>Keep general approach. This provision depends on the discussion on PRB.</i> EP counterproposal: 5. The Network Manager shall cooperate closely with the [PRB] in order to ensure that the performance targets referred to in Article 10(2)(a) , are adequately reflected in the overall capacity planning, as well as 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 .
412.	6. The Network Manager shall:		6. The Network Manager shall,	Provisional agreement: 6. The Network Manager shall:

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413.	(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. Those measures shall include flight plan corrections in order to provide climate-optimized flight trajectories. In such case, paragraph 7 shall not apply.	[...]	<p>Council suggested compromise text:</p> <p>(a) determine, through cooperative decision making, operational actions that operational stakeholders shall implement with a view to contributing to the achievement of the Union-wide performance targets and local performance targets with due consideration for regional and local circumstances, and to implementing the commitments set out in the NOP and advise on climate-optimized flight trajectories.</p> <p>EP counterproposal:</p> <p>(a) determine, through cooperative decision making, the operational actions and remedial measures that operational stakeholders shall implement with a view to</p>

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				contributing to the achievement of the binding Union-wide performance targets and local performance targets and to implementing the commitments agreed through network operational performance requirements and local reference values as set out in the NOP and advise on climate-optimized flight trajectories;
414.	(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.		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.	Poss. compromise (TM 26/9): (b) in coordination with relevant parties, advise the Commission [and provide relevant information to the 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.
414a.				Poss. compromise (TM 26/9):

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				<p>6a. In order to ensure the uniform implementation of the provisions referred to in Paragraph 4 to 6, the Commission shall, with a view to achieving the objectives set out in Article 1, adopt implementing acts establishing detailed rules for the implementation of the tasks of the Network Manager, as defined to in those paragraphs.</p> <p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).</p>
415.	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		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	<p>Poss. compromise (TM 26/9):</p> <p>7. In the execution of its tasks, the Network Manager shall take decisions through a cooperative decision-making process. Parties to the cooperative decision-making process shall act to the</p>

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	with a view to improving the functioning and performance of the network. The cooperative decision-making process shall promote the interest of the network.		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.	maximum extent possible with a view to improving the functioning and performance of the network including the achievement of the Union wide targets in the key performance area of climate and environment. The cooperative decision-making process shall promote the interest of the network taking into account essential security and defence interests.
415a.				Provisional agreement: Member States shall be fully involved in decisions of strategic importance, in particular in the shaping of the network strategy plan. <i>(moved from line 421)</i>
				Poss. compromise (TM 26/9): Member States shall ensure adequate coordination at national level with the civil and military operational stakeholders.

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416.			<p>7a. The cooperative decision-making process referred to in paragraph 7 shall be based on:</p> <p>a) the appropriate and regular consultation of operational stakeholders, airport slot coordinators, Member States and, where relevant, the Agency and the Commission;</p>	<p>Poss. compromise (TM 26/9): The cooperative decision-making process referred to in paragraph 7 shall be based, in particular, on consultation process of operational stakeholders, airport slot coordinators, Member States and, where relevant, the Agency and the Commission, on working arrangements and processes for operations and on resolution mechanisms involving the Network Management Board where necessary. Where Member States' sovereignty over their airspace is concerned, the consent of the Member State(s) concerned is required.</p>
417.			<p>b) detailed working arrangements established by the Network Manager together with, in particular operational stakeholders and Member</p>	<p>Provisional agreement: [...]</p>

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			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.	
418.			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 network function. 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.	Provisional agreement: [...]
419.			When measures related to the execution of the Network Manager's tasks are disputed	Provisional agreement: [...]

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			by one or several operational stakeholder(s), the issue shall be referred for resolution to the Network Management Board.	
419a.				Provisional agreement: 7aa. In order to ensure the uniform implementation of and compliance with the provisions referred to in Paragraph 7 and 7a, the Commission shall, with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down, detailed provisions regarding the cooperative decision-making process including: (a) consultation process of operational stakeholders, airport slot coordinators, Member States and, where relevant, the Agency and the Commission;

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				(b) working arrangements and processes for operations; (c) involvement of Member States' authorities when required; (d) resolution mechanisms involving the Network Management Board where necessary; (e) any other measure necessary with regard to the decision-making processes.
419b.				Provisional agreement: Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).

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420.			<p>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. The Network Management Board shall be responsible for approving 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</p>	<p>Poss. compromise (TM 26/9): 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. The Network Management Board shall be responsible for approving 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 and 7aa, for approving the NOP and endorsing the NSP, before it is approved by the Commission after consultation with Member States, for monitoring the</p>

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			monitoring the implementation of network functions and for providing opinions or recommendations on specific issues. 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.	implementation of network functions and for providing opinions or recommendations on specific issues and for any other measure necessary for the execution of the governance mechanism. The Network Management Board shall be composed of voting and non voting members, representatives of the operational stakeholders, of representatives of the Commission, of representatives of the Network Manager and of representatives of Eurocontrol.
421.			7c. Member States shall be fully involved in decisions of strategic importance.	<i>Moved to 415a.</i>
422.	8. By way of implementing acts adopted in accordance with the examination procedure referred to in Article 37(3), the Commission shall		8. By way of implementing acts adopted in accordance with the examination procedure referred to in Article 37(3), the Commission shall establish	Poss. compromise (TM 26/9): 8. In order to ensure the uniform implementation of and compliance with the provisions referred to in Paragraph 7b, the

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	establish detailed rules		detailed rules for the implementation of Article 26 and this Article, in particular for	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 rules regarding the Network Management Board in particular for:
422a.	for the execution of the network functions, the tasks of the Network Manager, governance mechanisms including decision- making processes and crisis management.		the execution of the network functions,	Presidency proposal <i>(not discussed at the TM 26/9)</i> [...] See line 394a.
422b.			including on crisis management;	Presidency proposal <i>(not discussed at the TM 26/9)</i> [...] See line 394a.
422c.			on the appointment of the Network Manager, the terms and conditions of such	Provisional agreement: [...] See line 397c.

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			appointment	
422d.			and on the detailed [...] tasks of the Network Manager [...] in relation to the network functions;	Provisional agreement: [...] <i>See line 399.</i>
422e.			on the composition, the functioning, the decision- making and the detailed tasks of the Network Management Board including in relation with crisis management;	Poss. compromise (TM 26/9): (a) composition of Network Management Board: (b) the functioning and responsibilities of Network Management Board as defined in paragraph 7b;
422f.			on the cooperative decision- making process;	Provisional agreement: [...] <i>See line 319a</i>
422g.			the criteria and factors that the Network Manager and the Network Management Board must follow when exercising the tasks conferred on them	Provisional agreement: [...]
422h.			and on the network governance mechanisms.	Provisional agreement: (c) the network governance mechanisms.

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423.	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 including those regarding climate and the environment. Before deciding on those aspects, they shall give due consideration to the needs of the airspace users concerned or to groups representing such airspace users and military authorities as appropriate.	[...]	Poss. compromise (TM 26/9): Member States shall remain responsible for the detailed development, approval and establishment of the airspace structures for the airspace under their responsibility. 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 [...] take under due consideration needs of airspace users concerned or groups representing such airspace users and military authorities as appropriate.
424.	Article 28 - Transparency of accounts of the Network Manager	Article 28 - Transparency of accounts of the Network Manager	Article 28 - Transparency of accounts of the Network Manager	

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425.	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.	Provisional agreement: 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.
426.	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.	Poss. compromise (TM 26/9): 2. The Network Manager shall publish an annual report on its activities and regularly undergo an independent audit.

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427.	Article 29 - Relations with stakeholders	Article 29 - Relations with stakeholders	Article 38a - Relations with stakeholders	
428.	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 air traffic service providers shall establish consultation mechanisms to consult the stakeholders, as necessary, referred to in Article 38(3) , on all major issues related to services provided, including relevant changes to airspace configurations such as those resulting from the required emission reduction efforts , 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, especially as regards aspects requiring synchronisation between air and ground equipment deployment.	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 configurations, or [...] major investments which have a relevant impact on air traffic management and air navigation service provision and/or charges. [...]	Poss. compromise (TM 26/9): 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 configurations, or [...] major investments which have a relevant impact on air traffic management and air navigation service provision and/or charges [...]; in particular, their positions shall be taken into consideration at an early stage in the process of [...] developing long-term strategic investment plans especially as regards aspects requiring synchronisation between air

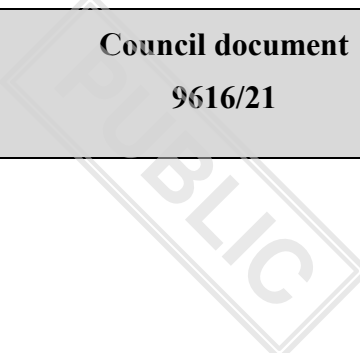
	Commission proposal COM(2020) 579 final	EP amendments (updated first reading) PE662.138v01-00	Council document 9616/21	Options for compromises
				and ground equipment deployment.
428a.	The Commission shall adopt measures detailing the modalities of the consultation and of the involvement of airspace users in approving investment plans. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).	The Commission shall adopt measures detailing the modalities of the consultation and of the involvement of airspace users, <i>PRB and Network Manager in drafting and</i> approving investment plans <i>to ensuring in particular their consistency with the ATM Master Plan and common projects as referred to in Article 35.</i> Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37 (3).	[...]	Council suggested compromise text: [...] EP counterproposal: The Commission shall adopt measures detailing the modalities of the consultation and of the involvement of airspace users <i>and Network Manager in <u>developing long-term</u> strategic investment plans to ensuring in particular their consistency with the ATM Master Plan and common projects as referred to in Article 35.</i> Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37 (3).
429.	Article 30 - Relations with military authorities		Article 30 - Relations with military authorities	

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430.	<p>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.</p>		<p>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 [...].</p>	<p>Council suggested compromise text: 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 [...].</p> <p>EP counterproposal: 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.</p>

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431.	Article 31 - Availability of and access to operational data for general air traffic	Article 31 - Availability of and access to operational data for general air traffic	Article 9a - Availability of and access to operational data for general air traffic	
432.	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	1. With regard to general air traffic, relevant operational data shall be made available in an interoperable format in real-time, on a transparent and 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 navigation service providers, entities having a proven interest in considering the provision of air navigation services, military air traffic service providers , airspace	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 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 defence activities, military air navigation service providers , airspace users and airports as well as the Network Manager. The data shall be used only for	Provisional agreement: With regard to general air traffic, relevant operational data shall be made available in an interoperable format in real-time, on a transparent and non-discriminatory basis and 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, entities having a proven interest in considering the provision of air navigation services, military entities in charge of security and defence

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	for operational purposes.	users and airports as well as the Network Manager. The data shall be used only for operational purposes	operational purposes.	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.
433.	2. Prices for the service referred to in paragraph 1 shall be based on the marginal cost of making the data available.		[...]	Council suggested compromise text: 2. Prices for the service referred to in paragraph 1 shall be based on general principles to be established in the implementing act referred to in paragraph 4. EP counterproposal: 2. Prices for the service referred to in paragraph 1 shall be based on a methodology to be established in the implementing act referred to in paragraph 4.

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434.	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 oversight, performance oversight including those regarding climate and the environment and network oversight, including the Agency. The military bodies responsible for oversight and protection of airspace shall also be granted access to that data.	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 the Network Manager, and to the Agency in accordance with Regulation (EU) 2018/1139.	Provisional agreement: 3. Access to relevant operational data as referred to in paragraph 1 shall be granted free of charge to the authorities in charge of safety oversight, performance and network oversight, security, public order, and defence , including the Agency, in accordance with Regulation (EU) 2018/1139.
435.	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	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	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.	Council suggested compromise text: The Commission [...] shall 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, including the specific operational data concerned, the general principles for setting the prices as

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	<p>the examination procedure referred to in Article 37(3).</p>	<p>adopted in accordance with the examination procedure referred to in Article 37(3).</p>		<p>referred to in paragraph 2 and requirements for the identification of entities having a proven interest in considering the provision of air navigation services. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).</p> <p>EP counterproposal: The Commission [...] shall 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, including the specific operational data concerned, the methodology to set the prices as referred to in paragraph 2 and requirements for the identification of entities having a proven interest in considering the provision of air</p>

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				navigation services. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).