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

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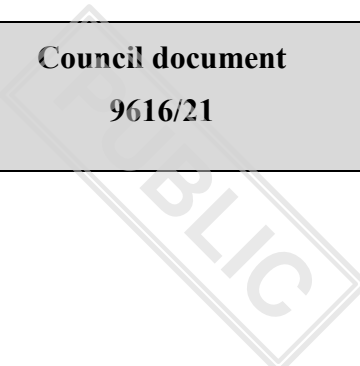
Subject: Amended proposal for a Regulation on the implementation of the Single European Sky
Proposal for a Regulation amending Regulation (EU) 2018/1139 as regards the capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky
– Preparation for the trilogue - Four Column - Chapter II – Articles 3 to 5 and Chapter III – Articles 6 to 9 of the *SES2+ Regulation* and related provisions in the *Proposal for a regulation amending Regulation (EU) 2018/1139*

In view of the COREPER 1 meeting on 15 December 2023, in annex are the four-column documents on Chapter II – Articles 3 to 5 and Chapter III – Articles 6 to 9 of the *SES2+ Regulation* and on the related provisions in the *Proposal for a regulation amending Regulation (EU) 2018/1139*.

SES2+ Recast - Chapter II - Art. 3 to 5

	Commission proposal COM(2020) 579 final	EP amendments (updated first reading) PE662.138v01-00	Council document 9616/21	COREPER meeting – 15 December
69.	<u>CHAPTER II</u> - NATIONAL SUPERVISORY AUTHORITIES Article 3 - Nomination, establishment and requirements regarding national supervisory authorities	<u>CHAPTER II</u> - NATIONAL SUPERVISORY AUTHORITIES Article 3 - Nomination, establishment and requirements regarding national supervisory authorities	<u>CHAPTER II</u> - NATIONAL SUPERVISORY AUTHORITIES Article 3 - Nomination, establishment and requirements regarding national supervisory authorities	<u>CHAPTER II</u> - NATIONAL SUPERVISORY AUTHORITIES Article 3 - Nomination, establishment and requirements regarding national supervisory authorities
70.	1. Member States shall, jointly or individually, either nominate or establish a body or bodies as their national supervisory authority in order to assume the tasks assigned to such authority by this Regulation.	1. Member States shall, jointly or individually, either nominate or establish a body [...] as their national supervisory authority in order to assume the tasks assigned to such authority by this Regulation.	1. Member States shall, jointly or individually, either nominate or establish a body or bodies as their national supervisory authority in order to assume the tasks assigned to such authority by this Regulation.	70 <i>(Tentatively agreed):</i> 1. Member States shall, jointly or individually, either nominate or establish a body or bodies as their national supervisory authority in order to assume the tasks assigned to such authority by this Regulation.

	Commission proposal COM(2020) 579 final	EP amendments (updated first reading) PE662.138v01-00	Council document 9616/21	COREPER meeting – 15 December
71.	2. The national supervisory authorities shall exercise their powers impartially, independently and transparently.	2. The national supervisory authorities shall exercise their powers impartially, independently and transparently applying appropriate management and control mechanisms and shall be organised, staffed, managed and financed accordingly.	2. The national supervisory authority shall exercise [...] its powers impartially, independently and transparently and shall be organised, staffed, managed and financed accordingly.	71 <i>(Tentatively agreed):</i> 2. The national supervisory authority shall exercise its powers impartially, independently and transparently and shall be organised, staffed, managed and financed accordingly.
72.	3. Without prejudice to paragraph 1, the national supervisory authorities shall be legally distinct and independent from any other public or private entity in terms of their organisation, functioning, legal structure and decision-making.	3. Without prejudice to paragraph 1, the national supervisory authorities shall be legally distinct and independent from any other public or private entity in terms of their organisation, functioning, budgeting, financing, legal structure and decision-making.	[...]	72 <i>(Tentatively agreed):</i> 3. Without prejudice to paragraph 1, the national supervisory authorities shall be independent from any air navigation service providers, in organisational, hierarchical and decision-making terms, and shall be either legally or functionally distinct from the air navigation service providers. In addition, the air navigation service providers shall have no decision-making power over the allocation of the budget of the national

	Commission proposal COM(2020) 579 final	EP amendments (updated first reading) PE662.138v01-00	Council document 9616/21	COREPER meeting – 15 December
				<p>supervisory authority. Provided that such independence is guaranteed, that authority may be part of the same national ministry or administration as the air navigation service providers.</p> <p>3a. In the case where the national supervisory authorities are not legally distinct from the air navigation service providers, the Member States concerned shall inform the Commission on the measures they have taken to ensure that they meet the requirements of independence of paragraph 3 and shall document how this separation is achieved, showing the effectiveness of the authorities' independence. To this end, where the national supervisory authority and the air navigation service provider are part of the same administration, the national supervisory authority shall not seek</p>

	Commission proposal COM(2020) 579 final	EP amendments (updated first reading) PE662.138v01-00	Council document 9616/21	COREPER meeting – 15 December
				nor take instructions from a hierarchical level of that administration having authority over the air navigation service providers, as far as their tasks referred to in Article 4 and related decisions are concerned.
73.	The national supervisory authorities shall also be independent in terms of their organisation, funding decisions, legal structure and decision-making from any air navigation service provider.	The national supervisory authorities shall also be independent in terms of their organisation, functioning, budgeting, financing, legal structure and decision-making from any air navigation service provider or any other entity falling within the scope of their supervision.	The national supervisory authority shall [...] be independent [...] from any air navigation service providers, in organisational, hierarchical and decision-making terms, in particular by avoiding conflicts of interest with those service providers. That independence shall not prevent that authority and those service providers from being part of the same civil service, public entity or administration.	73 <i>(Tentatively agreed):</i> [...]

	Commission proposal COM(2020) 579 final	EP amendments (updated first reading) PE662.138v01-00	Council document 9616/21	COREPER meeting – 15 December
74.	<p>4. Member States may set up national supervisory authorities which are competent for several regulated sectors, if those integrated regulatory authorities fulfil the independence requirements set out in this Article. The national supervisory authority may also be joined in respect of its organisational structure with the national competition authority referred to in Article 11 of Council Regulation (EC) No 1/2003²¹, if the joint body fulfils the independence requirements set out in this Article.</p> <p>_____</p> <p>21 Council Regulation (EC) No 1/2003 of 16 December</p>	<p>4. [...] The national supervisory authority may share its organisational structure with another regulatory authority or with the national competition authority referred to in Article 11 of Council Regulation (EC) No 1/2003, if the joint body fulfils the independence requirements set out in this Article.</p>	<p>4. Member States may set up [...] authorities which are competent either for several regulated sectors [...] or for several areas of regulation within the transport sector provided that those integrated regulatory authorities fulfil the independence requirements set out in this Article. The national supervisory authority may be joined in respect of its organisational structure with other public authorities, in particular the national competition authority referred to in Article 11 of Council Regulation (EC) No 1/2003²¹, the national competent authority, or, if applicable, with a national transport authority, provided that the joint body hereby set up fulfils the independence requirements set out in this Article.</p>	<p>74</p> <p>Compromise text proposed by PCY:</p> <p>4. The national supervisory authority may be joined with another regulatory authority, such as the national competent authorities referred to in Article 3 of Regulation (EU) 2018/1139 or the national competition authority referred to in Article 11 of Council Regulation (EC) No 1/2003, provided that those authorities are functionally separated, ensuring in particular that the decisions related to the tasks conferred upon the NSA under this Regulation are taken independently from other tasks conferred to the joint body. In that case, the joint body shall fulfil the independence requirements set out in this Article.</p> <p>The national supervisory authority</p>

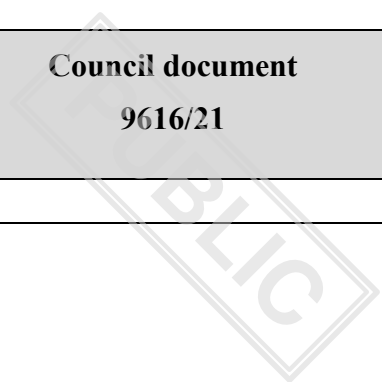
	Commission proposal COM(2020) 579 final	EP amendments (updated first reading) PE662.138v01-00	Council document 9616/21	COREPER meeting – 15 December
	<p>2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).</p>		<p>²¹ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).</p>	<p>shall be legally represented for matters related to the tasks set out in Article 4 of this regulation.</p> <p>Text tentatively agreeable for the EP:</p> <p>4. The national supervisory authority may be joined with another regulatory authority in respect of its organisational structure, such as the national competent authorities referred to in Article 3 of Regulation (EU) 2018/1139 or the national competition authority referred to in Article 11 of Council Regulation (EC) No 1/2003. In that case, the joint body shall fulfil the independence requirements set out in this Article, in particular, it shall be ensured that the decisions related to the tasks conferred upon the NSA under this Regulation are taken independently from other</p>

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				<p>tasks conferred to the joint body.</p> <p>The national supervisory authority shall be legally represented for matters related to the tasks set out in Article 4 of this regulation by a person different than the person representing the national competent authority.</p>
75.	5. Staff of the national supervisory authorities shall comply with the following requirements:	5. Staff of the national supervisory authorities shall comply with the following requirements:	[...]	<p>75 <i>(Tentatively agreed):</i></p> <p>5. Without prejudice to national legislations regarding the recruitment of public servants, Member States shall ensure that staff of the NSA, including temporary staff, are recruited through clear and transparent recruitment processes, which ensures their independence and shall ensure that the staff of national supervisory is selected on the basis of their specific qualifications, including appropriate competence and</p>

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				relevant experience or is subject to appropriate training, for the effective performance of the tasks set out in Article 4.
76.	(a) they shall be recruited under clear and transparent processes which ensure their independence;	(a) they shall be recruited under clear and transparent processes and criteria which ensure their independence;	[...]	76 <i>(Tentatively agreed):</i> [...]
77.	(b) they shall be selected on the basis of their specific qualifications, including appropriate competence and relevant experience or they shall be subject to appropriate training.	(b) they shall be selected on the basis of their specific qualifications, including appropriate competence and relevant experience or they shall be subject to appropriate training.	[...]	77 <i>(Tentatively agreed):</i> [...]
78.		(ba) they shall not be seconded from air navigation service providers or companies under the control of an air navigation service provider.		78 <i>(Tentatively agreed):</i> [...]

	Commission proposal COM(2020) 579 final	EP amendments (updated first reading) PE662.138v01-00	Council document 9616/21	COREPER meeting – 15 December
79.	Staff of national supervisory authorities shall act independently, in particular by avoiding conflicts of interest between air navigation service provision and the execution of their tasks.	Staff of national supervisory authorities shall act independently, and not seek or take instructions from any government or other public or private entity when carrying out its functions.	[...]	<p>79 <i>(Tentatively agreed):</i></p> <p>Member States shall lay down rules to avoid conflict of interest, for staff, including persons who take decisions exercising the powers defined in Chapter III of this regulation so that the national supervisory authorities can carry out the tasks set out in Article 4 independently.</p> <p><i>+ Recital: The rules regarding conflict of interest for staff and persons who take decisions exercising the powers defined in Chapter III of this regulation should include also possible conflict of interest during their active duty period for the NSA and in connection with a new position in a supervised entity for the period after ending the activity in the NSA.</i></p>

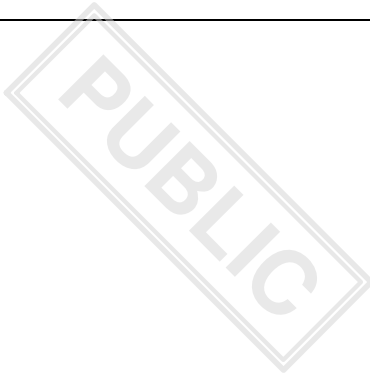
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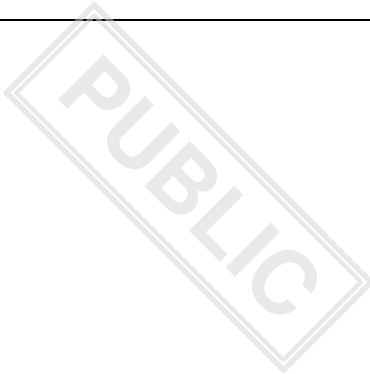


80.	6. In addition to the requirements set out in paragraph 5, persons in charge of strategic decisions shall be appointed by an entity of the Member State concerned which does not directly exert ownership rights over air navigation service providers.	6. In addition to the requirements set out in paragraph 5, persons in charge of strategic decisions shall be appointed in accordance with a clear and transparent procedure by an entity of the Member State concerned which does not directly exert ownership rights over air navigation service providers. Persons appointed shall not have held a professional position in, or had responsibility in connection with any air navigation service provider during the previous year.	[...]	80 <i>(Tentatively agreed):</i> [...]
81.	Member States shall decide whether these persons are appointed for a fixed and renewable term, or on a permanent basis which only allows dismissal for reasons not related to their decision-making.	Member States shall decide whether [...] persons in charge of strategic decisions are appointed for a fixed and renewable term, or on a permanent basis which only allows dismissal for reasons not related to their	[...]	81 <i>(Tentatively agreed):</i> [...]

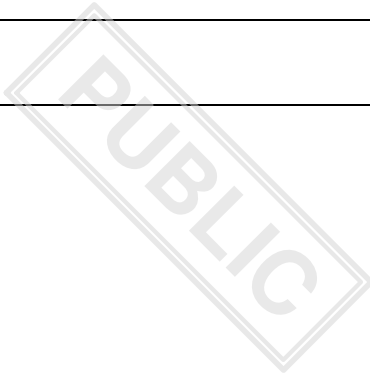
		decision-making.		
82.	Persons in charge of strategic decisions shall not seek or take instructions from any government or other public or private entity when carrying out their functions for the national supervisory authority and shall have full authority over the recruitment and management of its staff.		[...]	82 <i>(Tentatively agreed):</i> [...]
83.	They shall refrain from any direct or indirect interest that may be considered prejudicial to their independence and which may influence the performance of their functions. To that effect, they shall make an annual declaration of commitment and declaration of interests indicating any direct or indirect interests.	They shall refrain from any direct or indirect interest that may be considered prejudicial to their independence and which may influence the performance of their functions. To that effect, they shall make [...] <i>a</i> declaration of commitment and declaration of interests indicating any direct or indirect interests.	[...]	83 <i>(Tentatively agreed):</i> [...]
84.	Persons in charge of strategic decisions, audits or other functions directly linked to performance targets or	Where a person has been in charge of the strategic decisions, audits or other functions directly linked to	[...]	84 <i>(Tentatively agreed):</i> [...]

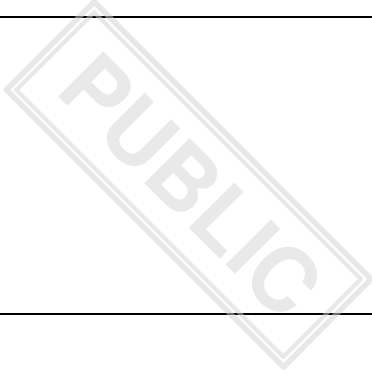


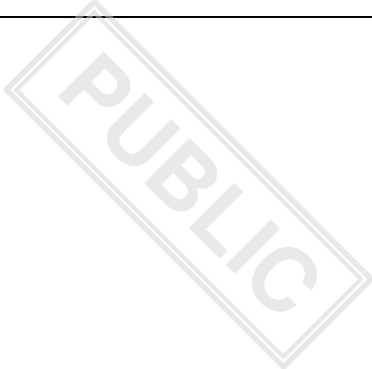
	oversight of air navigation service providers, shall not hold any professional position or responsibility with any air navigation service provider after their term in the national supervisory authority, for at least a period of two years.	performance targets or oversight of an air navigation service provider for a term of six months or more, they shall not hold any professional position in , or have responsibility in connection with, any air navigation service provider until a minimum period after their term in that national supervisory authority has elapsed. That minimum period shall be: (i) at least 12 months, for staff in managerial positions; (ii) at least 6 months for staff, for staff in non-managerial positions.		
85.	7. Member States shall ensure that national supervisory authorities have the necessary financial resources and capabilities to carry out the tasks assigned to them under this Regulation in an	7. Member States shall ensure that national supervisory authorities have the necessary public financial resources and capabilities to carry out the tasks assigned to them under this Regulation	[...]	85 <i>(Tentatively agreed):</i> 7. Without prejudice to Article 20(3), Member States shall ensure that national supervisory authorities have the necessary financial resources and capabilities

	<p>efficient and timely manner. The national supervisory authorities shall manage their staff based on their own appropriations, to be set in proportion to the tasks to be fulfilled by the authority in accordance with Article 4.</p>	<p>in an efficient and timely manner. The national supervisory authorities shall manage their staff based on their own appropriations, in accordance with relevant national law and procedures, to be set in depending on the tasks to be fulfilled by the authority in accordance with Article 4.</p>		<p>to carry out the tasks set out in Article 4 in an efficient and timely manner.</p>
86.	<p>8. A Member State may request the Agency acting as Performance Review Body (PRB), to carry out the tasks related to the implementation of the performance and charging schemes laid down in Articles 14, 17, 19, 20, 21, 22 and 25, and in the implementing acts referred to in Articles 18 and 23 and for which the national supervisory authority of that Member State is responsible under this Regulation and the delegated and implementing acts adopted on the basis</p>	<p>8. A Member State may request the Agency acting as Performance Review Body (PRB), to carry out the tasks related to the implementation of the performance and charging schemes laid down in Articles 14, 17, 19, 20, 21, 22 and 25, and in the implementing acts referred to in Articles 18 and delegated acts referred to in Article 23 and for which the national supervisory authority of that Member State is responsible under this Regulation and the delegated and implementing</p>	[...]	<p>86</p> <p>PCY proposes to delete lines 86 to 90 (see also the proposal dedicated to PRB):</p> <p>[...]</p>

	thereof.	acts adopted on the basis thereof.		
87.	Once the Agency acting as PRB accepts such a request, it shall become the supervisory authority responsible for the tasks covered by that request and the national supervisory authority of the requesting Member State shall be relieved of the responsibility for those tasks. The rules contained in Regulation (EU) 2018/1139 and pertaining to the Agency acting as PRB shall apply to the performance of these tasks, including as regards the levying of fees and charges.	Once the Agency acting as PRB accepts such a request, it shall become the supervisory authority responsible for the tasks covered by that request and the national supervisory authority of the requesting Member State shall be relieved of the responsibility for those tasks. The rules contained in Regulation (EU) 2018/1139 and pertaining to the Agency acting as PRB shall apply to the performance of these tasks, including as regards the levying of fees and charges.	[...]	87 PCY proposes to delete lines 86 to 90 (see also the proposal dedicated to PRB): [...]
88.		A Member State which has reallocated the responsibility for the tasks to the Agency acting as PRB pursuant to paragraph 1 and 2, may, at any time, decide to revoke the reallocation, if:		88 PCY proposes to delete lines 86 to 90 (see also the proposal dedicated to PRB): [...]



89.		(i) the Member State concerned demonstrates that it has the necessary resources and can effectively exercise the responsibility for the tasks concerned;		89 PCY proposes to delete lines 86 to 90 (see also the proposal dedicated to PRB): [...]
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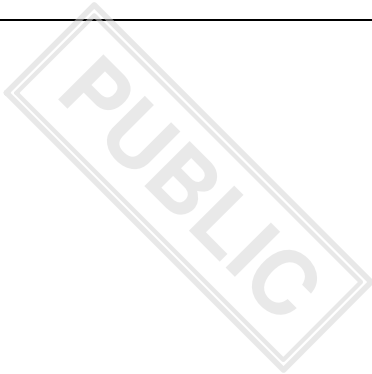
90.		(ii) the Member State agrees with the Agency's acting as PRB detailed arrangements concerning the reallocation of responsibility for the tasks in question, including the date of that reallocation.		90 PCY proposes to delete lines 86 to 90 (see also the proposal dedicated to PRB): [...]
91.	9. Member States shall notify the Commission of the names and addresses of the national supervisory authorities, as well as changes thereto, and of the measures taken to ensure compliance with this Article.		9. Member States shall notify the Commission of the names and addresses of the national supervisory authorities, as well as changes thereto, and of the measures taken to ensure compliance with this Article.	91 <i>(Tentatively agreed, no change compared to COM proposal):</i> 9. Member States shall notify the Commission of the names and addresses of the national supervisory authorities, as well as changes thereto, and of the measures taken to ensure compliance with this Article.
92.	10. The Commission shall establish detailed rules laying down the modalities of recruitment and selection procedures referred to in paragraph 5, points (a) and (b). Those implementing acts shall be adopted in	10. The Commission shall establish detailed rules laying down the modalities of recruitment criteria and selection procedures referred to in paragraph 5, points (a), (b) and (ba) . Those implementing acts	[...]	92 <i>(Tentatively agreed):</i> [...]

	accordance with the examination procedure referred to in Article 37(3).	shall specify:		
93.		(a) the level of separation required by the appointing entity from any company, organisation, public or private entity or staff falling within the scope of national supervisory authorities or having an interest in the activities of such entities, with a view to maintaining a balance between avoiding conflicts of interest and administrative efficiency;		93 <i>(Tentatively agreed):</i> [...]

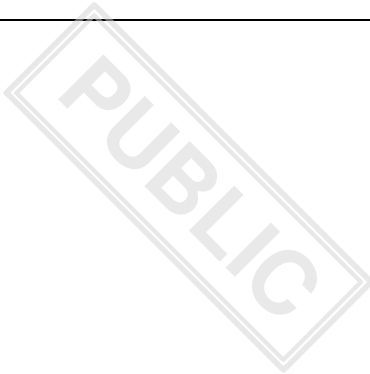
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94.		b) relevant technical qualifications of staff involved in audits.		94 <i>(Tentatively agreed):</i> [...]
94a.		Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).		94a <i>(Tentatively agreed):</i> [...]
95.	Article 4 - Tasks of the national supervisory authorities	Article 4 - Tasks of the national supervisory authorities	Article 4 - Tasks of the national supervisory authorities	
96.	1. The national supervisory authorities referred to in Article 3 shall:		1. The national supervisory authority [...] shall carry out the tasks assigned to it under this Regulation and the implementing acts adopted on the basis thereof, in particular the following tasks:	96 <i>(Tentatively agreed):</i> 1. The national supervisory authority shall carry out the tasks assigned to it under this Regulation and the delegated and ¹ implementing acts adopted on the basis thereof, in particular the following tasks:
97.	(a)conduct the activities necessary for the issuance of the economic certificates referred to in Article 6, including the oversight of the holders of			97 Compromise text proposed by the PCY (previously tentatively agreed): (a) assess and monitor the

¹ This is a reference to the delegated act mentioned in Article 47 of EASA BR which empowers the Commission to amend essential requirements for certification listed in its Annex VIII, which will include economic requirements under point 7.

	those economic certificates;			fulfillment of economic requirements referred to in point 7 of Annex VIII to Regulation (EU) No 2018/1139, and in the delegated acts ² and the implementing acts adopted on the basis thereof for issuance, amendment, limitation, suspension or revocation of the certificate by the national competent authority pursuant to Article 41 of Regulation (EU) 2018/1139 ;
97aa				97aa PCY proposes to add the following recital: <i>New Recital: Economic requirements, such as the financial robustness and sufficient insurance cover, have a strong link to the safety and security requirements for the service provision, apart from the performance aspects, and to the</i>

² This is a reference to the delegated act mentioned in Article 47 of EASA BR which empowers the Commission to amend essential requirements for certification listed in its Annex VIII, which will include economic requirements under point 7.



				<i>operational/technical oversight to be carried out by the national competent authority. In respect of certification, oversight, and enforcement activities relating to the essential requirements listed in point 7 of Annex VIII to Regulation 2018/1139, Member States should arrange their administrative processes in accordance with their national set-up resulting from Article 3(4) to ensure efficient execution of the tasks of both national competent and supervisory authorities.</i>
97a.			(a) [...] verify the compliance with, and the fulfilment of national security and defence requirements by the service providers referred to in Article 7(1a)b) and Article 8(4)d);	97a PCY proposes to include an addition to provide more flexibility for MS to organize the supervision of those requirements (previously tentatively agreed to maintain General Approach text): (b) verify the compliance with, and the fulfilment of national security and defence requirements by the service providers referred to in

				Article 7(1a)b) and Article 8(4)d), unless this task is assigned to another authority by the Member State;
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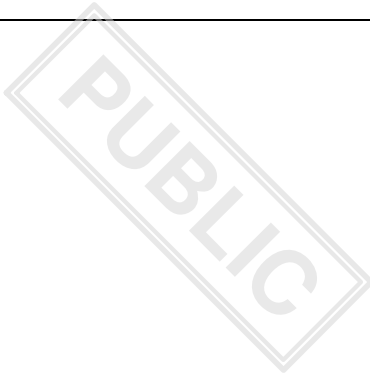
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98.	(b)oversee the correct application of procurement requirements in accordance with Article 8(6);		[...]	<p>98 <i>(Tentatively agreed):</i></p> <p>(ba) Without prejudice to the role of the public procurement authorities under Directive 2014/25/EU and Directive 2014/24/EU in the procurement procedures referred to in Article 8, contribute when relevant and as appropriate to the oversight of the correct application of procurement requirements in accordance with Article 8;</p>
98a.			(c) assess and approve the price setting for the provision of the CIS, in accordance with Article 9; (moved from Article 4(2))	<p>98a <i>(Tentatively agreed):</i></p> <p>(c) assess and approve the price setting for the provision of the CIS, in accordance with Article 9;</p>
99.	(c)apply the performance and charging schemes set out in in Articles 10 to 17 and 19 to 22 and the implementing acts referred to in Articles 18 and 23, within the limits of their tasks defined in those articles and acts,	(c)[...] implement the performance and charging schemes set out in in Articles 10 to 17 and 19 to 22, including the delegated acts referred to in Article 23 adopted to supplement those articles, and the implementing acts referred	(d) preparation of the draft performance plan, including the setting of criteria for allocation of costs and the setting of performance targets, the monitoring of performance and the charging schemes as set out, and within the limits of, in Articles 10 to 13b, 17 and 19	<p>99 <i>(Tentatively agreed):</i></p> <p>(d) implement and monitor the performance and charging schemes in accordance with and within the limits of their tasks under Articles 10 to 17 and 19 to 22 and with the implementing acts adopted on the basis of articles 18 and 23.</p>

		to in Articles 18 [...] , within the limits of their tasks defined in those articles and acts,	to 22 and the implementing acts referred to in Articles 18 and 23;	
100.	and oversee the application of the Regulation regarding the transparency of accounts of designated air traffic service providers in accordance with Article 25.	and oversee the application of the Regulation regarding the transparency of accounts of [...] air navigation service providers in accordance with Article 25.	(e) oversee the application of the Regulation regarding the transparency of accounts in accordance with Article 25 , audit or verify and approve the financial data referred to in Article 25(4).	100 <i>(Tentatively agreed):</i> (e) oversee the application of the Regulation regarding the transparency of accounts of air navigation service providers in accordance with Article 25.
101.	2. The national supervisory authorities shall be responsible for assessing and approving the price setting for the provision of the common information service, in accordance with Article 9.		[...] <i>(moved to Article 4(1)(c))</i>	101 <i>(Tentatively agreed, moved to Article 4(1)):</i> [...]
102.	3. Each national supervisory authority shall conduct the necessary inspections , audits and other monitoring activities to identify possible infringements by entities subject to their oversight under this Regulation of the requirements set out in this Regulation and the delegated		3. Each national supervisory authority shall, in cooperation with the national competent authority where it is a different entity , conduct the necessary [...] monitoring activities, including, as appropriate, inspections and audits , to identify possible [...] non-compliance by entities subject to their oversight under	102 <i>(Tentatively agreed):</i> 3. Each national supervisory authority shall, in cooperation with the national competent authority where appropriate, conduct the necessary monitoring activities, including, as appropriate, inspections and audits, to identify possible [...]

	and implementing acts adopted on the basis thereof.		this Regulation of the requirements set out in this Regulation and [...] the implementing acts adopted on the basis thereof.	non-compliance by entities subject to their oversight under this Regulation of the requirements set out in this Regulation and the [delegated and] ³ implementing acts adopted on the basis thereof.
103.	It shall take all necessary enforcement measures which may, where appropriate, include the amendment, limitation, suspension or revocation of economic certificates issued by them in accordance with Article 6.	It shall take all necessary enforcement measures which may, where appropriate, include the amendment, limitation, suspension or revocation of economic certificates issued by them in accordance with Article 6 and fines or periodic penalties imposed in accordance with Article 42a.	[...] In case of non-compliance, national supervisory authorities shall decide on and enforce corrective measures.	103 Compromise text proposed by PCY: In case of non-compliance, it shall enforce the necessary corrective measures. Where this concerns the essential requirements listed in point 7 of Annex VIII to Regulation (EU) No 2018/1139, the NSA shall provide an assessment to the competent authority referred to in Article 62 of Regulation (EU) No 2018/1139. This assessment shall, where appropriate, include the recommendation for amendment, limitation, suspension or revocation of the certificate

³ This is a reference to the delegated act mentioned in Article 47 of EASA BR which empowers the Commission to amend essential requirements for certification listed in its Annex VIII, which will include economic requirements under point 7.



				<p>pursuant to Article 41 of Regulation (EU) 2018/1139.</p> <p>Compromise text proposed by the EP:</p> <p>In case of non-compliance, it shall take necessary enforcement measures. Where this concerns the essential requirements listed in point 7 of Annex VIII to Regulation (EU) No 2018/1139, these measures shall include, where appropriate, the amendment, limitation, suspension or revocation of the certificate pursuant to Article 41 of Regulation (EU) 2018/1139. In this case, NCA shall implement these measures in accordance with Article 41 of Regulation (EU) 2018/1139.</p>
104.	The air navigation service providers, airport operators and the common information service providers concerned shall comply with the measures taken by the national supervisory		The air navigation service providers, airport operators and the [...] CIS providers concerned shall comply with [...] any enforcement measures taken by the national supervisory authorities [...] in that context.	<p>104 <i>(Tentatively agreed):</i></p> <p>The air navigation service providers, airport operators and the CIS providers concerned shall comply with any enforcement measures taken by the national</p>

	authorities to this effect.			supervisory authorities in that context.
104 a.			In case of cross-border services, the Member State concerned, or its national supervisory authority, may request the Member State where the service provider is established or has its principal place of business, or the national supervisory authority of that Member State, to provide him with support to overcome any enforcement difficulties. Both Member States, or their national supervisory authorities, shall endeavour to cooperate to that end.	104a <i>(Tentatively agreed):</i> [...]
105.		3 a. Member States shall ensure that the decisions taken by the national supervisory authority pursuant to this Article are subject to judicial review.		105 Compromise text proposed by the PCY (previously tentatively agreed): 3 a. Member States shall ensure that the decisions taken by the national supervisory authority pursuant to this Article are subject to the right to appeal, in accordance with national legislation.

106.	Article 5 - Co-operation between national supervisory authorities	Article 5 - Co-operation between national supervisory authorities	Article 5 - Co-operation between national supervisory authorities	Article 5 - Co-operation between national supervisory authorities
107.	1. The national supervisory authorities shall exchange information and work together in a network in the context of the Advisory Board for Performance Review referred to in Article 114a of Regulation (EU) 2018/1139.		1. The national supervisory authorities shall exchange information [...] as appropriate, in particular information relating to their work and decision-making process, best practices and procedures, as well as to the application of this Regulation. To this end, the national supervisory authorities may participate and work together in a network that convenes at regular intervals.	107 <i>(Tentatively agreed):</i> 1. The national supervisory authorities shall exchange information relevant for the other national supervisory authorities, in particular information relating to their work and decision-making process, best practices and procedures, as well as to the application of this Regulation. To this end, the national supervisory authorities may participate and work together in a network.
108.	2. The national supervisory authorities shall cooperate, where appropriate through working arrangements, for the purposes of mutual assistance in their monitoring and supervisory tasks and handling of investigations and surveys.		2. The national supervisory authorities shall cooperate, in particular in the case of the provision of cross-border services and of provision of air navigation services in an airspace falling under the responsibility of another Member State , through working	108 Compromise text proposed by the PCY (previously tentatively agreed): 2. The national supervisory authorities shall cooperate, where appropriate, through working arrangements, for the purposes of mutual assistance

			arrangements, for the purposes of mutual assistance in their monitoring and supervisory tasks and handling of investigations and surveys.	in their tasks laid down in Article 4 and handling of investigations and surveys. Last EP text proposal: 2. The national supervisory authorities shall cooperate, where appropriate, through working arrangements, for the purposes of mutual assistance in their monitoring and supervisory tasks and handling of investigations and surveys.
109.	3. National supervisory authorities shall facilitate the provision of cross-border services by air navigation service providers for the purpose of improving network performance.	3. National supervisory authorities shall facilitate the provision of cross-border services by air navigation service providers for the purpose of improving network performance.	[...]	109 <i>(Tentatively agreed, merged with line 109a):</i> [...]
109 a.	In the case of provision of air navigation services in an airspace falling under the responsibility of two or more Member States, the Member States concerned shall conclude an agreement on the supervision to be carried out by them under this	In the case of provision of air navigation services in an airspace falling under the responsibility of two or more Member States, the Member States concerned shall conclude an agreement on the supervision to be carried out by them under this Regulation, of the air	3. In the case of provision of air navigation services in an airspace falling under the responsibility of two or more Member States, in particular with respect to functional airspace blocks , the Member States concerned shall conclude, if appropriate , an agreement on the supervision to	109a <i>(Tentatively agreed):</i> 3. In the case of cross-border provision of air navigation services in airspaces falling under the responsibility of two or more Member States, the Member States concerned shall ensure that the necessary agreements in respect of

	<p>Regulation, of the air navigation service providers concerned . The national supervisory authorities concerned may establish a plan specifying the implementation of their co-operation with a view to giving effect to that agreement.</p>	<p>navigation service providers concerned . The national supervisory authorities concerned shall establish a plan specifying the implementation of their co-operation with a view to giving effect to that agreement.</p>	<p>be carried out by them or their authorities under this Regulation, of the air navigation service providers concerned [...].</p>	<p>the supervision of those services are concluded. The national supervisory authorities concerned shall facilitate the provision of those cross-border services by air navigation service providers and may establish appropriate working arrangements or oversight plans specifying the implementation of their co-operation.</p>
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110.	4. In the case of provision of air navigation services in an airspace falling under the responsibility of another Member State, the agreements referred to in paragraph 3 shall provide for the mutual recognition of the discharge, by each of the authorities, of the supervisory tasks set out in this Regulation and of the results of the discharge of these tasks. They shall also specify which national supervisory authority shall be in charge of the economic certification set out in Article 6.		4. In the case of provision of air navigation services in an airspace falling under the responsibility of another Member State, the agreements referred to in paragraph 3 shall provide for the mutual recognition of the discharge, by each of the [...] Member States or their authorities, of the [...] tasks set out in this Regulation and of the results of the discharge of these tasks. They shall also specify which national supervisory authority shall be in charge of the [...] tasks set out in Article 4(1).	110 <i>(Tentatively agreed):</i> 4. In the case of cross-border provision of air navigation services in an airspace falling under the responsibility of another Member State, the agreements referred to in paragraph 3 shall provide for the mutual recognition of the discharge, by each of the Member States or their authorities, of the tasks set out in this Regulation and of the results of the discharge of these tasks. They shall also specify which national supervisory authority shall be in charge of the tasks set out in Article 4(1).
111.	5. Where permitted by national law and with a view to regional cooperation, national supervisory authorities may also conclude agreements on the division of responsibilities regarding the supervisory tasks. They shall notify the Commission of	5. Where permitted by national law and with a view to regional cooperation, national supervisory authorities shall also conclude agreements on the division of responsibilities regarding the supervisory tasks.	5. Where permitted by national law and with a view to regional cooperation, national supervisory authorities may also conclude agreements on the division of responsibilities regarding the supervisory tasks. [...]	111 <i>(Tentatively agreed):</i> 5. Where permitted by national law and with a view to regional cooperation, national supervisory authorities may also conclude agreements on the division of responsibilities regarding the supervisory tasks.

	these agreements.			
112.		They shall notify the Commission of these agreements.	5a. Agreements referred to in this Article shall be notified to the Commission.	112 <i>(Tentatively agreed):</i> 5a. Agreements referred to in this Article shall be notified by the Member States concerned to the Commission.
113.		Article 5a (new)- Agency acting as Performance Review Body	Article 9b - Performance review body	To be discussed, under the assumption of a purely advisory PRB.
114.		1. A Performance Review Body (PRB) shall be established with the competence to implement various tasks notably in respect of the performance and charging schemes. A permanent structure shall be established with the European Union Aviation Safety Agency (EASA) in a manner that separates, functionally and hierarchically, the discharge of the PRB's tasks regarding the performance and charging schemes of the Single	1. In accordance with the examination procedure referred to in Article 37(3), the Commission may, by means of an implementing act, designate an independent and impartial Performance Review Body (PRB). The PRB shall have no regulatory function or other decision-making power. The role of the PRB shall be limited to providing advice and assistance to the Commission and the national supervisory authorities on request in particular as regard the collection, examination,	To be discussed, under the assumption of a purely advisory PRB.

		<p>European Sky, from the Agency’s activity as a safety authority.</p>	<p>validation and dissemination of relevant data as well as the implementation of the performance scheme set out in Articles 10 to 18 and of the charging scheme set out in Articles 19 to 23. The Commission and the national supervisory authorities shall remain responsible for the implementation of their tasks and obligations under this Regulation. The Commission shall supervise the proper execution of the PRB tasks.</p>	
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115.		<p>2. To carry out its tasks, the Agency acting as PRB shall have the required expertise. It shall be independent from public or private interests and shall be provided with its own dedicated resources. Its integration within the existing structure of the Agency shall be governed by the [Regulation (EU) 2018/1139 as amended by Regulation PRB].</p>	<p>2. In case the Commission decides to designate a PRB pursuant to paragraph 1, it shall, in accordance with the examination procedure referred to in Article 37(3), adopt detailed rules regarding in particular the period of designation of the PRB, the composition of the PRB, the selection and appointment procedure as well as term of office of the PRB members, including, where relevant, of the PRB chair, the allowances, expenses and remuneration of the PRB members, the tasks of the PRB in accordance and within the limits of this Regulation as well as the specific financing modalities of the PRB activities.</p>	<p>To be discussed, under the assumption of a purely advisory PRB.</p>
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116.		Article 5aa - PRB See Articles 5b-5z of EP Resolution on the proposal to amend EASA BR regulation		To be discussed, under the assumption of a purely advisory PRB.
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SES2+ Recast - Chapter III - Art. 6 to 9

	Commission proposal COM(2020) 579 final	EP amendments (updated first reading) PE662.138v01-00	Council document 9616/21	COREPER meeting – 15 December
116a.	CHAPTER III - SERVICE PROVISION	CHAPTER III - SERVICE PROVISION	CHAPTER III - SERVICE PROVISION	
117.	Article 6 - Economic certification and requirements for air navigation service providers	Article 6 - Economic certification and requirements for air navigation service providers	Article 6 - Provision of services by air navigation service providers	117 <i>(Tentatively agreed):</i> Article 6 - Provision of services by air navigation service providers
118.	1. Air navigation service providers shall, in addition to the certificates they are required to hold pursuant to Article 41 of Regulation (EU) No 2018/1139, hold an economic certificate. This economic certificate shall be issued upon application, when	1. Air navigation service providers shall, in addition to the certificates they are required to hold pursuant to Article 41 of Regulation (EU) No 2018/1139, hold an economic certificate. This economic certificate shall be issued upon application, when	[...]	118 <i>(Tentatively agreed):</i> [...]

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	the applicant has demonstrated sufficient financial robustness and has obtained appropriate liability and insurance cover.	the applicant has demonstrated [...] financial robustness and has obtained appropriate liability and insurance cover. The applicants shall also demonstrate that they have policies and processes in place to ensure compliance with Union competition law.		
119.	The economic certificate referred to in this paragraph may be limited, suspended or revoked when the holder no longer complies with the requirements for issuing and maintaining such certificate.	The economic certificate referred to in this paragraph may be amended , limited, suspended or revoked when the holder no longer complies with the requirements for issuing and maintaining such certificate. The NSA shall develop a contingency plan in collaboration with the Network Manager and the Agency acting as PRB in the event of such limitation, suspension or revocation of the economic certificate, in order to ensure business	[...]	119 <i>(Tentatively agreed):</i> [...]

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		continuation.		
120.	2. An entity that holds an economic certificate referred to in paragraph 1 and a certificate referred to in Article 41 of Regulation (EU) No 2018/1139 shall be entitled to provide within the Union air navigation services for airspace users, under non-discriminatory conditions, without prejudice to Article 7(2).		2. Without prejudice to Articles 7, 7a and 8(4) of this Regulation, an entity that [...] complies with the requirements set out in Articles 40 and 41 of Regulation (EU) No 2018/1139 and in the delegated acts and implementing acts adopted on the basis thereof shall be entitled to provide air navigation services for airspace users within the Union, [...] under non-discriminatory conditions [...].	120 <i>(Tentatively agreed):</i> 2. Without prejudice to Articles 7, 7a and 8(4) of this Regulation, an entity that complies with the requirements set out in Articles 40 and 41 of Regulation (EU) No 2018/1139 [and in the delegated acts] ⁴ and implementing acts adopted on the basis thereof shall be entitled to provide within the Union air navigation services for airspace users, under non-discriminatory conditions [...].
121.			2a. In the case a Member States has granted to an air navigation service provider an exemption from the requirement to hold a	121 <i>(Tentatively agreed):</i> [...]

⁴ This is a reference to the delegated act mentioned in Article 47 of EASA BR which empowers the Commission to amend essential requirements for certification listed in its Annex VIII, which will include economic requirements under point 7.

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			certificate pursuant to Article 41(6) of Regulation (EU) 2018/1139, that Member State may, notwithstanding paragraph 2, allow that service provider to provide air navigation services in the part of the airspace under its responsibility for which this exemption was granted and in compliance with the conditions set out in that Article.	
122.	3. The economic certificate referred to in paragraph 1 and the certificate referred to in Article 41 of Regulation (EU) No 2018/1139 may be subject to one or several conditions set out in Annex I. Such conditions shall be objectively justified, non-discriminatory, proportionate and transparent. The Commission shall be	3. The economic certificate referred to in paragraph 1 [...] may be subject to one or several conditions set out in Annex I. Such conditions shall be objectively justified, non-discriminatory, proportionate and transparent. The Commission shall be empowered to adopt delegated acts in accordance with Article	[...]	122 <i>(Tentatively agreed):</i> [...]

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	empowered to adopt delegated acts in accordance with Article 36 in order to amend the list set out in Annex I for the purposes of providing for an economic level playing field and resilience of service provision.	36 in order to amend the list set out in Annex I for the purposes of providing for an economic level playing field and financial resilience of service provision.		
123.	4. The national supervisory authorities of the Member State where the natural or legal person applying for the economic certificate has its principal place of business or, if that person has no principal place of business, where it has its place of residence or place of establishment, shall be responsible for the tasks set out in this Article in respect of the economic certificates. In the case of provision of air navigation services in an airspace falling under the responsibility of two or more	4. The national supervisory authority of the Member State where the natural or legal person applying for the economic certificate has its principal place of business or, if that person has no principal place of business, where it has its place of residence or place of establishment, shall be responsible for the tasks set out in this Article in respect of the economic certificates. In the case of provision of air navigation services in an airspace falling under the responsibility of two or more	[...]	123 <i>(Tentatively agreed):</i> The national supervisory authorities of the Member State where the natural or legal person applying for the certificate has its principal place of business or, if that person has no principal place of business, where it has its place of residence or place of establishment, shall be responsible for the tasks set out in this Article in respect of the essential requirements listed in point 7 of Annex VIII to Regulation (EU) 2018/1139. In the case of provision of air

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	Member States, the national supervisory authorities responsible shall be those specified in accordance with Article 5(4).	Member States, the national supervisory authorities responsible shall be those specified in accordance with Article 5(4).		navigation services in an airspace falling under the responsibility of two or more Member States, the national supervisory authorities responsible shall be those specified in accordance with Article 5(4).
124.	5. For the purpose of paragraph 1, the national supervisory authorities shall:		[...]	124 <i>(Tentatively agreed):</i> 5. Without prejudice to the national set-up resulting from Article 3(4), with a view to establishing whether an entity complies with the requirements set out in Articles 40 and 41 of Regulation (EU) No 2018/1139 [and in the delegated acts] ⁵ and implementing acts adopted on the basis thereof, the national supervisory authorities shall:

⁵ This is a reference to the delegated act mentioned in Article 47 of EASA BR which empowers the Commission to amend essential requirements for certification listed in its Annex VIII, which will include economic requirements under point 7.

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124a	(a) receive and assess the applications made to them, and, where applicable, issue or renew economic certificates;		[...]	<p>124a</p> <p>Compromise text proposed by PCY:</p> <p>(a) assess the compliance of applicants for certification, in accordance with Article 41(2) of Regulation (EU) 2018/1139, with the essential requirements listed in point 7 of Annex VIII of that Regulation and with the [delegated acts and]⁶ implementing acts adopted on the basis thereof and provide its assessment to the competent authority referred to in Article 62 of that Regulation.</p> <p>+ <i>New recital:</i></p> <p><i>Where the national supervisory authority is part of a joint body with the national competent authorities referred to in Article 3</i></p>

⁶ This is a reference to the delegated act mentioned in Article 47 of EASA BR which empowers the Commission to amend essential requirements for certification listed in its Annex VIII, which will include economic requirements under point 7.

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				<p><i>of Regulation (EU) 2018/1139, procedures should be put in place to ensure effective exchange of information between different parts of that structure, in particular, information relating to assessment of compliance with the essential requirements of Annex VIII, point of Regulation (EU) 2018/1139.</i></p> <p>Compromise text proposed by the EP:</p> <p>(a) assess the compliance of applicants for certification, in accordance with Article 41(2) of Regulation (EU) 2018/1139, with the essential requirements listed in point 7 of Annex VIII of that Regulation and with the [delegated acts and] implementing acts adopted on the basis thereof and provide its assessment to the competent authority referred to in Article 62 of that Regulation.</p>

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				<p>NCA shall implement the assessment in accordance with Article 41 of Regulation (EU) 2018/1139.</p> <p>+ <i>New recital:</i> <i>Procedures should be put in place to ensure the exchange of information between NSA and NCA.</i></p>
124b.	(b) perform oversight of holders of economic certificates.		[...]	<p>124b <i>(Tentatively agreed):</i> (b) Pursuant to Article 4(3), perform the oversight of holders of a certificate issued in accordance with Article 41 of Regulation (EU) 2018/1139, with respect to the compliance with the essential requirements listed in point 7 of Annex VIII of that</p>

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				Regulation and with the [delegated acts and] ⁷ implementing acts adopted on the basis thereof, and according to an oversight programme updated annually.
125.	6. The Commission shall adopt, in accordance with the examination procedure referred to in Article 37(3), implementing rules regarding detailed requirements on financial robustness, in particular financial strength and financial resilience, as well as in respect of liability and insurance cover. In order to ensure the uniform implementation of and compliance with paragraphs (1), (4) and (5) of this Article, the Commission shall adopt	6. [...] In order to ensure the uniform implementation of and compliance with paragraphs (1), (4) and (5) of this Article, the Commission shall, with a view to achieving the objectives set out in Article 1 , adopt implementing acts, in accordance with the examination procedure referred to in Article 37(3), laying down detailed provisions concerning:	[...]	125 <i>(Tentatively agreed):</i> [...]

⁷ This is a reference to the delegated act mentioned in Article 47 of EASA BR which empowers the Commission to amend essential requirements for certification listed in its Annex VIII, which will include economic requirements under point 7.

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	implementing acts, in accordance with the examination procedure referred to in Article 37(3), laying down detailed provisions concerning			
126.	the rules and procedures for certification	(a) the rules and procedures for certification issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 6 paragraph 1;	[...]	126 <i>(Tentatively agreed):</i> [...]
127.	and for conducting the investigations, inspections, audits and other monitoring activities necessary to ensure effective oversight by the national supervisory authority of the entities subject to this Regulation.	(b) the rules and procedures for conducting the investigations, inspections, audits and other monitoring activities referred to in Article 4(3) and Article 6(5) necessary to ensure effective oversight and enforcement by the national supervisory	[...]	127 <i>(Tentatively agreed):</i> [...]

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		authority of the entities subject to this Regulation		
128.		(c) the rules and procedures for developing contingency plans in case of limitation, suspension or revocation of the economic certificate, referred to in Article 6(1);	[...]	128 <i>(Tentatively agreed):</i> [...]
129.		6a. Notwithstanding paragraphs 1 and 2, Member States may allow the provision of air navigation services in all or part of the airspace under their responsibility without certification in cases where the provider of such services offers them primarily aircraft movements other than general air traffic. In those cases, the Member State concerned shall inform the Commission and the other Member States of its decision and of the measures	3. Notwithstanding paragraph 2, Member States may allow the provision of air navigation services referred to in Article 2(3)c) of Regulation 2018/1139 in all or part of the airspace under their responsibility by the military without certification and/or application of all or part of this Regulation. In such cases, the Member State concerned shall inform the Commission and the other Member States of its	129 Compromise text proposed by the PCY: 6. Notwithstanding paragraph 2, and in accordance with Article 2(3) of Regulation 2018/1139, Member States may allow the provision of air navigation services referred to in Article 2(3)c) of Regulation 2018/1139 in all or part of the airspace under their responsibility by military without certification, where those providers offer such services primarily to aircraft movements

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		taken to ensure maximum compliance with the common requirements.	decision. The provision of those services shall be in accordance with the conditions laid down in Article 2(5) of Regulation 2018/1139.	<p>other than general air traffic. In such cases, the Member State concerned shall inform the Commission and the other Member States of its decision. The provision of those services shall be in accordance with the conditions laid down in Article 2(5) of Regulation 2018/1139.</p> <p>In addition, the PCY will negotiate this line as a package with the following addition in line 213 of Article 13, reflecting the status quo (see Article 1(5) of Regulation 2019/317): Member States may decide to apply the provisions of Articles 10 to 24 also to providers of air navigation services having the permission to provide air navigation services to general air traffic pursuant to Article 6(6).</p>

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				Last compromise proposal by the EP: 6. Notwithstanding paragraph 2, Member States may allow the provision of air navigation services in all or part of the airspace under their responsibility without certification of air navigation services referred to in Article 2(3)(c) of Regulation 2018/1139 subject to the conditions laid down in Article 2(5) of Regulation 2018/1139.
130.	Article 7 - Designation of air traffic service providers	Article 7 - Designation of air traffic service providers	Article 7 - Designation of air traffic service providers	
131.	1. Member States shall ensure the provision of air traffic services on an exclusive basis within specific airspace blocks in respect of the airspace under their responsibility. For this purpose, Member States shall individually or collectively, designate one or	1. Member States shall ensure the provision of air traffic services on an exclusive basis within specific airspace blocks in respect of the airspace under their responsibility. For this purpose, Member States shall individually or collectively, designate one or	1. Member States shall ensure the provision of air traffic services on an exclusive basis within specific airspace blocks in respect of the airspace under their responsibility. For this purpose, Member States shall individually or collectively, designate one or more air	131 <i>(Tentatively agreed):</i> 1. Member States shall ensure the provision of air traffic services on an exclusive basis within specific airspace blocks in respect of the airspace under their responsibility. For this purpose, Member States shall individually

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	more air traffic service provider(s).	more air traffic service provider(s) on the basis of a competitive tendering procedure in accordance with paragraph 4a of this Article, unless they prove to the Agency acting as PRB that the procurement would result in a loss of cost efficiency or operational efficiency, a reduction in working condition or negative climate and environmental impact.	traffic service provider(s). Member States shall have discretionary powers in designating air traffic service provider(s), on the condition that the air traffic service provider(s) fulfils the requirements laid down in this Article.	or collectively, designate one or more air traffic service provider(s). Member States shall have discretionary powers in designating air traffic service provider(s), on the condition that the air traffic service provider(s) fulfils the requirements laid down in this Article without prejudice to Article 8(1a).
132.	The air traffic service providers shall fulfill the following conditions:		1a. The air traffic service providers shall fulfil the following cumulative conditions:	132 <i>(Tentatively agreed):</i> 1a. The air traffic service providers shall fulfil the following cumulative conditions:

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133.	(a) they shall hold a valid certificate or a valid declaration as referred to in Article 41 of Regulation (EU) 2018/1139 and an economic certificate in accordance with Article 6(1).		(a) they hold a certificate pursuant to Article 41 of Regulation (EU) 2018/1139 or a valid declaration pursuant to Article 41(5) of Regulation (EU) 2018/1139, [...] unless exempted from the certification requirement pursuant to Article 2(3)c) of Regulation (EU) 2018/1139;	133 PCY proposes to maintain GA, with an addition: (a) they hold a certificate pursuant to Article 41 of Regulation (EU) 2018/1139 or a valid declaration pursuant to Article 41(5) of Regulation (EU) 2018/1139, [...] unless exempted from the certification requirement pursuant to Article 2(3)c) of Regulation (EU) 2018/1139 subject to conditions laid down in Article 2(5) of that Regulation; Last compromise text proposed by the EP: (a) they comply with the requirements set out in Articles 40 and 41 of Regulation (EU) 2018/1139 and in the delegated acts and implementing acts adopted on the basis thereof without prejudice to Article 6 paragraph

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				6 of this Regulation.
133a.				133a (Tentatively agreed): [...]
134.	(b) they shall comply with the national security and defence requirements.		(b) they comply with the national security and defence requirements;	134 (Tentatively agreed, no change compared to COM proposal): (b) they comply with the national security and defence requirements;
135.		(ba) they shall fulfil the requirements on service quality in accordance with the Union wide performance targets;		135 (Tentatively agreed): [...]
136.			(c) their principal place of business is located in the territory of a Member State and	136 (Tentatively agreed): (c) their principal place of business is located in the territory of a Member State and
137.			(d) Member States or nationals of Member States own more than 50% of the service	137 (Tentatively agreed): (d) Member States or nationals of Member States own

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			provider and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except where otherwise as provided for in an agreement with a third country to which the Union is a party.	more than 50% of the service provider and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except where otherwise as provided for in an agreement with a third country to which the Union is a party.
138.			By way of derogation from points c) and d), a Member State may designate an air traffic service provider having its principal place of business in a third country and/or not complying with the condition set out in point d) to provide air traffic services in a limited part of the airspace for which that Member State is responsible where that part of the airspace borders an airspace	138 <i>(Tentatively agreed):</i> By way of derogation from points c) and d), a Member State may designate an air traffic service provider having its principal place of business in a third country and/or not complying with the condition set out in point d) to provide air traffic services in a limited part of the airspace for which that Member State is responsible where that part of the airspace borders an airspace

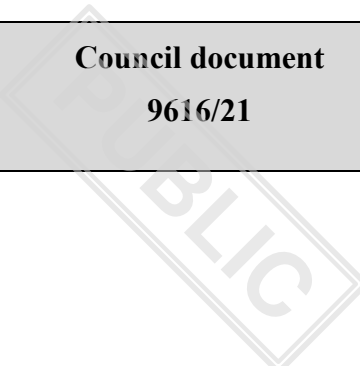
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			under the responsibility of that third country.	under the responsibility of that third country.
139.	Each decision to designate an air traffic service provider shall be valid for a maximum of ten years. Member States may decide to renew the designation of an air traffic service provider.	1a. The duration of an air traffic service contract shall not exceed one reference period. Member States may decide to renew the designation of an air traffic service provider for up to two additional reference periods.	[...]	139 <i>(Tentatively agreed):</i> [...]
140.	2. The designation of the air traffic service providers shall not be subject to any condition requiring those providers to:		2. The designation of the air traffic service providers shall not be subject to any condition requiring those providers to :	140 <i>(Tentatively agreed, no change compared to COM proposal):</i> 2. The designation of the air traffic service providers shall not be subject to any condition requiring those providers to :
141.	(a) be owned directly or through a majority holding by the designating Member State or its nationals;		(a) be owned directly or through a majority holding by the designating Member State or its nationals;	141 <i>(Tentatively agreed, no change compared to COM proposal):</i> (a) be owned directly or through a majority holding by the designating Member State or its nationals;

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142.	(b) have their principal place of operation or registered office in the territory of the designating Member State;		(b) have their principal place of operation or registered office in the territory of the designating Member State;	142 <i>(Tentatively agreed, no change compared to COM proposal):</i> (b) have their principal place of operation or registered office in the territory of the designating Member State;
143.	(c) use only facilities in the designating Member State.		(c) use only facilities in the designating Member State	143 <i>(Tentatively agreed, no change compared to COM proposal):</i> (c) use only facilities in the designating Member State
144.			in case the application of such conditions entails an unjustified restriction of the freedom to provide services or the freedom of establishment.	144 PCY asks for flexibility to either maintain GA or to revert to status quo, limiting the provisions to “cross-border services” in line 140. EP insists to delete this line.
145.	3. Member States shall specify the rights and obligations to be met by the air traffic service providers, designated	3. Member States shall specify in the air traffic service contract the rights and obligations to be met by the air	3. Member States shall specify the rights and obligations to be met by the air traffic service providers, [...] designated in	145 Compromise text proposed by the PCY: 3. Member States shall specify

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	<p>individually or jointly. The obligations shall include conditions for making available relevant data enabling all aircraft movements to be identified in the airspace under their responsibility.</p>	<p>traffic service providers, designated individually or jointly. The obligations shall include conditions for making available relevant data enabling all aircraft movements to be identified in the airspace under their responsibility.</p>	<p>accordance with this Article.</p>	<p>the rights and obligations to be met by the air traffic service providers, [...] designated in accordance with this Article. The obligations may include conditions for the timely supply of relevant information enabling all aircraft movements in the airspace under their responsibility to be identified.</p> <p>3a. Member States shall monitor the compliance of the air traffic service providers with their obligations, with the aim to guarantee the continuity of service provision. In addition, Member States shall assess the rights and obligations periodically or whenever they identify relevant changes in the provision of the services and, if deemed necessary, take appropriate decisions regarding their designation, without prejudice to</p>

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				<p>business continuity.</p> <p><i>+ New Recital: Designation process should take into account the need for business continuity and long-term investment planning by air traffic service providers. Notwithstanding the above, the fast-evolving context of air navigation requires that a periodic review of the right and obligations arising from the designation is performed, to ensure that they remain fully applicable. This review does not prevent Member States to designate the same air traffic service provider if the designation needs to be updated, in accordance with national law. To the extent necessary, the Member States should define rights and obligations of the designated air traffic service providers to complement the</i></p>

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				<p><i>requirements applicable to air traffic service providers as set out in Articles 40 and 41 of Regulation (EU) No 2018/1139 and in the delegated acts and implementing acts adopted on the basis thereof and the requirements laid down in this Regulation, in particular the requirements in Articles 10 to 25 and in the implementing acts adopted on the basis thereof.</i></p> <p>EP last compromise text: 3. Member States shall specify the rights and obligations to be met by the air traffic service providers, [...] designated in accordance with this Article. The obligations shall include conditions for making available, where applicable, relevant data enabling all aircraft movements in the airspace under their responsibility to be identified.</p>

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				<p>3a. Member States shall monitor the compliance of the air traffic service providers with their obligations, with the aim to guarantee the continuity of service provision. In addition, Member States shall assess the rights and obligations whenever they identify relevant changes in the provision of the services, or at least every 10 years, and, if deemed necessary, take appropriate decisions regarding their designation.</p> <p>EP tentatively agreed on the proposed recital, with the exception of ‘in accordance with national law’ and the last part on rights and obligations.</p>

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146.	4. Member States shall inform the Commission and other Member States immediately of any decision within the framework of this Article regarding the designation of air traffic service providers within specific airspace blocks in respect of the airspace under their responsibility.		4. Member States shall inform the Commission and other Member States immediately of any decision within the framework of this Article regarding the designation of air traffic service providers within specific airspace blocks in respect of the airspace under their responsibility.	146 <i>(Tentatively agreed, no change compared to COM proposal):</i> 4. Member States shall inform the Commission and other Member States immediately of any decision within the framework of this Article regarding the designation of air traffic service providers within specific airspace blocks in respect of the airspace under their responsibility.
147.		4a. The Commission shall adopt delegated acts in accordance with Article 36 specifying the tendering procedure to be followed by the Member States when designating air traffic service providers in accordance with Directive 2014/24/EU and Directive 2014/25/EU;		147 <i>(Tentatively agreed):</i> [...]

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148.		Article 7a (new) - Relations between service providers	Article 7b (new) - Relations between air navigation service providers	148 <i>(Tentatively agreed):</i> Article 7b (new) - Relations between air navigation service providers
149.		1. Without prejudice to Article 8, air traffic service providers may avail themselves of the air traffic services of other service providers that have been certified in the Union.	1. Air navigation service providers may avail themselves of the services of other service providers that hold a certificate pursuant to Article 41 of Regulation (EU) 2018/1139 or a valid declaration pursuant to Article 41(5) of Regulation (EU) 2018/1139, unless exempted from the certification requirement pursuant to Article 2(3)c) of Regulation (EU) 2018/1139. Such cooperation shall be made in accordance with Article 8 where applicable.	149 Compromise text proposed by the PCY: 1. Air navigation service providers may avail themselves of the services of other service providers that are certified or that declared their capability according to Article 41 of Regulation (EU) 2018/1139, without prejudice to Article 2(3) of Regulation (EU) 2018/1139. Such cooperation shall be made in accordance with Article 8 where applicable. Compromise text proposed by the EP: 1. Air navigation service providers may avail themselves of

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				<p>the services of other service providers that comply with the requirements set out in Articles 40 and 41 of Regulation (EU) 2018/1139 and in the delegated acts and implementing acts adopted on the basis thereof without prejudice to Article 6 paragraph 6 of this Regulation. Such cooperation shall be made in accordance with Article 8 where applicable.</p>

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150.			For air traffic service providers designated in accordance with Article 7 and MET providers designated in accordance with Article 7a, such cooperation shall be subject to the authorisation of the Member States concerned.	150 <i>(Tentatively agreed):</i> For air traffic service providers designated in accordance with Article 7 and MET providers designated in accordance with Article 7a, such cooperation shall be subject to the authorisation of the Member States concerned.
151.		2. Air traffic service providers shall formalise their working relationships with one another by means of written agreements or equivalent legal arrangements, setting out the specific duties and functions assumed by each provider and allowing for the exchange of operational data between all service providers in so far as general air traffic is concerned. Those arrangements shall be notified to the national supervisory authority or	2. For the purpose of paragraph 1, air navigation service providers shall formalise their working relationships by means of written agreements or equivalent legal arrangements, setting out the specific duties, including financial settlements if applicable, and functions assumed by each provider. Those agreements or arrangements shall be notified to the national supervisory authority or authorities concerned.	151 <i>(Tentatively agreed, with the exception of the mention of the NCA):</i> 2. For the purpose of paragraph 1, air navigation service providers shall formalise their working relationships by means of written agreements or equivalent legal arrangements, setting out the specific duties, including financial settlements if applicable, and functions assumed by each provider. Those agreements or arrangements shall be notified to the national supervisory authority,

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		<p>authorities concerned. Without prejudice to Article 8, the approval of the Member States concerned shall be required.</p>		<p>the national competent authority or authorities concerned.</p>
152.			<p>Article 7a (new) - Designation of MET providers</p> <ol style="list-style-type: none"> 1. Member States may designate, individually or collectively, a MET provider on an exclusive basis in all or part of the airspace under their responsibility, taking into account safety considerations. 2. Member States shall inform the Commission and other Member States without delay of any decision taken on the basis of this Article. 	<p>152 <i>(Tentatively agreed):</i></p> <p>Article 7a (new) - Designation of MET providers</p> <ol style="list-style-type: none"> 1. Member States may designate, individually or collectively, a MET provider on an exclusive basis in all or part of the airspace under their responsibility, taking into account safety considerations. In that case, the cost bases for the MET services shall be assessed by the NSA. 2. Member States shall inform the Commission and other Member States without delay of any decision taken on the basis of this Article.

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153.	Article 8 - Conditions regarding the provision of CNS, AIS, ADS, MET and terminal air traffic services	Article 8 - [...] The provision of CNS, AIS, ADS, MET and terminal air traffic services	Article 8 - Conditions regarding the provision of CNS, AIS, ADS, MET and the provision of air traffic services for approach and aerodrome control	153 The PCY proposes to maintain GA. Last compromise proposal agreed by the EP: Article 8 - Conditions regarding the provision of CNS, AIS, ADS, MET and terminal air traffic services
154.	1. Where this enables cost-efficiency gains to the benefit of airspace users, air traffic service providers may decide to procure CNS, AIS, ADS or MET services under market conditions.	1. [...] Air traffic service providers shall procure CNS, AIS, ADS or MET services under market conditions, unless they prove to the National supervisory authorities concerned that the procurement would result in cost efficiency, operational, working conditions or climate and environmental loss.	1. Without prejudice to the rights and obligations defined by their designating State under Article 7(3), designated [...] air traffic service providers may decide to procure CNS, AIS, or ADS services[...].	154 Compromise text proposed by the PCY (previously tentatively agreed): 1. Designated air traffic service providers may decide to procure CNS, AIS or ADS under market conditions. Air traffic service providers may also decide to procure MET services under market conditions, except in cases where Member States have designated a MET provider in accordance with Article 7a.
155.			1a. Except in cases where	155

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			Member States have designated a MET provider in accordance with Article 7a, Member States may allow air traffic service providers to procure MET.	<i>(Tentatively agreed):</i> [...]
156.	Where this enables cost-efficiency gains to the benefit of airspace users, Member States shall allow airport operators to procure terminal air traffic services for aerodrome control under market conditions.	[...] Airport operators shall procure terminal air traffic services for aerodrome control and terminal air traffic services for approach control under market conditions unless they prove to the National supervisory authorities concerned that the procurement would result in a loss of cost efficiency or operational efficiency, a reduction in working conditions or negative climate and environmental impact. The national supervisory authorities shall be responsible for assessing the	1b. Member States may allow airport operators or a group of airport operators to procure air traffic services for aerodrome control and/or air traffic services for approach control. In such case, the tender specifications, including requirements on service quality, shall be subject to Member States approval. Member States shall designate the service provider selected as a result of the procurement referred to in this paragraph.	156 <i>(Tentatively agreed):</i> 1a. Member States may allow airport operators or a group of airport operators to procure air traffic services for aerodrome control and/or air traffic services for approach control under market conditions. To this end, Member States may require from the airport operators a proper justification that this will enable quality of service gains to the benefit of airspace users, while maintaining the required level of safety. When this procurement is allowed, the relevant airport

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		evidence and deciding whether it is sufficient.		operator or a group of airport operators shall ensure that the technical requirements in the tender specifications include requirements on service quality. Member States shall designate the service provider selected as a result of the procurement referred to in this paragraph.
157.	In addition, where this enables cost-efficiency gains to the benefit of airspace users, Member States may allow airport operators or the national supervisory authority concerned to procure terminal air traffic services for approach control under market conditions.	In case of a group of airports, the operators or the national supervisory authority concerned <i>may decide that</i> terminal air traffic services for approach control are to be procured at those airports. The national supervisory authority shall coordinate and oversee the procurement procedures, in particular for respecting the implementation of the European ATM Master Plan, the interoperability and ground/air investment	[...]	157 <i>(Tentatively agreed):</i> [...]

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		coordination.		

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158.	2. Procurement of services under market conditions shall be on the basis of equal, non-discriminatory and transparent conditions in accordance with Union law including Treaty rules on competition. The tender procedures for the procurement of the services concerned shall be designed so as to enable the effective participation of competing providers in these procedures including through regular reopening of competition.	2. Procurement of services under market conditions shall be on the basis of equal, non-discriminatory and transparent conditions in accordance with Union law including Treaty rules on competition. The tender procedures for the procurement of the services concerned shall be designed so as to enable the effective participation of competing providers in these procedures including through regular reopening of competition. The period of service allocation following the tender procedure shall not exceed the reference period.	[...]	158 Compromise text proposed by PCY (in the recitals): <i>(Recital 20) Where air navigation services are procured under market conditions, such procurement services should be on the basis of the principles of equal treatment, non-discrimination and transparency as well as of the applicable provisions of the Treaty. Procurement procedures should be carried out in accordance with Directive 2014/24/EU of the European Parliament and of the Council⁸ Directive 2014/25/EU of the European Parliament and of the Council⁹, where applicable.</i>

⁸ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

⁹ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

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				<p><i>+ New Recital, acceptable for the EP: The tender procedures for the procurement of the services concerned should be designed so as to enable the effective participation of competing providers in these procedures including through regular reopening of competition.</i></p> <p>Compromise text proposed by the EP (in the Articles):</p> <p>2. Procurement of services under market conditions shall be on the basis of equal, non-discriminatory and transparent conditions in accordance with Union law including Treaty rules on competition. The tender procedures for the procurement of the services concerned shall be designed so as to enable the effective participation of competing providers in these procedures including through</p>

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				regular reopening of competition. Procurement procedures should be carried out in accordance with Directive 2014/24/EU of the European Parliament and of the Council Directive 2014/25/EU of the European Parliament and of the Council, where applicable.
159.	3. Member States shall take all necessary measures to ensure that the provision of <i>en route</i> air traffic services is separated in terms of organisation from the provision of CNS, AIS, ADS, MET and terminal air traffic services and that the requirement concerning the separation of accounts referred to in Article 25(3) is respected.	3. Air navigation services provider shall ensure that the provision of <i>en route</i> air traffic services is functionally and organisationally separated in terms of organisation from the individual provision of CNS, AIS, ADS, MET and terminal air traffic services and that the requirement concerning the separation of individual accounts referred to in Article 25(3) is respected. Member States shall take all necessary measures to ensure compliance with this	[...]	159 Compromise text proposed by the PCY (previously tentatively agreed): Member States shall take all necessary measures to ensure that the provision of <i>en route</i> air traffic services respects the requirement concerning the separation of accounts referred to in Article 25(3). In addition, where the air navigation service provider intends to participate in procurement procedures for the

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		paragraph.		<p>provision of air navigation services in accordance with paragraphs 1 and 1a, the relevant Member State shall take appropriate measures to avoid cross subsidization with other air navigation services.</p> <p>Last EP compromise proposal: 3. Member States shall take all necessary measures to ensure that the provision of en route air traffic services respects the requirement concerning the separation of accounts referred to in Article 25(3) from the provision of CNS, AIS, ADS, MET and terminal air traffic services.</p> <p>In addition, where the air navigation service provider intends to participate in procurement procedures for the provision of air navigation</p>

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				services in accordance with paragraphs 1 and 1a, the relevant Member State shall take appropriate measures to avoid cross subsidization with other air navigation services.
160.		3 a. The Commission is empowered to adopt delegated acts in accordance with Article 36 laying down rules on the imposition of fines and periodic penalty payments applicable to infringements of paragraph 3 of this Article.		160 <i>(Tentatively agreed):</i> [...]
161.	4. A provider of CNS, AIS, ADS, MET or terminal air traffic services may only be selected to provide services in a Member State, when:	4. A provider, individually or in a package , of CNS, AIS, ADS, MET or terminal air traffic services may only be selected to provide services in a Member State, when:	4. A provider of CNS, AIS, ADS, MET or air traffic services for aerodrome control or for approach control may only be selected and, if appropriate, designated to provide services in a Member State [...] as a result of a procurement pursuant to paragraphs 1, 1a or 1b, on	161 <i>(Tentatively agreed):</i> 4. A provider of CNS, AIS, ADS, MET or air traffic services for aerodrome control or for approach control may only be selected and, if appropriate, designated to provide services in a Member State as a result of a procurement pursuant to

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			the condition that it complies with the following cumulative conditions:	paragraphs 1, 1a or 1b, on the condition that it complies with the following cumulative conditions:
162.	(a) it is certified in accordance with Article 6(1) and 6(2);	(a) it is certified in accordance with Article 6(1) of this Regulation and Article 41 of Regulation (EU) No 2018/1139 ;	(a)[...] holds a certificate pursuant to Article 41 of Regulation (EU) 2018/1139 or a valid declaration pursuant to Article 41(5) of Regulation (EU) 2018/1139, unless exempted from the certification requirement pursuant to Article 2(3)c) of Regulation (EU) 2018/1139;	162 PCY proposes to maintain GA, with an addition: (a) holds a certificate pursuant to Article 41 of Regulation (EU) 2018/1139 or a valid declaration pursuant to Article 41(5) of Regulation (EU) 2018/1139, unless exempted from the certification requirement pursuant to Article 2(3)c) of Regulation (EU) 2018/1139 subject to conditions laid down in Article 2(5) of that Regulation; Compromise text proposed by the EP: (a) comply with the requirements set out in Articles 40 and 41 of Regulation (EU) 2018/1139 and in the delegated acts and implementing acts

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				adopted on the basis thereof without prejudice to Article 6 paragraph 6 of this Regulation.
163.	<p>(b)its principal place of business is located in the territory of a Member State;</p> <p>(c)Member States or nationals of Member States own more than 50% of the service provider and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except as provided for in an agreement with a third country to which the Union is a party; and</p> <p>(d)the service provider fulfils national security and defence requirements.</p>		<p>(b)its principal place of business is located in the territory of a Member State;</p> <p>(c)Member States or nationals of Member States own more than 50% of the service provider and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except as provided for in an agreement with a third country to which the Union is a party; and</p> <p>(d)the service provider [...] complies with national security and defence requirements.</p>	<p>163</p> <p><i>Only editorial changes compared to COM proposal</i></p> <p><i>To be checked with Lawyer linguists</i></p>

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164.		By way of derogation from the first subparagraph of this paragraph, a provider of global satellite services that was granted a certificate pursuant to Article 41 of Regulation (EU) 2018/1139 prior to the adoption of this Regulation may be selected to provide services in the Union even if it does not comply with the conditions set out in points (b) and (c) of this paragraph.	By way of derogation from points b) and c), any provider of global satellite services that was granted a certificate pursuant to Article 41 of Regulation (EU) 2018/1139 to provide services within the Union prior to the adoption of this Regulation may be selected to provide such services in the Union even if it does not comply with the conditions set out in points b) and c).	164 <i>(Tentatively agreed):</i> (e) By way of derogation, a provider of global satellite services that was granted a certificate pursuant to Article 41 of Regulation (EU) 2018/1139 to provide services within the Union prior to the adoption of this Regulation may be selected to provide services in the Union even if it does not comply with the conditions set out in subparagraph (b) and (c).
165.	5. Articles 14, 17 and 19 to 22 shall not apply to the terminal air traffic service providers designated as a result of a procurement procedure in accordance with the second and third subparagraphs of paragraph 1. Those terminal air traffic service providers shall provide data on the performance of air navigation	5. Articles 14, 17 and 19 to 22 shall not apply to the terminal air traffic service providers designated as a result of a procurement procedure in accordance with the second and third subparagraphs of paragraph 1. Those terminal air traffic service providers shall provide data on the performance of air navigation	5. Articles [...] 13, 13a, 13b and 17 [...] and the implementing rules relating to those Articles adopted on the basis of Article 18 shall not apply to the MET services provided by MET providers selected or to the air traffic service providers [...] designated as a result of a procurement procedure conducted in	165 <i>(Tentatively agreed):</i> 5. Articles [...] 13, 13a, 13b and 17 [...] and the implementing rules relating to those Articles adopted on the basis of Article 18 shall not apply to the air traffic service providers or MET providers designated as a result of a procurement procedure conducted in accordance with

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	services in the key performance areas of safety, the environment, capacity and cost-efficiency to national supervisory authority and the Agency acting as PRB for monitoring purposes.	services in the key performance areas of safety, the environment and climate , capacity and cost-efficiency to national supervisory authority and the Agency acting as PRB for monitoring purposes.	accordance with paragraphs 1a and 1b . [...] The air traffic service providers concerned shall provide relevant data on the performance of air navigation services in the key performance areas [...] referred to in Article 10(2)a) and in safety area [...] to the national supervisory authority and the [...] Commission for monitoring purposes .	paragraphs 1a and 1b. [...] The air traffic service providers concerned shall provide data on the performance of air navigation services in the key performance areas [...] referred to in Article 10(2)a) and in safety area [...] to the national supervisory authority and the [...] Commission for monitoring purposes.
166.	6. National supervisory authorities shall ensure that procurement by air traffic service providers and airport operators as referred to in paragraph 1 complies with paragraph 2, and where necessary shall apply corrective measures. In the case of terminal air traffic services, they shall be responsible for approving tender specifications for	6. National supervisory authorities shall ensure that procurement by air traffic service providers and airport operators as referred to in paragraph 1 complies with paragraph 2, and where necessary shall apply corrective measures. In the case of terminal air traffic services, they shall be responsible for approving tender specifications for	[...]	166 Compromise text proposed by the PCY (previously tentatively agreed): 6. Without prejudice to Directive 2014/25/EU and Directive 2014/24/EU and to the role of procurement authorities where applicable, in the case of air traffic services for approach and/or aerodrome control procured in accordance with paragraph 1a, the airport

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	terminal air traffic services, which shall include requirements on service quality. The national supervisory authorities shall refer to the national competition authority referred to in Article 11 of Council Regulation (EC) No 1/2003 matters relating to the application of competition rules.	terminal air traffic services, which shall include requirements on service quality, in particular for respecting the implementation of the European ATM Master Plan, the interoperability and ground/air investment coordination. The national supervisory authorities shall refer to the national competition authority referred to in Article 11 of Council Regulation (EC) No 1/2003 matters relating to the application of competition rules.		operators shall seek the approval by the national supervisory authority of the technical requirements on service quality included in the tender specifications. Last compromise agreed by the EP: 6. Without prejudice to Directive 2014/25/EU and Directive 2014/24/EU and to the role of procurement authorities where applicable, in the case of terminal air traffic services procured in accordance with paragraph 1a, the airport operators shall seek the approval by the national supervisory authority of the technical requirements on service quality included in the tender specifications.
167.	Article 9 - Provision of support	Article 9 - Provision of support	Article 9 - Provision of support	Article 9 - Provision of support

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	services	services	services	services
168.	1. Where common information services are provided, the data disseminated shall present the integrity and quality necessary to enable the safe provision of services for the management of traffic of unmanned aircraft.	1. Where common information services are provided, the data disseminated shall present the integrity and quality necessary to enable the safe and integrated provision of services for the management of traffic of unmanned aircraft in a way that enables the shared use of the airspace together with manned aircraft.	1. Where [...] CIS are provided, the data disseminated shall present the integrity and quality necessary to enable [...] the safe and secure provision of services for the management of traffic of unmanned aircraft.	168 <i>(Tentatively agreed):</i> 1. Where CIS are provided, the data disseminated shall present the integrity and quality necessary to enable the safe and secure provision of services for the management of traffic of unmanned aircraft in a way that enables the shared use of the airspace together with manned aircraft.
169.			2. The CIS provider shall fulfil the following cumulative requirements: (a) they comply with the national security and defence requirements; (b) their principal place of business is located in the territory of a Member State and (c) Member States or nationals	169 <i>(Tentatively agreed):</i> 2. The CIS provider shall fulfil the following cumulative requirements: (a) they comply with the national security and defence requirements; (b) their principal place of business is located in the territory of a Member State

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			of Member States own more than 50% of the service provider and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except where otherwise provided for in an agreement with a third country to which the Union is a party.	and (c) Member States or nationals of Member States own more than 50% of the service provider and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except where otherwise provided for in an agreement with a third country to which the Union is a party.
170.	2. The price for common information services shall be based on the fixed and variable costs of providing the service concerned and may, in addition, include a mark-up reflecting an appropriate risk-return trade-off.	2. The price for common information services shall be based on the fixed, structural and variable costs of providing the service concerned and may, in addition, include a reasonable mark-up reflecting an appropriate risk-return trade-off.	<i>(moved from 3, second subparagraph)</i> Where CIS are provided on an exclusive basis, Member States shall impose that the price for CIS is based on the fixed and variable costs of providing the service concerned and/or includes a mark-up reflecting an appropriate risk-return trade-off.	170 Compromise text proposed by PCY, in coherence with current U-Space regulation: Where CIS are provided by a single CIS provider (sCISP) designated by the Member State on an exclusive basis in respect of all or some of the U-space airspaces under their responsibility, Member States shall impose that the price for CIS is based on the fixed and variable costs of providing the service

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				<p>concerned and may, in addition, include a mark-up reflecting an appropriate risk-return trade-off.</p> <p>Compromise text proposed by the EP: The price for CIS is based on the fixed and variable costs of providing the service concerned and may, in addition, include a mark-up reflecting an appropriate risk-return trade-off.</p>
171.	<p>3. The costs referred to in the first subparagraph shall be set out in an account separate from the accounts for any other activities of the operator concerned and shall be made publicly available.</p>		<p>3. The costs [...] on the basis of which the price for CIS is based shall be set out in an account separate from the accounts for any other activities of the operator concerned and shall be [...] accessible by the national supervisory authority concerned.</p>	<p>171 PCY proposes to maintain GA with a correction. PCY also asks for flexibility to go either for EP proposal in this line or to add in line 172 that the assessment of the price by the NSA shall be made publicly available under the conditions of Article 41:</p> <p>3. The costs [...] on the basis of which the price for CIS is</p>

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				<p>based shall be set out in an account separate from the accounts for any other activities of the service provider concerned and shall be [...] accessible by the national supervisory authority concerned.</p> <p>Compromise text proposed by the EP:</p> <p>3. The costs on the basis of which the price for CIS is based shall be set out in an account separate from the accounts for any other activities of the service provider concerned and shall be made publicly available.</p>
172.	3. The common information service provider shall set the price in accordance with paragraph 2, subject to assessment and approval by the national supervisory authority concerned.		4. The price set by the CIS provider shall be subject to assessment and approval by the national supervisory authority concerned. The price of such services shall be made publicly available.	<p>172 <i>(Tentatively agreed):</i></p> <p>4. The price set by the CIS provider shall be subject to assessment and approval by the national supervisory authority concerned. The price of such services shall be made publicly</p>

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				available.
173.	4. As far as operations in specific volumes of airspace designated by the Member States for unmanned aircraft operations are concerned, relevant operational data shall be made available in real-time by air navigation service providers. Common information service providers shall use those data only for operational purposes of the services they provide. Access to relevant operational data shall be granted to common information service providers, on a non-discriminatory basis, without prejudice to security or defence policy interests.	4. Where manned and unmanned operations are expected to take place, including in U-Space airspace relevant operational data shall be made available in real-time by air navigation service providers. Common information service providers or U-Space service providers, as applicable , shall use those data only for operational purposes of the services they provide. Access to relevant operational data shall be granted to common information service providers, or U-Space service providers, as applicable , on a non-discriminatory basis, without prejudice to security or defence policy interests.	5. Data necessary for the safe operation of unmanned aircraft in the U-Space airspace shall be made available , on a non-discriminatory basis, without prejudice to national security, public order and defence policy interests, by air navigation service providers. CIS providers shall use those data only for operational purposes of the services they provide.	173 PCY proposes to maintain GA with a small precision: Data necessary for the safe operation of unmanned aircraft in the U-Space airspace shall be made available, on a non-discriminatory basis, without prejudice to national security, public order and defence policy interests, by air navigation service providers. CIS providers or U-Space service providers, as applicable, shall use those data only for operational purposes of the services they provide. Compromise text proposed by EP: Data necessary for the safe operation of unmanned aircraft in specific volumes of airspace designated by the Member States

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				for unmanned aircraft operations shall be made available in real-time, on a non-discriminatory basis, without prejudice to national security, public order and defence policy interests, by air navigation service providers. CIS providers or U-Space service providers, as applicable, shall use those data only for operational purposes of the services they provide.
174.	Prices for access to such data shall be based on the marginal cost of making the data available.	[...]	Prices for access to such data shall be based on the additional costs of making the data available and the cost for generating the data, where the latter costs are not covered under Article 20 and unless other financial resources are used by Member States to cover such costs.	174 <i>(Tentatively agreed):</i> Prices for access to such data shall be based on the additional costs of making the data available and the cost for generating the data, where the latter costs are not covered under Article 20 and unless other financial resources are used by Member States to cover such costs.
175.		4a. The Commission is		175

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		empowered to adopt delegated acts in accordance with Article 36 to supplement certain non- essential elements of the legislative act, with regard to requirements for traffic management of unmanned and manned aircraft operations that support safe and shared use of the airspace, including the making available of and the access to data, and the methodology to set the prices in accordance with paragraphs 2 and 3.		PCY refuses EP text EP insists to maintain its text.
176.			Article 9a (new) - Availability of and access to operational data for general air traffic	<i>Moved to Article 31 COM</i>
176a.			Article 9b - Performance review body	<i>Moved to Article 5a EP, line 309</i>

PUBLIC

REGULATION amending Regulation (EU) 2018/1139

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1.	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	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	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2018/1139 as regards the requirements applicable to air traffic management and air navigation services	
(...)	<i>(...) Recitals will be discussed later.</i>			
29.	HAVE ADOPTED THIS REGULATION:			

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30.	<i>Article 1</i>	<i>Article 1</i>	<i>Article 1</i>	
31.	Regulation (EU) 2018/1139 is amended as follows:	Regulation (EU) 2018/1139 is amended as follows:	Regulation (EU) 2018/1139 is amended as follows:	
(...)				Lines 32 to 44 to be discussed later, under the assumption of a purely advisory PRB.
45.			(1a) Paragraph 1 of Article 40 is replaced by the following:	45 <i>(Tentatively agreed):</i> [...]
46.			‘1. The provision of ATM/ANS referred to in point (g) of Article 2(1) shall comply with the essential requirements set out in Annex VIII and, if applicable, Annex VII.	46 <i>(Tentatively agreed):</i> [...]
47.			Providers of ATM/ANS shall also:	47 <i>(Tentatively agreed):</i> [...]
48.			a) In view of ensuring a safe and continuous service provision, demonstrate sufficient financial robustness	48 <i>(Tentatively agreed):</i> [...]

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			and have obtained appropriate liability and insurance cover, taking into account their legal status and the level of commercial insurance cover available;	
49.			b) Comply with applicable requirements on ownership and organisational structure in view of preventing of conflicts of interest to ensure a non-discriminatory service provision; and	49 <i>(Tentatively agreed):</i> [...]
50.			c) Manage security risks.'	50 <i>(Tentatively agreed):</i> [...]
51.			(1b) Article 41 is amended as follows:	51 <i>(Tentatively agreed):</i> (1a) Article 41 is amended as follows:

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52.			(a) paragraph 2 is replaced by the following:	<p>52</p> <p>Even if lines 52 and 53 were tentatively agreed in Technical Meeting, the PCY now considers deleting them since they are redundant with Article 41(2).</p> <p>Former compromise text:</p> <p>(a) the following paragraph 2a is added:</p>
53.			‘2. The certificate referred to in paragraph 1 of this Article shall be issued upon application, when the applicant has demonstrated that it complies with the implementing acts referred to in Article 43 adopted to ensure compliance with the essential requirements referred to in Article	<p>53</p> <p>Even if lines 52 and 53 were tentatively agreed in Technical Meeting, the PCY now considers deleting them since they are redundant with Article 41(2)</p> <p>Former compromise text:</p> <p>‘2a. A certificate shall be issued only where compliance with the essential requirements of</p>

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			40(1), first subparagraph as well as the requirements referred to in Article 40(1), second subparagraph, a), b) and c).'	Annex VIII is ensured.'
54.			(b) The following paragraph 3a is added:	54 PCY proposes to maintain GA
55.			'3a The certificate referred to in paragraph 1 of this Article may be subject to objectively justified, non-discriminatory, proportionate and transparent conditions. These conditions may, as appropriate, be related to:	55 PCY proposes to maintain GA
56.			(a) ring-fencing or restriction of operations of services	56 PCY proposes to maintain GA

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			other than those related to the provision of air navigations services;	
57.			(b) contracts, agreements or other arrangements between the service provider and a third party and which concern the service(s);	57 PCY proposes to maintain GA
58.			(c) the provision of information reasonably required for the verification of the requirements of the certificate in Article 41, and	58 PCY proposes to maintain GA
59.			(d) any other legal conditions which are not specific to air navigation services, such as conditions relating to the suspension or revocation of the	59 PCY proposes to maintain GA

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			certificate.’	
60.			(c) paragraph 4 is amended as follows:	60 (Tentatively agreed): [...]
61.			‘4. The certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder no longer complies with the essential requirements referred to in Article 40(1), first subparagraph or the requirements referred to in Article 40(1), second subparagraph, a), b) and c) and with the rules and procedures for issuing and maintaining such certificate, in accordance with implementing acts	61 (Tentatively agreed): [...]

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			referred to in point (b) of the first subparagraph of Article 43(1).’	
62.			(d) paragraph 5 is amended as follows	62 <i>(Tentatively agreed):</i> [...]
63.			‘5. By way of derogation from paragraph 1 of this Article, in accordance with the implementing acts referred to in Article 43, Member States may decide that providers of flight information services are to be allowed to declare their capability, and the availability to them of the means, to discharge the responsibilities associated with the services provided in	63 <i>(Tentatively agreed):</i> [...]

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			<p>compliance with the essential requirements referred to in Article 40(1), first subparagraph and the requirements referred to in Article 40(1), second subparagraph, a), b) and c). In that case, the Member State concerned shall inform the Commission, the Agency and the other Member States of its decision.'</p>	
64.			<p>(1c) Article 43 is replaced by the following:</p>	<p>64 (Tentatively agreed): (1b) Article 43 is replaced by the following:</p>
65.			<p>1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 40(1), first</p>	<p>65 (Tentatively agreed): 1. In order to ensure the uniform implementation of and compliance with the essential requirements</p>

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			<p>subparagraph and the requirements referred to in Article 40(1), second subparagraph, a), b) and c) for the provision of ATM/ANS referred to in point (g) of Article 2(1), the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:</p>	<p>referred to in Article 40 for the provision of ATM/ANS referred to in point (g) of Article 2(1), the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:</p>
66.			<p>(a) the specific rules and procedures for the provision of ATM/ANS in compliance with the essential requirements referred to in Article 40(1), first subparagraph and the</p>	<p>66 <i>(Tentatively agreed):</i> (a) the specific rules and procedures for the provision of ATM/ANS in compliance with the essential requirements referred to in Article</p>

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			requirements referred to in Article 40(1), second subparagraph, a), b) and c), including the establishment and implementation of the contingency plan in accordance with point 5.1(f) of Annex VIII;	40, including the establishment and implementation of the contingency plan in accordance with point 5.1(f) of Annex VIII;
67.			(b) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 41(1);	67 <i>(Tentatively agreed):</i> (b) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 41(1), including the rules and procedures applying to the national supervisory authorities referred to in Article 3 of [SES2+ Recast] for their tasks pursuant to


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				Article 6 of that Regulation;
68.			(bb) the conditions referred to in Article 41(3a);	68 PCY proposes to maintain GA
69.			(c) the rules and procedures for the declaration by providers of flight information services referred to in Article 41(5), and for the situations in which such declarations are to be permitted;	69 <i>(Tentatively agreed):</i> (c) the rules and procedures for the declaration by providers of flight information services referred to in Article 41(5), and for the situations in which such declarations are to be permitted;
70.			(d) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in point (b) of Article	70 <i>(Tentatively agreed):</i> (d) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to

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			42(1), and for the situations in which such certificates are to be required;	in point (b) of Article 42(1), and for the situations in which such certificates are to be required;
71.			(e) the rules and procedures for the declaration by organisations referred to in point (a) of Article 42(1), and for the situations in which such declarations are to be required;	71 <i>(Tentatively agreed):</i> (e) the rules and procedures for the declaration by organisations referred to in point (a) of Article 42(1), and for the situations in which such declarations are to be required;
72.			(f) the privileges and responsibilities of the holders of certificates referred to in Article 41(1) and point (b) of 42(1) and of organisations making declarations in accordance with	72 <i>(Tentatively agreed):</i> (f) the privileges and responsibilities of the holders of certificates referred to in Article 41(1) and point (b) of 42(1) and of organisations making


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			Article 41(5) and point (a) of Article 42(1).	declarations in accordance with Article 41(5) and point (a) of Article 42(1).
73.			Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).	73 <i>(Tentatively agreed):</i> Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).
74.			2. The rules referred to in paragraph 1 shall take due account of the ATM Master Plan.	74 <i>(Tentatively agreed):</i> 2. The rules referred to in paragraph 1 shall take due account of the ATM Master Plan.
75.			3. When adopting those implementing acts, the Commission shall ensure compliance with the	75 <i>(Tentatively agreed):</i> 3. When adopting those implementing acts, the

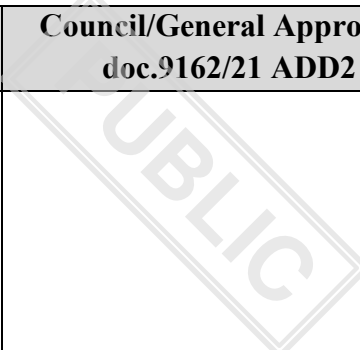
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			<p>essential requirements referred to in Article 40(1), first subparagraph and the requirements referred to in Article 40(1), second subparagraph, a), b) and c) of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annexes 2 to 4, 10, 11 and 15 to the Chicago Convention.</p>	<p>Commission shall ensure compliance with the essential requirements referred to in Article 40 of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annexes 2 to 4, 10, 11 and 15 to the Chicago Convention.</p>
76.				<p>76</p> <p>Compromise text proposed by the PCY:</p> <p>(1c) Article 62 is amended as follows:</p> <p>(a) The following paragraph 4a is added:</p>

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			<p style="text-align: center; opacity: 0.5; font-size: 2em; transform: rotate(-30deg);">PUBLIC</p>	<p>4a. In respect of certification, oversight, and enforcement activities relating to the essential requirements listed in point 7 of Annex VIII, the competent authority shall, in addition to its own oversight, rely on the assessments, oversight, and enforcement activities of economic requirements by the national supervisory authority referred to in Article 3 of [amended SES2+].’</p> <p><i>(Tentatively agreed):</i></p> <p>(b) Paragraph 14 is amended as follows:</p> <p>‘14. In order to ensure the uniform implementation of and compliance with paragraphs (2) to (9) of this Article, with regard to the tasks of the national competent authorities and of the</p>

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				<p>national supervisory authorities referred to in Article 3 of [SES2+ Recast] where applicable related to certification, oversight and enforcement under this Regulation, the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:</p> <p>(a) the rules and procedures for conducting certification and for conducting the investigations, inspections, audits and other monitoring activities necessary to ensure effective oversight by the national competent authority of the natural and legal persons, products, parts, equipment, ATM/ANS systems and ATM/ANS constituents, flight</p>

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			<p style="text-align: center; opacity: 0.5; font-size: 2em; transform: rotate(-30deg);">PUBLIC</p>	<p>simulation training devices and aerodromes subject to this Regulation and the oversight by the national supervisory authority of the providers of ATM/ANS in accordance with Article 6(5)(b) of [SES2+ Recast];</p> <p>(b) the rules and procedures for conducting ramp inspections by the national competent authority and for the grounding of aircraft when the aircraft, its operator or its aircrew do not comply with the requirements of this Regulation or with the delegated and implementing acts adopted on the basis thereof;</p> <p>(c) the rules and procedures in accordance with which the activities regulated in Chapter III may be prohibited, limited or subject to certain conditions in the interest of safety;</p>

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				<p>(d) in respect of paragraph 4, the rules and procedures for allocation of responsibilities between the national competent authorities, with a view to ensuring the effective performance of the tasks related to certification, oversight and enforcement;</p> <p>(e) the rules and procedures for the accreditation by the national competent authority of a qualified entity for the purpose of Article 69. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).’</p>
77.				<p>77</p> <p><i>(Tentatively agreed):</i></p> <p>(1d) Annex VIII is amended as follows:</p>

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				<p>A new point 7 is added:</p> <p>‘7. FINANCIAL AND INSURANCE REQUIREMENTS</p> <p>Providers of ATM/ANS shall:</p> <p>a) In view of ensuring a safe and continuous service provision, demonstrate sufficient financial robustness and have obtained appropriate liability and insurance cover, taking into account their legal status and the level of commercial insurance cover available;</p> <p>b) Comply with applicable requirements on ownership and organisational structure in view of preventing of</p>

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				<p>conflicts of interest to ensure a non-discriminatory service provision; and</p> <p>c) Manage security risks.’</p>
(...)	(...)	(...)	(...)	<p>Other lines to be discussed later, under the assumption of a purely advisory PRB.</p>