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REPORT

From: General Secretariat of the Council
To: Permanent Representatives Committee (Part 1)

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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
Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2018/1139 as regards the capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky
– Preparation for the trilogue

I. INTRODUCTION

1. On 22 September 2020, the Commission submitted to the European Parliament and to the Council the amended¹ proposal for a Regulation of the European Parliament and of the Council on the implementation of the Single European Sky, as well as the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1139 as regards the capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky.

¹ The Commission had adopted an initial recast proposal for the implementation of the Single European Sky in 2013. On 12 March 2014, the EP adopted its first reading position. The Council reached a general approach in December 2014. However, discussions on the file stalled afterwards. In December 2019, the Council invited the Commission to reconsider its legislative proposal.

2. The Single European Sky proposal aims to improve the overall efficiency of the way in which airspace over the EU and its Member States is organised and managed through a reform of the industry providing air navigation services.
3. The main reasons for the Commission to present the revision are to update, in light of experience, and recast the current legislation regarding the Single European Sky. While the objectives and principles of the original proposal adopted by the Commission in 2013² remain the same, the amended proposal specifically focuses on accelerating the adaptation of the air navigation services in light of those principles and objectives.
4. One important element of the amended proposal is a requirement to establish a Performance Review Body (PRB) as a permanent entity. The proposal suggests to have the PRB administratively hosted by the European Union Aviation Safety Agency while ensuring its independence. The arrangements necessary for these purpose require that several amendments be made to Regulation (EU) 2018/1139, with a view to ensuring that the PRB functions are carried out with the necessary independence and expertise and with the required resources.
5. The European Parliament, during its 7th parliamentary term, designated the Committee on Transport and Tourism (TRAN) as the responsible committee on the proposal on the Single European Sky and appointed Mr Marian-Jean Marinescu (EPP, RO) as the Rapporteur. The European Parliament adopted its first reading position on the initial proposal on the Single European Sky on 13 March 2014. Following the amended proposal submitted by the Commission, Mr Marinescu was confirmed as rapporteur for the file again during the 9th parliamentary term. The TRAN Committee adopted on 17 June 2021 its mandate for the negotiations with the Council.
6. Mr Bogusław Liberadzki (SD, PL) has been appointed as the rapporteur for the proposal amending the EASA Basic Regulation during the European Parliament's 9th term. The European Parliament is discussing the proposal amending the EASA Basic Regulation in TRAN and has granted a mandate to negotiate through the plenary on 7 July 2021.

² Doc. 11501/2013

7. The European Economic and Social Committee adopted its opinion on both files on 2 December 2020, while the European Committee of the Regions decided not to issue an opinion.
8. The Spanish Parliament, the Maltese Parliament and the Senate of the Republic of Italy have adopted opinions on the application of the principles of subsidiarity and proportionality on the amended proposal of the Single European Sky.
9. The Senate of the Republic of Italy and the Spanish Parliament have tabled an opinion on the application of the principle of subsidiarity on the proposal amending the EASA Basic Regulation.

II. WORK WITHIN THE COUNCIL

10. The Working Party on Aviation started to discuss the proposals in October 2020, under the German Presidency, and then worked on compromise texts under the Portuguese Presidency.
11. The Council (TTE, Transport) held an early policy debate on 8 December 2020, under the German Presidency.³
12. The Council (TTE, Transport) on 3 June 2021 reached a general approach under the Portuguese Presidency.⁴

III. NEGOTIATIONS WITH THE EUROPEAN PARLIAMENT

13. The first trilogue, organised under the Slovenian Presidency on 13 July 2021, served to compare positions and identify main issues of divergence. It also organised the work for future negotiations and mandated the technical level to open discussions on possible solutions on Articles 3, 4, 5 and 6, as well as Chapters IV, V and VI. Considering the opposed positions on the proposal to amend the EASA Basic Regulation, the technical level was mandated to start considering options to bridge the gap between the two Institutions' positions.

³ Doc. 12611/20

⁴ Doc. 9490/21 + COR1-5 and 9616/21

14. The second trilogue, organised under the Slovenian Presidency on 22 November 2021, focused on Chapter IV and allowed to provisionally agree on a number of issues. They are marked in green in the 4-column table set out in annex to this report.
15. Discussions continued during the Czech Presidency with six technical meetings which took place on 13 July, 7 September, 26 September, 13 October, 25 October and 15 November 2022. The Aviation Working Party was regularly consulted and informed of the outcomes of the discussions, notably during the meetings of 14 July, 1 September, 9 September, 29 September, 6 October, 14 October, 24 October, 27 October, 10 November, 17 November and 24 November 2022.
16. The technical meetings addressed the remaining open lines of Chapter IV and general principles on the role and organisational structure of the Performance Review Body (PRB).
17. Following Member States' reactions to the Parliament's amendments at the Working Party and the technical discussions held with the Parliament, the third trilogue will focus on the political issues which have not yet been agreed upon and on which progress can be achieved.
18. As regards Chapter IV, a significant progress has been made. The European Parliament tentatively accepted the Council's approach in respect to several key issues:
- on the **list of tasks of the Network Manager**, the European Parliament considered that the tasks of the Network Manager should not be defined in the basic act in an exhaustive way but rather in an implementing act, as it is currently the case in the legislation in force.⁵ On the other side, a majority of delegations consider important to have a clear delineation of competences between the operational stakeholders and the Network Manager as regards the implementation of the network functions. Moreover, in accordance with the *Meroni* case law, the tasks delegated to a third entity must be clearly defined and delineated. The European Parliament tentatively agreed to follow the approach of the Council and this is confirmed in the compromise text in line 399 which sets out a clear list of tasks of the Network Manager;

⁵ Article 7 of Commission Implementing Regulation (EU) 2019/123 of 24 January 2019 laying down detailed rules for the implementation of air traffic management (ATM) network functions, OJ L 28, 31.1.2019, p. 1.

- as regards the initial position of the European Parliament on the empowerment to add network functions by delegated acts, this requirement has been withdrawn;
- in respect to the **powers of the Network Manager**, the European Parliament considered that the Network Manager should have the power to adopt measures binding for operational stakeholders, such as the Network Operation Plan (NOP). Having in mind the comments by delegations and in order to avoid a wording that would imply a 'binding nature' of the NOP, the Presidency explored the possibility to revert back to the text agreed by Coreper as part of the mandate for the second trilogue on this file: *"in accordance with network operational performance requirements and local reference values as set out in the NOP"*. This neutral wording is entirely factual and reflects the current content of the NOP⁶. The European Parliament could agree to this wording throughout the text (lines 386, 399 and 413);
- the wording used for the objectives of the network functions was clarified; the text was also revised in order to underline Member States' sovereignty over their airspace, by including a clear link with Article 1 and by adding references to the defence needs / interests of Member States in various parts of the chapter;
- the possibility to renew the appointment of EUROCONTROL as Network Manager in the future was acknowledged;
- details regarding the cooperative decision-making process were included in the text, underlining the involvement of Member States in decisions of strategic importance;
- on the issue of the involvement of stakeholders in decisions relating to strategic investments, the European Parliament agreed to withdraw its request to define the modalities of such consultations in implementing acts (line 428a);
- the European Parliament also agreed there is no need for a detailed "pricing methodology" for access to data to be defined by implementing acts, and that these implementing acts should only define "general principles and common pricing rules".

⁶ see Regulation 2019/123, Article 9, paragraph (4), letter (a)

19. In respect to the definition of network functions and the tasks of the Network Manager, the Presidency is of the opinion that the various compromise proposals included in lines 381 to 393 and 399 confirm the key principles of the general approach, and more specifically that the network functions will be executed by Member States and all relevant operational stakeholders, and that the Network Manager has a role to contribute. Moreover, the proposed text for Article 27 (4) clarifies the fact that the Network Manager "contributes to the execution of network functions through tasks related to" the actions listed below in that paragraph.
20. The notion of optimizing flight trajectories to reduce the impact on climate is closely linked to the overall objective of emission reductions at EU level; for this reason, the Presidency suggested, in discussions with the European Parliament, to keep both environmental and climate objectives in the text: "*environmentally- and climate-optimised flight trajectories and profiles*"; This approach was already endorsed by Coreper as part of the mandate for the second trilogue on this file (see ST 13063/21 - line 413, as well as lines 378, 410, 415). Detailed elements on the way to implement this provision in practice should be developed at a later stage, in particular when designing the performance indicators. The Presidency proposes a recital to confirm this approach in line 378.
21. Under line 415b, the European Parliament considers it is important to include a provision about the necessity to coordinate at national level between civil and military operational stakeholders in the context of the activity of the Network Management Board (NMB), in order to avoid that differences in opinion between civil and military operational stakeholders of the same Member State are sometimes transferred at European level. The Presidency is of the opinion that such a coordination is in any case useful to ensure efficiency at Union level. Therefore, the Presidency suggests to accept this request of the European Parliament, which proposes only a general coordination.
22. As regards the notification to the Commission of the arrangements between civil and military authorities for the management of airspace (line 430), the Presidency considers that Member States should inform the Commission of only the existence of such agreements, and not of their content. This would allow the Commission to have a better picture of the regulatory framework at national level.

23. With regard to EASA/PRB, a majority of delegations oppose the approach proposed by the European Parliament, of setting up a 'regulatory' Performance Review Body, empowered to take decisions (i.e. regarding the performance plans).
24. The Presidency therefore proposes to continue negotiations on the basis of a Performance Review Body with an advisory role albeit with its own legal personality, hosted for administrative purposes by the EASA, but completely independent in its decision-making processes. The PRB would be composed of full-time members selected by the Commission from a pool of experts with relevant qualifications and experience, which would allow for an increasing professionalization of this body. The regulation would also include a review clause, to allow for the advisory/regulatory role of the PRB to be reconsidered after the first reference period, following an assessment of its overall functioning.
25. If agreed by the European Parliament, these key principles would serve as a basis for further technical discussions on this file.

IV. MAIN OPEN ISSUES

26. The main points on which an agreement with the European Parliament has not yet been reached are in lines 411 and 413. The Presidency proposes new compromise texts, marked in **yellow** in the table in Annex.

27. Under line 411, the European Parliament considers that it is necessary to have an appropriate mechanism of cooperation between the Network Manager, the entity which approves the performance plans (irrespective of who would be that entity at the end of the negotiations on Chapter III) and relevant ANSPs, with the objective to anticipate and prevent that the performance targets would not be met; the EP insists on a proactive involvement of both the Network Manager and the entity which approves the performance plans, as opposed to the General Approach, which provides for the possibility of the Network Manager to intervene and make proposals only after it realises that the ANSPs commitments will not be sufficient to meet the targets. The text is understood in a sense that the NOP should help to fulfil the performance targets, not that the performance targets unconditionally included. There is in the existing legislation both a bottom-up approach and a top-down approach in the work regarding capacity management (see in particular in Regulation 2019/123, Article 9(4)(a) which would reflect the top down approach, and Article 9(6) for the bottom-up/reactive provisions). However, in order to take into account concerns expressed by Member States, the Presidency is proposing a compromise proposal:

"The Network Manager shall cooperate closely with the *[XX – the entity which approves the performance plans, depending on the outcome of the negotiations on the PRB]* for the setting of realistic performance targets referred to in Article 10(2)(a), and their adequate reflection in the overall capacity planning, as well as 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."

28. The remaining open point in line 413 concerns the reference to 'remedial measures'. The European Parliament considers that the Network Manager should have a clear role in the process of defining 'remedial measures' which are part of the operational measures. They would then have to be implemented by the operational stakeholders. The current legal framework gives a role to the Network Manager to propose remedial measures through cooperative decision-making process, which operational stakeholders shall implement, or inform of the reasons for not implementing them. The Presidency is of the opinion that using the word “determine” also corresponds to identifying the measures necessary to remedy the situation (by cooperative decision-making), and would help to find a compromise with the European Parliament. In order to reflect the link with the implementation of such measures by the operational stakeholders, the Presidency suggests a compromise language as follows:

"a) determine, through cooperative decision making, operational actions, including remedial ones, for operational stakeholders to implement with a view to contributing to the achievement of the Union-wide performance targets and binding local performance targets with due consideration for regional and local circumstances, and to implementing the network operational performance requirements and local reference values as set out in the NOP and advise on climate- optimized flight trajectories."

V. CONCLUSION

29. The Permanent Representatives Committee is invited to:
- examine the open political issues summarised under part IV above, indicate flexibility/preference concerning the suggested compromise texts presented;
 - agree to the mandate for the forthcoming third trilogue, as set out in the Annex (the four column table) to this note.
30. The third trilogue is scheduled for 7 December 2022 (Council premises).

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
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.	<p>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.</p>	<p>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 environment and shall be based on operational requirements.</p>	<p>1. The air traffic management network functions shall contribute to the sustainable and efficient use of the airspace and of scarce resources. They shall also ensure that airspace users can operate environmentally [...] optimised trajectories and profiles, while allowing [...] fair and reasonable access to airspace and air navigation services and minimizing congestion. Those network functions, enumerated in paragraph 2[...], shall support seamless access to air navigation services by airspace users as well as the achievement of the [...]performance targets while</p>	<p>378 Presidency proposal:</p> <p>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- [...] and climate-optimised flight trajectories and profiles, while allowing [...] fair and reasonable access to airspace and air navigation services and minimizing congestion. Those network functions, enumerated in paragraphs 2 [...], shall support seamless access to air navigation services by airspace users as well as the achievement</p>

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
			<p>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.</p>	<p>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.</p> <p>+ Recital: Various elements should be taken into account when optimising flight trajectories, including both climate and environmental aspects. Details on how to balance those various elements should be developed in particular when designing performance indicators.</p>
379.			<p>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</p>	<p>379 Presidency proposal <i>(Agreeable to the EP):</i></p> <p><i>Deletion suggested</i> <i>See compromise text proposed in line 423</i></p>

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
			<p>the complete and exclusive competence for the design and management of their airspace structures and of their route network. In this regard, Member States shall take into account environmental aspects, air traffic demands, seasonality and complexity of air traffic and of performance plans. Before deciding on those aspects, they shall consult airspace users concerned or groups representing such airspace users and military authorities as appropriate.</p>	
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:	<p>380 Presidency proposal <i>(Agreeable to the EP):</i></p> <p>2. The network functions referred to in paragraph 1 [...] are the following:</p>
381.	(a) the design and management of the	(a) the design and management of the	(a) [...] design [...] of [...] an airspace structure	<p>381 Presidency proposal</p>

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
	European airspace structures;	European airspace structures taking in account, among other targets, those regarding climate and the environment;	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;	<i>(Agreeable to the EP):</i> (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 to fulfilling EU-wide performance targets, with due regard to security and defence needs and without prejudice to the responsibilities of Member 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;	382 Provisional agreement: (b) [...] ATFM;

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
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.	383 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:		[...]	384 Provisional agreement: [...]
385.	(a) optimisation of airspace design for the network and facilitation of delegation of air traffic services provision through co-operation with the air traffic service providers and Member State authorities;	(a) optimisation of airspace design and airspace structures for the network and facilitation of delegation of air traffic services provision through co-operation with the air traffic service providers and Member State authorities;	[...]	385 Presidency proposal <i>(Agreeable to the EP):</i> (d) [...] facilitation of delegation of air traffic services provision through co-operation with the air traffic service providers and Member State authorities;

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
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;	386 Presidency proposal: (e) [...] delivery of air traffic control capacity in the network [...] in accordance with network operational performance requirements and local reference values, such as ATFM delay, as set out in the [...] NOP;
387.	(c) function for coordination and support in case of network crisis;		(e) management of network crisis.	387 Provisional agreement: (f) management of network crisis;
388.			(f) ATFM delay attribution;	388 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;	[...]	389 Provisional agreement: [...]
390.	(e) the management of the planning, monitoring and coordination of implementation activities of the deployment of infrastructure in the European		(g) [...] planning and implementation activities of the deployment of infrastructure in the European ATM network, in accordance with the European	390 Provisional agreement: (h) the management of the planning, monitoring and coordination of implementation

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
	ATM network, in accordance with the European ATM Master Plan, taking into account operational needs and associated operational procedures;		ATM Master Plan .	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.		[...]	391 Presidency proposal <i>(Agreeable to the EP):</i> (i) the monitoring of the functioning of the European ATM network infrastructure.
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).	392 Presidency proposal <i>(Agreeable to the EP):</i> 3. Member States and all relevant operational stakeholders shall execute network functions with the contribution of the Network Manager.

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
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.	393 Presidency proposal <i>(Agreeable to the EP):</i> 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 paragraph 2 shall be of purely operational or technical nature and shall take into account 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	5. The Commission shall be empowered to adopt delegated acts in accordance with Article 36 to amend this Regulation in	[...]	394 Presidency proposal <i>(Agreeable to the EP):</i>

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
	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.	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.		[...]
394a				394a Presidency proposal <i>(Agreeable to the EP):</i> In order to ensure the uniform implementation of and compliance with the provisions referred to in this Article, the Commission shall, with a view to achieving the objectives set out in Article 1, adopt implementing acts, in accordance with the examination procedure

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
				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 shall supervise the proper execution of its tasks by the Network Manager.	396 Presidency proposal <i>(Agreeable to the EP):</i> 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 referred to in paragraph 4. The Commission shall supervise the proper execution of the

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
				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.	<p>397 Presidency proposal <i>(Agreeable to the EP):</i></p> <p>2. The Commission [...] shall appoint an independent, impartial and competent body to carry out the tasks of the Network Manager.</p> <p>+ <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.</p>
397.a	To this end, the Commission shall adopt an implementing act in accordance with the examination procedure		To this end, the Commission shall adopt an implementing act in accordance with the examination procedure	<p>397a Provisional agreement: 2a. To this end, the Commission shall adopt an implementing</p>

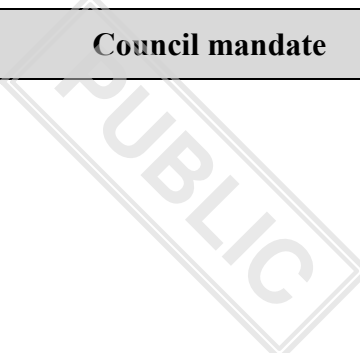
	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
	referred to in Article 37(3).		referred to in Article 37(3),	act in accordance with the examination procedure referred to in Article 37(3).
397aa.	This appointment Decision shall include the terms and conditions of the appointment, 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,	397aa 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,	397ab Provisional agreement: [...]

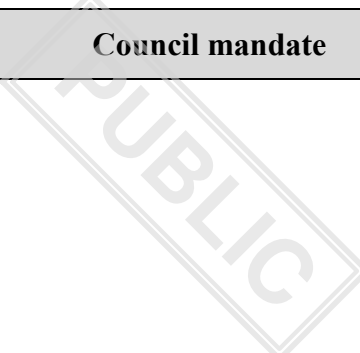
	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
			and, where appropriate, by appropriate agreements to be concluded between the Commission and the Network Manager, such as service level agreements.	
397b.		To that end, the Commission shall adopt [...] implementing acts laying down the following: [...]		<p>397b Presidency proposal <i>(Agreeable to the EP):</i></p> <p>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:</p>
397c.		<p>(a) the requirements and procedure for appointing the Network Manager;</p> <p>(b) requirements that the Network Manager be free from conflicts of</p>		<p>397c Presidency proposal <i>(Agreeable to the EP):</i></p> <p>a) Appointment requirements and procedure;</p>

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		<p>interests and act independently;</p> <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>b) independence requirements;</p> <p>+ Recital 32c <i>(32c): In case the Network Manager resides in another 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>397d Provisional agreement: Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).</p>

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
398.	<p>3. The tasks of the Network Manager shall be executed in an independent, impartial and cost efficient manner . They shall be subject to appropriate governance, which shall recognise separate accountabilities for service provision and regulation where the competent body designated as the Network Manager also has regulatory functions. In the execution of its tasks, the Network Manager shall take into consideration the needs of the whole ATM network and shall fully involve the airspace users, air navigation service providers, aerodrome operators and the military.</p>	<p>3. The Network Manager shall execute its tasks in an independent, impartial and cost efficient manner. In the 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</p>	<p>3. The[...] Network Manager shall execute its tasks in an [...] impartial and cost efficient manner [...] and shall be subject to appropriate governance and independence. [...] If the competent body [...] appointed as the Network Manager has also regulatory functions, organisational separation with such functions shall be ensured. In the execution of its tasks, the Network Manager shall take into consideration the needs of the whole ATM network [...] while safeguarding defence capabilities.</p>	<p>398 Presidency proposal <i>(Agreeable to the EP):</i></p> <p>3. The [...] Network Manager shall execute its tasks in an [...] impartial and cost efficient manner [...] and shall be subject to appropriate governance and independence. [...] If the competent body [...] appointed as the Network Manager has also regulatory functions, organisational separation with such functions shall be ensured. In the execution of its tasks, the Network Manager shall take into consideration the needs of the whole ATM network [...] and the need to safeguard defence capabilities and it shall fully involve [...] the operational stakeholders.</p>

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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 functions referred to in Article 26(2):	<p>399</p> <p>Presidency proposal:</p> <p>4. The Network Manager shall, within the limits of Article 26(4), contribute to the execution of the network functions through tasks related to:</p> <p>(a) establishment of the Network Operations Plan and the preparation of the Network Strategy Plan;</p> <p>(b) support to the design, management and optimisation of the airspace structures;</p> <p>(c) facilitation of delegation of air traffic services provision;</p> <p>(d) coordination and support in the delivery of air traffic control capacity in the network in accordance with network operational performance requirements and local reference values as set out in</p>

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
				<p>the NOP;</p> <p>(e) coordination and support in the management of network crises,</p> <p>(f) coordination of scarce resources;</p> <p>(g) coordination of ATFM;</p> <p>(h) ATFM delay attribution;</p> <p>(i) management of the planning, monitoring and coordination of implementation activities of the deployment of infrastructure in the European ATM network;</p> <p>(j) monitoring of the functioning of the ATM infrastructure;</p> <p>(k) coordination with ICAO and ICAO regions in relation with the execution of the network functions;</p> <p>(l) establishment of the Network Manager's work programme and budget,</p> <p>(m) provision of data on flight plans in relation to Regulation</p>

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				<p>(EC) No 2111/2005 or with other safety and 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 6a.</p> <p>+ <i>Recital to be added to complement the letter (i):</i> For the period 2022-2027, the European Commission and the SESAR Deployment and Infrastructure Partnership (SDIP) signed a long-term Framework Partnership Agreement, in order for the SDIP to carry out tasks related to the timely and synchronised implementation of common projects (Commission</p>

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
				<p>Implementing Regulation (EU) 2021/116) and monitoring by coordinating and supporting the stakeholders concerned.</p> <p>The SDIP is a consortium comprising 20 major European airspace users, air navigation service Providers and airport operators, and EUROCONTROL, as Network Manager.</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>400</p> <p><i>See new suggested compromise text in line 399 - point (b)</i></p>

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
401.			(b) coordination of ATFM ;	401 <i>See new suggested compromise text in line 399 - point (g)</i>
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;	402 <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;	403 <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;	404 <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;	405 <i>See new suggested compromise text in line 399 - point (d)</i>
406.			(f) coordination and support in the management of network crisis;	406 <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	407 <i>See new suggested compromise text in line 399 - point (h)</i>

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
			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;	408 <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.	409 <i>See new suggested compromise text in line 399 - point (j)</i>
410.	through support measures aimed at safe and efficient planning and operations of the	through support measures aimed at safe and efficient planning and operations of the stakeholders	4a. The Network Manager shall	410 Presidency proposal <i>(Agreeable to the EP):</i>

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
	<p>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.</p>	<p>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.</p>	<p>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.</p>	<p>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 designated air traffic service</p>

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				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 .	411 Presidency suggested compromise text: The Network Manager shall cooperate closely with the [XX – the entity which approves the performance plans, depending on the outcome of the negotiations on the PRB] for the setting of realistic performance targets referred to in Article 10(2)(a), and their adequate reflection in the overall capacity planning, as well as 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.
412.	6. The Network Manager shall:		6. The Network Manager shall,	412 Provisional agreement: 6. The Network Manager shall:
413.	(a) decide on individual measures to implement the network functions and	(a)decide on individual measures to implement the network functions and to	[...]	413 Presidency suggested compromise text:

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
	to support the effective implementation of the binding Network Operations Plan and the achievement of the binding performance targets;	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.		(a) determine, through cooperative decision making, operational actions, including remedial ones, for operational stakeholders to implement with a view to contributing to the achievement of the Union-wide performance targets and binding local performance targets with due consideration for regional and local circumstances, and to implementing the 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		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	414 Presidency proposal <i>(Agreeable to the EP):</i> (b) in coordination with relevant parties, advise the Commission [and provide

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
	European ATM Master Plan, in particular to identify investments necessary for the network.		investments necessary for the network.	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.				<p>414a Presidency proposal <i>(Agreeable to the EP):</i></p> <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</p>

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
				be adopted in accordance with the examination procedure referred to in Article 37(3).
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 with a view to improving the functioning and performance of the network. The cooperative decision-making process shall promote the interest of the network.		7. [...] All measures taken by the Network Manager in the execution of its tasks shall be taken through a cooperative decision-making process. Parties to the cooperative decision-making process shall act to the maximum extent possible with a view to improving the functioning and performance of the network, [...] in particular as regards the achievement of the Union wide targets in the key performance area of environment, taking into account essential security interests and regional and local circumstances.	415 Presidency proposal <i>(Agreeable to the EP):</i> 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 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.				415a Provisional agreement:

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				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>
415b				415b Presidency proposal <i>(Agreeable to the EP):</i> Member States shall ensure adequate coordination at national level with the civil and military operational stakeholders.
416.			7a. The cooperative decision-making process referred to in paragraph 7 shall be based on: a) the appropriate and regular consultation of operational stakeholders, airport slot coordinators, Member States and, where relevant, the Agency and the Commission;	416 Presidency proposal <i>(Agreeable to the EP):</i> 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

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				<p>processes for operations and on resolution mechanisms involving the Network Management Board where necessary.</p> <p>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 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.</p>	<p>417</p> <p>Provisional agreement: [...]</p>
418.			<p>The consultation referred to in point a) and the detailed working arrangements referred to in point b) shall</p>	<p>418</p> <p>Provisional agreement: [...]</p>

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			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.	
419.			When measures related to the execution of the Network Manager's tasks are disputed by one or several operational stakeholder(s), the issue shall be referred for resolution to the Network Management Board.	419 Provisional agreement: [...]

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419a.				<p>419a Provisional agreement:</p> <p>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:</p> <p>(a) consultation process of operational stakeholders, airport slot coordinators, Member States and, where relevant, the Agency and the Commission;</p> <p>(b) working arrangements and processes for operations;</p> <p>(c) involvement of Member States' authorities when required;</p>

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				<p>(d) resolution mechanisms involving the Network Management Board where necessary;</p> <p>(e) any other measure necessary with regard to the decision-making processes.</p>
419b.				<p>419b</p> <p>Provisional agreement:</p> <p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).</p>
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</p>	<p>420</p> <p>Presidency proposal <i>(Agreeable to the EP):</i></p> <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</p>

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

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			representatives of the Network Manager and of representatives of Eurocontrol.	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.	421 <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 establish detailed rules		8. By way of implementing acts adopted in accordance with the examination procedure referred to in Article 37(3), the Commission shall establish detailed rules for the implementation of Article 26 and this Article, in particular for	422 Presidency proposal <i>(Agreeable to the EP):</i> 8. In order to ensure the uniform implementation of and compliance with the provisions referred to in Paragraph 7b, the Commission shall, with a view to achieving the objectives set out in Article 1, adopt implementing acts, in accordance with the examination procedure referred to in Article 37(3), laying down detailed rules regarding the Network Management Board in particular for:

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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,	422a Presidency proposal <i>(Agreeable to the EP):</i> [...] <i>See line 394a.</i>
422b.			including on crisis management;	422b Presidency proposal <i>(Agreeable to the EP):</i> [...] <i>See line 394a.</i>
422c.			on the appointment of the Network Manager, the terms and conditions of such appointment	422c Provisional agreement: [...] <i>See line 397c.</i>
422d.			and on the detailed [...] tasks of the Network Manager [...] in relation to the network functions;	422d Presidency proposal <i>(Agreeable to the EP):</i> [...] <i>See line 399.</i>

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422e.			on the composition, the functioning, the decision-making and the detailed tasks of the Network Management Board including in relation with crisis management;	422e Presidency proposal <i>(Agreeable to the EP):</i> (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;	422f 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	422g Provisional agreement: [...]
422h.			and on the network governance mechanisms.	422h 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.	[...]	423 Presidency proposal: Member States shall remain responsible for the detailed development, approval and establishment of the national routes and 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	424
425.	1. The Network Manager shall draw up, submit to and		1. The financial accounts of the Network Manager shall [...]be	425 Provisional agreement:

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	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.		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.	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.	426 Presidency proposal <i>(Agreeable to the EP):</i> 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	427
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. [...]	428 Presidency proposal <i>(Agreeable to the EP):</i> 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

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				aspects requiring synchronisation between air 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).	[...]	428a Presidency proposal <i>(Agreeable to the EP):</i> [...]

	Commission proposal	EP mandate	Council mandate	COREPER meeting - 30 Nov
429.	Article 30 - Relations with military authorities		Article 30 - Relations with military authorities	429
430.	Member States shall, within the context of the common transport policy, ensure that written agreements between the competent civil and military authorities or equivalent legal arrangements are established or renewed in respect of the management of specific airspace blocks and notify the Commission thereof.		Member States shall, within the context of the common transport policy, ensure that written agreements between the competent civil and military authorities or equivalent legal arrangements are established or renewed in respect of the management of specific airspace blocks [...].	430 Presidency proposal <i>(Agreeable to the EP):</i> 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 [...] inform the Commission [...] accordingly .
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	431
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	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	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	432 Provisional agreement: With regard to general air traffic, relevant operational data shall be made available in an interoperable format in real-

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	<p>or defence policy interests, by all air navigation service providers, airspace users, airports, and the Network Manager, including on cross-border basis and on a Union-wide basis. Such availability shall be to the benefit of certified or declared air traffic service providers, entities having a proven interest in considering the provision of air navigation services, airspace users and airports as well as the Network Manager. The data shall be used only for operational purposes.</p>	<p>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 users and airports as well as the Network Manager. The data shall be used only for operational purposes</p>	<p>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 operational purposes.</p>	<p>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 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.</p>

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433.	2. Prices for the service referred to in paragraph 1 shall be based on the marginal cost of making the data available.		[...]	<p>433 Presidency proposal <i>(Agreeable to the EP):</i></p> <p>2. Prices for the service referred to in paragraph 1 shall be based on general principles and common pricing rules to be established in the implementing act referred to in paragraph 4.</p>
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 including those regarding oversight of 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.	<p>434 Provisional agreement:</p> <p>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.</p>

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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 the examination procedure referred to in Article 37(3).	4. The Commission may adopt implementing acts laying down the detailed requirements for the making available of and the access to data in accordance with paragraphs 1 and 3 and the methodology to set the prices as referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).	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.	Presidency proposal <i>(Agreeable to the EP):</i> 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 and common pricing rules for setting 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 navigation services. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).