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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the implementation of the Single European Sky (recast)

Further to the discussions at the Aviation Working Party on 23 July 2014, delegations will find attached new Presidency compromise proposals on Articles 1 - 2, 16 and 19 of above-mentioned proposal.

The revised articles have been incorporated into a single, revised version of document 11678/14, comprising also Articles 10-11 and 17-18, not yet examined by the Aviation Working Party.

Changes with regard to the previous version have been marked with **bold** and ~~strikethrough~~.

All delegations have a scrutiny reservation on the text. The UK has a parliamentary scrutiny reservation.

2013/0186 (COD)

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)

CHAPTER I

GENERAL PROVISIONS

Subject matter and scope

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 (ATM/ANS) 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 of routes, a progressively more integrated operating airspace¹, network management and air traffic management systems based on safety, efficiency and interoperability, for the benefit of all airspace users.

¹ The Presidency proposes to explain the concept of integrated operating airspace in a recital as follows: "*an airspace where more than one air traffic service provider operates, each one retaining its own responsibility for its services that should be provided to the maximum extent possible on the basis of the same concept of operation, the same operational and support procedures. ~~and the sharing of systems, facilities and human resources.~~*" HU

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 35. This Regulation does not cover military operations and training.
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 seeks 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.
4. This Regulation shall apply to the airspace within the ICAO EUR² region where Member States are responsible for the provision of air traffic services, ~~in accordance with the this Regulation~~. Member States may also apply this Regulation to airspace under their responsibility within other ICAO regions, on condition that they inform the Commission and the other Member States thereof.
- [5. The application of this Regulation to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland with regard to the dispute over sovereignty over the territory in which the airport is situated.]³

insists on the deletion of the reference to an integrated operating airspace and suggests to replace "requirements" with "needs".

² Commission opposes the deletion of the reference to the NAT region.

³ UK cannot accept putting this paragraph between square brackets.

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

1. 'air traffic control (ATC) service' means a service provided for the purpose of:
 - (a) preventing collisions:
 - between aircraft, and
 - in the manoeuvring area between aircraft and obstructions; and
 - (b) expediting and maintaining an orderly flow of air traffic;
2. 'aerodrome control service' means an ATC service for aerodrome traffic;
3. 'aeronautical information service' means a service established within the defined area of coverage responsible for the provision of aeronautical information and data necessary for the safety, regularity, and efficiency of air navigation;
4. 'air navigation services (ANS)' means air traffic services; communication, navigation and surveillance services; meteorological services for air navigation; and aeronautical information services;
5. 'air navigation service providers' means any public or private entity providing air navigation services for general air traffic;
6. 'airspace block' means an airspace of defined dimensions, in space and time, within which air navigation services are provided;
7. 'airspace management' means a planning **function or service** 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;

8. 'airspace users' means operators of aircraft operated as general air traffic;
9. 'air traffic flow management' means a **function or service** established with the objective of contributing to a safe, orderly and expeditious flow of air traffic 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;
10. '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;
11. 'air traffic services' means the various flight information services, alerting services, air traffic advisory services and ATC services (area, approach and aerodrome control services);
12. 'area control service' means an ATC service for controlled flights in control areas;
- 12a. 'control area' means a controlled airspace extending upwards from a specified limit above the earth;**
13. 'approach control service' means an ATC service for arriving or departing controlled flights;
14. 'ATM Master Plan' means the plan endorsed by Council Decision 2009/320/EC⁴, in accordance with Article 1(2) of 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)⁵;
15. 'network crisis' means a state of inability to provide ATM/ANS at required level resulting in a major loss of network capacity, or a major imbalance 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;
16. 'bundle of services' means two or more air navigation services;

⁴ OJ L 95, 9.4.2009, p. 41.

⁵ OJ L 64, 2.3.2007, p. 1., as amended by Council Regulations (EC) No 1361/2008 and No 219/2014 (OJ L 352, 31.12.2008 and OJ L 192, 1.7.2014).

17. 'certificate' means a document issued by the European Agency for Aviation (EEA) or by a national supervisory authority in any form complying with ~~national~~ **applicable** law, which confirms that an ATM/ANS service provider meets the requirements for providing a specific service;
18. 'communication services' means aeronautical fixed and mobile services to enable ground-to-ground, air-to-ground and air-to-air communications for ATC purposes;
- 18a. 'European air traffic management network' (EATMN) means the collection of systems listed in Annex V b of Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 ... enabling air navigation services in the Union to be provided, including the interfaces at boundaries with third countries;**
19. '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;
20. 'declaration' means for purposes of ATM/ANS, any written statement:
- on the conformity or suitability for use of systems and constituents issued by an organisation engaged in the design, manufacture and maintenance of ATM/ANS systems and constituents; **or**
 - on the compliance with applicable requirements of a service or a system to be put into operation issued by a service provider; **or**
 - on the capability and means of discharging the responsibilities associated with certain flight information services⁶
- 20a. '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;

⁶ The Presidency proposes to examine this definition, as well as definitions 17 and 36 in light of the discussions on Chapter IV of this Regulation and the EASA Regulation.

21. 'flexible use of airspace' means an airspace management concept based on the **fundamental** principle that airspace should not be designated **as either** purely as civil or military **airspace**, but rather **be considered** as a continuum in which all user requirements **are have to be** accommodated to the ~~greatest possible~~ extent **possible**;
22. 'flight information service' means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights;
23. '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;
24. 'functional airspace block' means an airspace block based on operational requirements and established regardless of State boundaries, where the provision of 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;
25. 'general air traffic' means all movements of civil aircraft, as well as all movements of State aircraft (including military, customs and police aircraft) when these 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 Aviation;
26. '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. Interoperability is achieved by making the systems and constituents compliant with the essential requirements;
27. 'meteorological services' means those facilities and services that provide aircraft with meteorological forecasts, warnings, **briefings** and observations as well as any other meteorological information and data provided by States for aeronautical use;

28. 'navigation services' means those facilities and services that provide aircraft with positioning and timing information;
29. 'operational data' means information concerning all phases of flight that are required to take operational decisions by air navigation service providers, airspace users, airport operators and other actors involved;
30. 'putting into service' means the first operational use after the initial installation or an upgrade of a system;
31. 'route network' means a network of specified routes for channelling the flow of general air traffic as necessary for the provision of ATC services;
32. 'surveillance services' means those facilities and services used to determine the respective positions of aircraft to allow safe separation;
33. '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;
34. 'upgrade' means any modification that changes the operational characteristics of a system;
35. 'cross-border services' means any situation where air navigation services are provided in one Member State by a service provider certified in another Member State. ;
36. 'national supervisory authority' means the national body or bodies entrusted by a Member State with the tasks of supervision in accordance with this Regulation and the national competent authorities entrusted with the tasks provided for in Article 8b of Regulation (EC) No 216/2008;
37. 'support services' means air navigation services other than air traffic services.
38. 'local performance targets' means performance targets adopted by the Member States at local level, namely at functional airspace block, national, charging zone or airport level.

Article 10

Provision of support services

1. Member States shall take all necessary measures to ensure that, in accordance with this Article, **there are no statutory impediments to the providers of support services and that prevent their ability to compete within the Union on the basis of an equitable, and non-discriminatory basis and transparent conditions for the purpose of providing these services.** The requirement set out in this Article shall be achieved no later than five years after the Commission develops and publishes the guidance material concerning the feasibility of competitive provision of support services, on basis of the study referred to in paragraph 2. Those implementing acts shall be adopted by the advisory procedure referred to in Article 27(2).

The requirement set out in this Article shall be met at the latest by 1 January 2020.

2. ~~Member States shall take all necessary measures to ensure that the provision of air traffic services is separated from the provision of support services. This separation shall include the requirement that air traffic services and support services are provided by separate undertakings.~~ By the end of 2017 the Commission shall conduct a study on the feasibility of the competitive provision of support services. The study shall cover at least the impact of competition on:
- a) The cost efficiency and quality of service provision;
 - b) The safety of service provision; and
 - c) Member States' ability to meet their ICAO obligations.

3. In choosing the provider of support services, in particular cost efficiency, overall service quality and safety of services shall be taken into account by the entity procuring those services. If support services are provided on a competitive basis, the entity procuring the services shall comply with Directive 2014/24/EU on public procurement and repealing Directive 2004/18/EC⁷. When procuring the services, particular focus shall be given to their cost efficiency, service quality, interoperability and safety.
4. A provider of support services may only be chosen to provide services in the airspace of a Member State, when:
- (a) it is certified in accordance with Article 8b of Regulation (EC) No 216/2008;
 - (b) its principal place of business is located in the territory of a Member State;
 - (c) Member States and/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
 - (d) the service provider fulfils national security and defence requirements.
5. Support services related to the operations of the EATMN may be provided in a centralised manner by the Network Manager by adding those services to the services referred to in Article 17(2), in accordance with Article 17(3). They may also be provided on an exclusive basis by an air navigation service provider or groupings thereof, in particular those related to the provision of the ATM infrastructures. The Commission shall specify the modalities for the selection of providers or groupings thereof, based on the professional capacity and ability to provide services in an impartial and cost-effective manner, and establish an overall assessment of the estimated costs and benefits of the provision of the support services in a centralised manner. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3). ~~The Commission shall designate providers or groupings thereof in accordance with those implementing acts.~~

⁷ OJ L 94, 28.3.2014, p. 65.

~~Article 9~~

~~Designation of providers of meteorological services~~

- ~~1. Member States may designate a provider of meteorological services to supply all or part of meteorological data on an exclusive basis in all or part of the airspace under their responsibility, taking into account safety considerations.~~
- ~~2. Member States shall inform the Commission and other Member States without delay of any decision within the framework of this Article regarding the designation of a provider of meteorological services.~~

Article 11

Performance scheme

1. To improve the performance of air navigation services and network **services and functions** in the Single European Sky, a performance scheme for air navigation services and network **services and functions** shall be set up. It shall include:
 - (a) Union-wide **and associated local** performance targets on the key performance areas of safety, the environment, capacity and cost-efficiency;
 - (b) national plans or plans for functional airspace blocks, including **binding local** performance targets, ensuring **compliance adequate contribution to** with the Union-wide **and associated local** performance targets; and
 - (c) periodic review, monitoring and benchmarking of the performance of air navigation services and network **services and functions**.
2. The Commission shall designate **an independent**, impartial and competent body to act as a 'performance review body'. The role of the performance review body shall be to assist the Commission, in coordination with the national supervisory authorities, and to assist the national supervisory authorities on request in the implementation of the performance scheme referred to in paragraph 1. **Technical assistance to the performance review body may be provided by EAA and Eurocontrol or another competent entity.**

- 2a. **The Commission shall establish the necessary competences, experience and independence requirements for membership of the performance review body and the terms of reference and rules of procedure under which it shall conduct its activities in accordance with this Article. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 27(2).**
3. **The Commission shall establish Community Union-wide performance targets for the air traffic management network.** ~~shall be adopted by the Commission in accordance with the regulatory procedure referred to in Article after taking into account the relevant inputs from national supervisory authorities at national level or at the level of functional airspace blocks. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3).~~
- 3a. The national or functional airspace block plans referred to in paragraph 1 shall be drawn up by national supervisory authorities and adopted by the Member State(s). These plans shall include binding **local** targets and an appropriate incentive scheme as adopted by the Member State(s). Drafting of the plans shall be subject to consultation with air navigation service providers, airspace users' representatives, and, where relevant, airport operators and airport coordinators.
- 3b. **Where a national or functional airspace block plan is jointly endorsed by the representatives of air navigation service providers, airspace users and, where relevant, aerodrome operators and airport coordinators concerned, the Commission shall consider the written confirmation of such endorsement as evidence that the performance plan is consistent with the criteria referred to in paragraph 7(d).**
4. The **compliance contribution** of the national or functional airspace block **plans and local** targets ~~with~~ **to** the Union-wide performance targets shall be assessed by the Commission in co-operation with the performance review body.

In the event that the Commission identifies that **the national or functional airspace block plans or the local** targets do not **comply with adequately contribute to** the **Union-wide targets**, it may **require the Member States concerned to take the necessary corrective measures. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 27(2).**

5. The reference period for the performance scheme, referred to in paragraph 1, shall cover a minimum of three years and a maximum of five years. During this period, in the event that the **local** targets are not met, the Member States **concerned** shall **define and** apply measures **designed to rectify the situation**. **Where the Commission finds that these measures are not sufficient to rectify the situation, it may decide, that the Member States concerned shall take necessary corrective measures or sanctions**. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 27(2).
6. The Commission shall carry out regular assessments of the achievement of the **Union-wide and associated local** performance targets.
7. The performance scheme referred to in paragraph 1 shall be based on:
 - (a) collection, validation, examination, evaluation and dissemination of relevant data related to the performance of air navigation services and network **services and functions** from all relevant parties, including air navigation service providers, airspace users, airport operators, national supervisory authorities, Member States and Eurocontrol;
 - (b) selection of appropriate key performance areas on the basis of ICAO Document No 9854 ‘Global air traffic management operational concept’, and consistent with those identified in the Performance Framework of the ATM Master Plan, including safety, the environment, capacity and cost-efficiency areas, adapted where necessary in order to take into account the specific needs of the Single European Sky and relevant objectives for these areas and definition of a limited set of key performance indicators for measuring performance;
 - (c) establishment **and revision** of Union-wide **and associated indicative local** performance targets that shall be defined taking into consideration inputs identified at national level or at the level of functional airspace blocks;

- (d) criteria for the setting up by the national supervisory authorities of the national or functional airspace block performance plans, containing the **local** performance targets and the incentive scheme. The performance plans shall:
- (i) be based on the business plans of the air navigation service providers;
 - (ii) address all cost components of the national or functional airspace block cost base;
 - (iii) include binding **local** performance targets **compliant with adequately contributing to** the Union-wide performance targets;
- (e) assessment **and revision** of the **local** performance targets on the basis of the national or functional airspace block plan;
- (f) monitoring of the national or functional airspace block performance plans, including appropriate alert mechanisms.;
- (g) criteria ~~to impose sanctions for non-compliance~~ **assess whether local performance targets adequately contribute to** with the Union-wide ~~and associated local~~ performance targets during the reference period and to support alert mechanisms;
- (h) general principles for the setting up by Member States of the incentive scheme;
- (i) principles for the application of a transitional mechanism necessary for the adaptation to the functioning of the performance scheme not exceeding 12 months following the adoption of the **delegated implementing** act referred to in this paragraph;
- (j) **appropriate** reference periods and intervals for the assessment of the achievement of performance targets and the setting of new targets;
- (k) the **necessary related** timetables;

The Commission shall be empowered to adopt delegated acts in accordance with Article 26 in order to lay down detailed rules for the proper functioning of the performance scheme in accordance with the points listed in this paragraph. Those measures designed to amend non-essential elements of this Regulation, by supplementing it **implementing acts** shall be adopted in accordance with the **regulatory examination** procedure with scrutiny referred to in Article 5(4) **27(3)**.⁸

8. The establishment of the performance scheme shall take into account that en route services, terminal services and network **services and functions** are different and should be treated accordingly, if necessary also for performance-measuring purposes.

Article 16

Functional airspace blocks

1. Member States shall take all necessary measures in order to ensure the establishment and implementation of functional airspace blocks with a view to achieving the required capacity and efficiency of the air traffic management network within the Single European Sky, **a progressively more integrated provision of air-traffic ATM/ANS services**, and maintaining a high level of safety and contributing to the overall performance of the air transport system and reduced environmental impact.
2. The functional airspace blocks shall be set-up based on agreements between Member States, and wherever possible, supported by co-operative industrial partnerships as specified in **Article 18(2a) 16a**. The industrial partnerships may support one or more functional airspace blocks, or part thereof with a view to maximise performance.

⁸ Commission opposes the deletion of delegated acts.

3. Member States, National Supervisory Authorities, as well as **air traffic service ATM/ANS providers** shall cooperate to the fullest extent possible with each other in order to ensure compliance with this Article. Where relevant, cooperation may also include National Supervisory Authorities **and ATM/ANS air traffic service providers from** third countries taking part in functional airspace blocks.
4. Functional airspace blocks shall, in particular:
- (a) be supported by a safety case;
 - (b) be designed to **at least contribute to the achievement of the performance targets set in accordance with Article 11;**
 - ~~(c) enable optimum use of airspace, taking into account air traffic flows;~~
 - ~~(d) ensure consistency with the European route network established in accordance with Article 17;~~
 - (e) be justified by their overall added value, including optimal use of technical and human resources, on the basis of cost-benefit analyses;
 - (f) **where applicable,** ensure a smooth and flexible transfer of responsibility for air traffic control between air traffic service units;
 - ~~(g) ensure compatibility between the different airspace configurations;~~
 - (h) comply with conditions stemming from regional agreements concluded within the ICAO;
 - (i) respect regional agreements in existence on the date of entry into force of this Regulation, in particular those involving European third countries; .

Moreover, the following requirements of paragraphs 4(c), (d) and (g) shall be met in accordance with the optimisation of airspace design carried out by the Network Manager as specified in Article 17⁹:

- **enable optimum use of airspace, taking into account air traffic flows;**
- **ensure consistency with the European route network established in accordance with Article 17;**
- **ensure compatibility between the different airspace configurations.**

5. The requirements set out in this Article may be met through participation of Member States, **National Supervisory Authorities and air navigation service ATM/ANS providers in one or more functional airspace blocks.**

6. ~~The provision of air traffic services in a functional airspace block that extends across the airspace under the responsibility of more than one Member State shall be based on joint designations between all the Member States, as well as, where appropriate, third countries that have responsibility for any part of the airspace included in the functional airspace block, as specified in Article 9(5).~~ Joint designations shall enable air traffic service providers to provide cross-border services within the functional airspace block.¹⁰

7. Member States shall notify to the Commission the establishment of functional airspace blocks notably the agreements between Member States and the decisions on joint designations. Before notifying the Commission of the establishment of a functional airspace block, the Member State(s) concerned shall provide the Commission, the other Member States and other interested parties with adequate information and give them an opportunity to submit their observations.

⁹ PSY considers that the link with Article 17 will ringfence the scope of the requirements and its method of compliance.

¹⁰ The Presidency proposes to move the last sentence of this paragraph to Article 9(5).

- 7a. Where a functional airspace block relates to airspace that is wholly or partly under the responsibility of two or more Member States, the agreement by which the functional airspace block is established shall contain the necessary provisions concerning the way in which the block can be modified and the way in which a Member State can withdraw from the block, including transitional arrangements.
8. Where difficulties arise between two or more Member States with regard to a ~~cross-border~~ functional airspace block that concerns airspace under their responsibility, the Member States concerned may jointly bring the matter to the Single Sky Committee for an opinion. The opinion shall be addressed to the Member States concerned. Without prejudice to paragraph 6, the Member States shall take that opinion into account in order to find a solution.
9. After having received the notifications by Member States referred to in paragraphs 6 and 7 the Commission shall assess the fulfilment by each functional airspace block of the requirements set out in paragraph 4 and present the results to the Member States for discussion. If the Commission finds that one or more functional airspace blocks do not fulfil the requirements it shall engage in a dialogue with the Member States concerned with the aim of reaching a consensus on the measures necessary to rectify the situation.
10. ~~Member States~~ The **functional airspace block** shall establish, and update, as appropriate, an **operational** plan for the implementation of functional airspace blocks, ~~consistent with the performance plan referred to in Article 11(1)(b) and~~ describing the actions to be taken by air navigation service providers, National Supervisory Authorities and other stakeholders concerned to meet the requirements of paragraph 4. ~~They shall inform the Commission thereof. Before the establishment of the operational plan, the functional airspace block shall ensure that the interested parties are provided with adequate information and have the opportunity to submit observations.~~
- ~~11a. This Article shall be without prejudice to any agreement on functional airspace blocks between Member States existing on the date of entry into force of this Regulation, in so far as those agreements meet the requirements of this Article.~~

11. The Commission **may** adopt measures regarding the information to be provided by the Member State(s) referred to in paragraphs 7 and 10. Those implementing acts shall be adopted in accordance with the **examination** procedure referred to in Article 27(3).
12. **This Article shall be without prejudice to any agreement on functional airspace blocks between Member States existing on the date of entry into force of this Regulation, ~~in so far as those agreements meet the requirements of this Article.~~**

Article 16a

Industrial partnership

1. **ATM/ANS providers shall strive to conclude industrial partnerships to support the implementation of the Single European Sky, in particular within the framework of one or more functional airspace blocks, and to improve the performance of the European ATM system.**
2. **Industrial partnerships are cooperative arrangements set up for the purpose of improving the performance in at least one of the key performance areas of the performance scheme referred to in Article 11. Industrial partnerships are set up by two or more partners giving their contribution to the provision of one or more air navigation services. Industrial partnerships may include, in addition to air navigation service providers, the Network Manager, airspace users, airport operators or other comparable economic actors.**
3. **Without prejudice to the joint designation, the FAB operational implementation plan may include the industrial partnerships.¹¹**

¹¹ PCY proposes to consider adding some wording in Art.11 on the recognition of the contribution of industrial partnership to the achievement of the EU-wide targets.

Article 17

Network management and design

1. The air traffic management (ATM) network **services and functions** shall allow optimum use of airspace and ensure that airspace users can operate preferred trajectories, while allowing maximum access to airspace and air navigation services. These network **services and functions** shall be aimed at supporting initiatives at national level and at the level of functional airspace blocks and shall be executed in a manner which respects the separation of regulatory and operational tasks.¹²
2. In order to achieve the objectives referred to in paragraph 1 and without prejudice to the responsibilities of the Member States with regard to national routes and airspace structures, the Commission shall ensure that the following **services tasks** are carried out **under the responsibility coordination** of a Network Manager :
 - (a) design of the European route network;
 - (b) 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) **central function service** for air traffic flow management;
 - (d) provision of an aeronautical information portal in accordance with Article 23;
 - (e) **support for the** optimisation of airspace design **in through** co-operation with the air navigation service providers and functional airspace blocks referred to in Article 16;

¹² The Presidency suggests to include the following clarification in a recital: "*Network services and functions should aim at providing both performance benefits and cost savings to the EATMN, without overlapping, or duplicating the roles and responsibilities of ANSPs, the SESAR Joint Undertaking or the Deployment Manager.*"

(f) central function for coordination of ~~aviation~~ **network** crisis.

The ~~services~~ **tasks** listed in this paragraph shall not involve the adoption of binding measures of a general scope or the exercise of political discretion. They shall take into account proposals established at national level and at the level of functional airspace blocks. They shall be performed in coordination with military authorities in accordance with agreed procedures concerning the flexible use of airspace.

The Commission may, in conformity with the implementing rules referred to in paragraph 4, appoint Eurocontrol, or another impartial and competent body, ~~to carry out~~ the tasks ~~of the Network Manager~~. These tasks shall be executed in an impartial and cost-effective manner and performed on behalf of Member States and stakeholders. They shall be subject to appropriate governance, which recognises the separate accountabilities for service provision and regulation, taking into consideration the needs of the whole ATM network and with the full involvement of the airspace users and air navigation service providers **and aerodrome operators**. ~~By 1 January 2020, the Commission shall designate the Network Manager as a self-standing service provider where possible set up as an industrial partnership.~~

3. The Commission ~~shall adopt~~ ~~be empowered to adopt delegated acts in accordance with Article 26 to~~ **additions** to the list of the ~~services~~ **tasks** set out in paragraph 2 in order to adapt it to technical and operational progress with regard to the provision of support services in a centralised manner. **Those implementing acts shall be adopted by the examination procedure referred to in Article 27(3).**

4. The Commission shall adopt detailed rules concerning :
- (a) the coordination and harmonisation of processes and procedures to enhance the efficiency of aeronautical frequency management including the development of principles and criteria;
 - (b) the central function to coordinate the early identification and resolution of frequency needs in the bands allocated to European general air traffic to support the design and operation of European aviation network;
 - (c) additional network **services and functions** as defined in the ATM Master Plan;
 - (d) ~~detailed~~ arrangements for cooperative decision-making between the Member States, the air navigation service providers and the ~~network management function~~ **Network Manager** for the tasks referred to in paragraph 2;
 - (e) ~~detailed~~ arrangements for the governance of the Network Manager **to operate as a self standing and cost-efficient service provider** involving all operational stakeholders concerned, **and be set up, if possible, as an industrial partnership**;
 - (f) arrangements for consultation of the relevant stakeholders in the decision-making process both at national and European levels; and
 - (g) within the radio spectrum allocated to general air traffic by the International Telecommunication Union, a division of tasks and responsibilities between the ~~network management function~~ **Network Manager** and national frequency managers, ensuring that the national frequency management **services** continue to perform those frequency assignments that have no impact on the network. For those cases which do have an impact on the network, the national frequency managers shall cooperate with ~~those responsible for the network management function~~ **the Network Manager** to optimise the use of frequencies.

- (h) within the support for the optimization of airspace design, a division of tasks and responsibilities between the Network Manager and air traffic service providers; in particular, the Network Manager shall work in co-operation with air traffic service providers at national or functional airspace block level to identify and evaluate inefficiencies in the design of airspace. Air traffic service providers, in consultation with the Network Manager, shall develop corrective measures in order to meet the needs of all airspace users and aerodrome operators to the maximum extent possible. Subject to the relevant decisions by the competent authorities at national or functional airspace block level, air traffic service providers shall implement those measures, either individually or jointly within functional airspace blocks, in coordination with the Network Manager.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3).

5. Aspects of airspace design other than those referred to in paragraphs 2, and 4 (c) and 4(h) shall be dealt with at national level or at the level of functional airspace blocks. This design process shall take into account traffic demands and complexity, national or functional airspace block performance plans and shall include full consultation of relevant airspace users or relevant groups representing airspace users and military authorities as appropriate.

~~6. Member States shall entrust Eurocontrol or another impartial and competent body with the performance of air traffic flow management, subject to appropriate oversight arrangements.~~

~~7. Implementing rules for air traffic flow management, including the necessary oversight arrangements, shall be developed in accordance with the advisory procedure referred to in Article 5(2) of the framework Regulation and adopted in accordance with the regulatory procedure referred to in Article 5(3) of the framework Regulation, with a view to optimising available capacity in the use of airspace and enhancing air traffic flow management processes. These rules shall be based on transparency and efficiency, ensuring that capacity is provided in a flexible and timely manner, consistent with the recommendations of the ICAO Regional Air Navigation Plan, European Region.~~

~~8. The implementing rules for air traffic flow management shall support operational decisions by air navigation service providers, airport operators and airspace users and shall cover the following areas:~~

~~(a) flight planning;~~

~~(b) use of available airspace capacity during all phases of flight, including slot assignment; and~~

~~(c) use of routings by general air traffic, including:~~

~~the creation of a single publication for route and traffic orientation;~~

~~options for diversion of general air traffic from congested areas; and~~

~~priority rules regarding access to airspace for general air traffic, particularly during periods of congestion and crisis.~~

~~9. When developing and adopting the implementing rules the Commission shall, as appropriate and without prejudice to safety, take into account consistency between flight plans and airport slots and the necessary coordination with adjacent regions.~~

Article 18

Relations between service providers

1. Air navigation service providers may avail themselves of the services of other service providers that have been certified **or declared** in the Union.
2. Air navigation service providers shall formalise their working relationships 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 concerned.

- 2a. Air navigation service providers may also establish industrial partnerships through contractual arrangements, in particular relating to the provision of support services, for the purpose of improving the performance of the EATMN. Industrial partnerships may involve the Network Manager, airspace users, aerodrome operators or other economic actors as appropriate.
3. In cases involving the provision of air traffic services, the approval of the Member States concerned shall be required. ~~In cases involving the provision of meteorological services, the approval of the Member States concerned shall be required if they have designated a provider on an exclusive basis in accordance with Article 9(1).~~

Article 19

Relations with stakeholders

The air navigation service providers shall establish consultation mechanisms to consult the relevant groups of airspace users and aerodrome operators on all major issues related to services provided, or relevant changes to airspace configurations. In particular, the airspace users shall also be consulted in the process of ~~drafting~~ **preparing** strategic investment plans, **including at the beginning of each reference period referred to in Article 11(5).** ~~The Commission may develop guidance material concerning the way in which airspace users and aerodrome operators are consulted.~~¹³

¹³ Commission opposes the deletion of the implementing act proposed for this Article.