



Council of the
European Union

Brussels, 13 December 2023
(OR. en)

Interinstitutional Files:
2020/0264(COD)
2013/0186(COD)

16432/23
ADD 2

LIMITE

AVIATION 234
CODEC 2415

REPORT

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

No. prev. doc.: 14654/23
No. Cion doc.: 10840/20 INIT+ADD1, 10841/20

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 III - Articles 10 to 18 of the SES2+ Regulation

In view of the COREPER 1 meeting on 15 December 2023, in annex is the four-column document on Chapter III – Articles 10 to 18 of the SES2+ Regulation.

Chapter III - Art. 10 to 18

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116a.	CHAPTER III - SERVICE PROVISION	CHAPTER III - SERVICE PROVISION	CHAPTER III - SERVICE PROVISION	
	[...]	[...]	[...]	
177.	Article 10 - Performance scheme	Article 10 - Performance scheme	Article 10 - Performance scheme	
178.	1. To improve the performance of air navigation services and network functions in the Single European Sky, a performance scheme for air navigation services and network functions shall apply in accordance with this Article and Articles 11 to 18.		1. To improve the performance of air navigation services and network management in the Single European Sky, a performance scheme for air navigation services and network management shall apply in accordance with this Article and Articles 11 to 18.	178 <i>(Tentatively agreed):</i> 1. To improve the performance of air navigation services and network management in the Single European Sky, a performance scheme for air navigation services and network management shall apply in accordance with this Article and Articles 11 to 18.

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179.	2. The performance scheme shall be implemented over reference periods, which shall be a minimum of two years and a maximum of five years. The performance scheme shall include:	2. The performance scheme shall be implemented over reference periods, which shall be a minimum of two years and a maximum of <i>three</i> years. The performance scheme shall include:	2. The performance scheme shall be implemented over reference periods, which shall be a minimum of [...] three years and a maximum of five years. The performance scheme shall include:	179 <i>(Tentatively agreed):</i> 2. The performance scheme shall be implemented over reference periods, which shall be a minimum of three years and a maximum of five years. The performance scheme shall include:
180.	(a) Union -wide performance targets in the key performance areas of the environment, capacity and cost-efficiency for each reference period;	(a) Union -wide performance targets in the key performance areas of the climate and the environment, capacity and cost-efficiency for each reference period ;	(a) Union -wide performance targets for en route air navigation services in the key performance areas of the environment, capacity and cost-efficiency for each reference period;	180 Compromise text proposed by the PCY, which does not encompass the current legislation (see Art. 11 of Regulation 549/2004): (a) Union -wide performance targets for en route air navigation services in the key performance areas of the climate and environment, capacity and cost-efficiency for each reference period; (b) Indicative performance values defined for terminal air navigation services for groups

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				<p>of comparable terminal areas in the Union, for each reference period in the key performance areas of capacity and cost-efficiency, which may be taken into account in order to foster that the performance of terminal air navigation services evolves in a comparable manner with the performance of en route air navigation services, and in order to guide the establishment of the performance targets for terminal services included in the performance plans.</p> <p>Last EP compromise text: (a) Union -wide performance targets for en route air navigation services and indicative performance targets for terminal air navigation services, in the key performance areas of the climate</p>

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				<p>and environment, capacity and cost-efficiency for each reference period;</p> <p>The PCY also considers complementing the recital agreed with the EP under Chap IV:</p> <p><i>Various climate and environmental elements should also be taken into account when optimising flight trajectories and flight profiles, in order to reduce emissions and air pollutants. A methodology on how to take into account those various elements and their interdependencies, which are attributable to the air navigation service providers, should be developed in particular when designing performance indicators. In result, a common key performance area for climate and environment, including a specific target for the reduction of</i></p>

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				<p><i>CO2 emissions, should be set.</i></p> <p>EP's counterproposal for the recital is as follows:</p> <p><i>Various climate and environmental elements should also be taken into account when optimising flight trajectories and flight profiles, in order to reduce emissions and air pollutants. A methodology on how to take into account those various elements and their interdependencies should be developed in particular when designing performance indicators considering the extent to which air navigation services providers can influence those elements. In result, a common key performance area for climate and environment, including a specific target for the reduction of CO2 emissions, should be set</i></p>
181.	(b) performance plans including binding performance targets in the		(b) performance plans including binding performance targets [...]	<p>181</p> <p>Compromise text proposed by the PCY (previously tentatively</p>

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	key performance areas mentioned in point (a) for each reference period;		and where applicable, incentive schemes in the key performance areas mentioned in point (a) for each reference period;	agreed): (c) performance plans including binding performance targets in the key performance areas of the climate and environment, capacity and cost-efficiency and where applicable, incentive schemes for each reference period; Last compromise agreed by the EP: (c) performance plans including binding performance targets and where applicable, incentive schemes in the key performance areas mentioned in point (a) for each reference period;
182.	(c) periodic review, monitoring and benchmarking of performance in the key performance areas of safety, the environment, capacity and cost-	(c) periodic review, monitoring and benchmarking of performance in the key performance areas of safety, the climate and environment, capacity and cost-efficiency .	(c) periodic review, monitoring and benchmarking of performance in the key performance areas [...] mentioned in point (a) and in the light of relevant	182 <i>(Tentatively agreed, with the exception of reference to paragraph 2(b))</i> <i>To be checked by lawyer linguists:</i> (d) periodic review, monitoring

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	efficiency.		safety indicators defined in coordination with the Agency.	and benchmarking of performance in the key performance areas of the climate and environment, capacity and cost-efficiency and of relevant safety indicators defined in coordination with the Agency;
183.	The Commission may add additional key performance areas for performance target setting or monitoring purposes, where necessary to improve performance.	The Commission is empowered to adopt delegated acts in accordance with Article 36 to supplement this Regulation by laying down [...] additional key performance areas for performance target setting or monitoring purposes, where, on the basis of an impact assessment, these are considered to be necessary to improve performance.	[...]	183 (Tentatively agreed): [...]
184.	3. Points (a), (b) and (c) of paragraph 2 shall be based on :		3. [...] The performance scheme referred to in paragraphs 1 and 2 shall be based on :	184 (Tentatively agreed): 3. The performance scheme referred to in paragraphs 1 and 2 shall be based on :

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185.	(a) the collection, validation, examination, evaluation and dissemination of relevant data related to the performance of air navigation services and network functions from all relevant parties, including air navigation service providers, airspace users, airport operators, national supervisory authorities, national competent authorities, Member States, the Agency, the Network Manager and Eurocontrol;		(a) the collection, validation, examination, evaluation and dissemination of relevant data related to the performance of air navigation services and network [...] management from all relevant parties, including air navigation service providers, airspace users, airport operators, national supervisory authorities, national competent authorities, and other national authorities [...], the Agency, the Network Manager and EUROCONTROL;	185 <i>(Tentatively agreed):</i> (a) the collection, validation, examination, evaluation and dissemination of relevant data related to the performance of air navigation services and network management from all relevant parties, including air navigation service providers, airspace users, airport operators, national supervisory authorities, national competent authorities, and other national authorities, the Agency, the Network Manager and EUROCONTROL;
186.	(b) key performance indicators for target setting in the key performance areas of the environment, capacity and cost-efficiency;	(b) key performance indicators for target setting in the key performance areas of the climate and the environment, capacity and cost-efficiency;	(b) key performance indicators for target setting in the key performance areas [...] referred to in paragraph 2(a) ;	186 <i>(Tentatively agreed, except for the proposed explicit mention of KPAs):</i> (b) key performance indicators for target setting in the key performance areas of the

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				climate and environment, capacity and cost-efficiency;
187.	(c) indicators for monitoring performance in the key performance areas of safety, the environment, capacity and cost-efficiency;	(c) indicators for monitoring performance in the key performance areas of safety, the climate and the environment, capacity and cost-efficiency;	(c) indicators for monitoring performance in the key performance areas [...] referred to in paragraph 2(a) and relevant safety indicators defined in coordination with the Agency;	187 <i>(Tentatively agreed, except for the proposed explicit mention of KPAs):</i> (c) indicators for monitoring performance in the key performance areas of the climate and environment, capacity and cost-efficiency and relevant safety indicators defined in coordination with the Agency;
188.			(cc) a methodology to calculate breakdown values;	188 <i>(Tentatively agreed):</i> (cc) a methodology to calculate breakdown values;
189.	(d) a methodology for the development of performance plans and of performance targets for air navigation services, and methodology for the development of the		(d) [...] principles governing the establishment of performance plans and of performance targets for air navigation services, [...] and for the network management, as well as	189 <i>(Tentatively agreed):</i> (d) procedures for the establishment and revision of performance plans and of performance targets for air navigation services, [...] and for

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	performance plan and performance targets for the network functions;		the content of such plans;	the network management, as well as the templates, content and timetables of such plans;
190.	(e) the assessment of the draft performance plans and targets for air navigation services and network functions;		(e) the assessment of the draft performance plans and targets for air navigation services and network [...] management;	190 <i>(Tentatively agreed):</i> (e) the assessment of the draft performance plans and targets for air navigation services and network management;

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191.	(f) monitoring of performance plans, including appropriate alert mechanisms for revision of performance plans and targets and for the revision of Union-wide performance targets in the course of a reference period;		(f) monitoring of performance plans, including appropriate alert mechanisms for revision of performance plans and targets and for the revision of Union-wide performance targets in the course of a reference period;	191 <i>(Tentatively agreed, no change compared to COM proposal)</i> (f) monitoring of performance plans, including appropriate alert mechanisms for revision of performance plans and targets and for the revision of Union-wide performance targets in the course of a reference period;
192.	(g) benchmarking of air navigation service providers;		(g) benchmarking of air navigation service providers where relevant;	192 <i>(Tentatively agreed, since it reflects the status quo (see Article 11.1(c) of 549/2004)):</i> (g) benchmarking of air navigation service providers;
193.	(h) incentive schemes including for financial disincentives applicable where an air traffic service provider does not comply with the relevant binding performance targets during the reference period or where it has not	(h) balanced and symmetrical incentivisation schemes for air traffic service providers that reward performance that exceeds binding performance targets during the reference period with a financial	(h) incentive schemes including [...] both financial positive incentives and disincentives applicable where an air traffic service provider goes beyond or does not comply with the relevant binding	193 Compromise text proposed by PCY (details are moved to a recital): (h) incentive schemes including both financial positive incentives and disincentives. The financial positive incentives and disincentives shall be

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	<p>implemented the relevant common projects referred to in Article 35. Such financial disincentives shall in particular take account of the deterioration in the level of service quality provided by that provider, as a result of not complying with the performance targets or not implementing the common projects, and the impact thereof on the network;</p>	<p>payment proportionate to the magnitude of the variation between the achieved performance and that target and penalises performance that falls short of those targets or a failure to implement relevant common projects referred to in Article 35 by imposing a fine that takes account of the deterioration in the level of service quality provided by that provider;</p>	<p>performance targets for air navigation services during the reference period [...] unless this under- or overachievement is due to reasons outside the air traffic service provider’s control;</p>	<p>symmetrical and proportionate to the magnitude of the deviation attributable to the air navigation service providers between the achieved performance and the target and shall take into account the impact on the network.</p> <p><i>+New recital: When adopting implementing acts to set out incentive schemes, the Commission should define the applicability of such schemes to situations where air navigation service providers go beyond or do not comply with the relevant binding performance targets for air navigation services during the reference period. Without prejudice to the measures that are to be implemented by the air traffic service provider to mitigate the impact of such events, the applicability criteria should take due consideration of</i></p>

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				<p><i>unforeseeable and significant events outside the air traffic service provider's control.</i></p> <p><i>The financial disincentives should not impair the financial strength of the service provider concerned.</i></p> <p>Last EP compromise proposal: (h) incentive schemes including both financial positive incentives and disincentives. The financial positive incentives and disincentives shall be symmetrical and proportionate to the magnitude of the differences between the achieved performance and the target and shall take into account the impact on the network.</p> <p><i>+New recital: When adopting implementing acts to set out incentive schemes, the Commission should define the applicability of such schemes to</i></p>

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				<p><i>situations where air navigation service providers go beyond or do not comply with the relevant binding performance targets for air navigation services during the reference period. Without prejudice to the measures that are to be implemented by the air traffic service provider to mitigate the impact of such events, the applicability criteria should take into account unforeseeable and exceptional events outside the air traffic service provider's control.</i></p> <p><i>(Recital tentatively agreed): (22a) In order to promote better service quality, those performance and charging schemes should include relevant and appropriate incentives. Financial incentives should be set with a view to encouraging better</i></p>

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				<i>air navigation service performance in a balanced and symmetrical manner by rewarding or penalising actual performance in relation to binding performance targets.</i>
194.	(i) risk sharing mechanisms in respect of traffic and costs; (j) timetables for target setting, assessment of performance plans and targets, monitoring and benchmarking;		(i) risk sharing mechanisms in respect of traffic and costs; (j) timetables for target setting, assessment of performance plans and targets, monitoring and benchmarking;	194 <i>(Tentatively agreed, no change compared to COM proposal)</i> (i) risk sharing mechanisms in respect of traffic and costs; (j) timetables for target setting, assessment of performance plans and targets,
195.	(k) a methodology for the allocation of costs common to <i>en route</i> and terminal air navigation services between the two categories of services;		[...]	195 Compromise text proposed by PCY: (k) general principles established by the Commission on allocation of costs common to <i>en route</i> and terminal air navigation services between the two categories of services.

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				<p>Compromise text proposed by EP:</p> <p>(k) general principles, established by the Commission on allocation of costs common to en route and terminal air navigation services between the two categories of services, based on which NSAs shall establish a detailed methodology.</p>
196.	(l) mechanisms to address unforeseeable and significant events which have a material impact on the implementation of the performance and charging schemes.		(l) mechanisms to address unforeseeable and significant events which have a material impact on the implementation of the performance and charging schemes.	<p>196 <i>(Tentatively agreed, no change compared to general approach and COM proposal)</i></p> <p>(l) mechanisms to address unforeseeable and significant events which have a material impact on the implementation of the performance and charging schemes.</p>
197.		3 a. The Commission shall be		197

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		<p>assisted by the Agency acting as PRB and national supervisory authorities in the implementation of the performance scheme referred to in paragraph 1 of this Article and the charging scheme referred to in Article 19 to 23 of this Regulation.</p>		<p><i>Tentatively agreed. These provisions might nevertheless be moved to Article 9b on PRB :</i></p> <p>3 a. The Commission shall be assisted by the PRB and national supervisory authorities in the implementation of the performance scheme referred to in paragraph 1 of this Article and the charging scheme referred to in Article 19 to 23 of this Regulation.</p>
198.			<p>4. The setting of the performance targets included in the performance plans, the preparation and the assessment of draft performance plans, including the allocation of costs between services, as well as the monitoring and benchmarking of performance of the air navigation services and network management shall</p>	<p>198</p> <p>Compromise text proposed by the PCY:</p> <p>4. The setting of the performance targets included in the performance plans, the preparation and the assessment of draft performance plans, including the allocation of costs between services, as well as the monitoring and benchmarking of performance of the air navigation services and network</p>

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			take into account the impact of local circumstances as well as factors that fall outside the air traffic service provider’s and the Network Manager’s control.	management shall take into account local circumstances as well as factors that fall outside the air traffic service provider’s and the Network Manager’s control, where appropriate. EP proposes to delete that line.
199.	Article 11- Establishment of the Union-wide performance targets	Article 11- Establishment of the Union-wide performance targets	Article 11- Establishment of the Union-wide performance targets	
200.	1. The Commission shall adopt the Union-wide performance targets for <i>en route</i> air navigation services and for terminal air navigation services in the key performance areas of environment, capacity and cost-efficiency for each reference period, in accordance with the advisory procedure referred to in Article 37(2) and with paragraphs 2 to 3 of this	1. The Commission shall adopt the Union-wide performance targets for en route air navigation services and for terminal air navigation services in the key performance areas of climate and the environment , capacity and cost-efficiency, for each reference period, in accordance with [...] paragraphs 2 to 3 of this Article. The Union-wide performance targets for	1. In accordance with the examination procedure referred to in Article 37(3) and with paragraphs 2 to 3 of this Article , the Commission shall adopt the Union-wide performance targets for en route air navigation services [...] in the key performance areas referred to in Article 10(2)a) for each reference period, and define the duration of that period. In conjunction	200 Compromise text proposed by PCY in coherence with line 180: 1. In accordance with the examination procedure referred to in Article 37(3) and with paragraphs 2 to 3 of this Article, the Commission shall adopt the Union-wide performance targets for en route air navigation services and indicative performance values for terminal air navigation services, in the key

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	<p>Article. In conjunction with the Union-wide performance targets, the Commission may define complementary baseline values, breakdown values or benchmark groups, for the purpose of enabling the assessment and approval of draft performance plans in accordance with the criteria referred to in Article 13(3).</p>	<p>terminal air navigation services shall take account of differences in the provision of those services due to local circumstances. The Union-wide performance target in the key performance area of climate must contribute to the achievement of the Union’s climate neutrality goal by producing CO₂ emissions savings of up to 10 %. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 37(2). In conjunction with the Union-wide performance targets, the Commission may define complementary baseline values, breakdown values or benchmark groups, for the purpose of enabling the assessment and approval of</p>	<p>with [...] those Union-wide performance targets, the Commission may define complementary baseline values, alert thresholds, breakdown values [...] and benchmark groups, for the purpose of enabling the assessment and approval of draft performance plans in accordance with the criteria referred to in Article 13 , paragraphs 3 and 3a, and with Article 13a.</p>	<p>performance areas referred to in Article 10(2)(a) and (b) for each reference period, and define the duration of that period.</p> <p>In conjunction with [...] those Union-wide performance targets and indicative performance values, the Commission may define complementary baseline values, alert thresholds, breakdown values [...] and benchmark groups, for the purpose of enabling the assessment and approval of draft performance plans in accordance with the criteria referred to in Article 13, paragraphs 3 and 3a, and with Article 13a.</p> <p>Last compromise text proposed by EP:</p>

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		draft performance plans in accordance with the criteria referred to in Article 13(3).		<p>1. In accordance with the advisory procedure referred to in Article 37(2) and with paragraphs 2 to 3 of this Article, the Commission shall adopt the Union-wide performance targets for <i>en route</i> air navigation services and for terminal air navigation services in the key performance areas <i>referred to in Article 10(2)a)</i> for each reference period and define the duration of that period.</p> <p>In conjunction with those Union-wide performance targets, the Commission may define complementary baseline values, <i>alert thresholds</i>, breakdown values <i>and [...]</i> benchmark groups, for the purpose of enabling the assessment and approval of draft performance plans in accordance with the criteria referred to in Article 13 ,</p>

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				paragraphs 3, <i>Article 13a</i> and <i>Article 18</i> .

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201.	2. Union-wide performance targets referred to in paragraph 1 shall be defined on the basis of the following essential criteria:		2. Union-wide performance targets referred to in paragraph 1 shall be defined on the basis of the following essential criteria:	201 Compromise text proposed by the PCY (previously tentatively agreed): 2. Union-wide performance targets and indicative performance values referred to in paragraph 1 shall be defined on the basis of the following essential criteria: EP proposes to maintain COM proposal.
202.	(a) they shall drive gradual, continuous improvements in respect of the operational and economic performance of air navigation services;		(a) they shall [...] strive gradual [...] improvements in respect of the environmental , operational and economic performance of air navigation services;	202 <i>(Tentatively agreed, following late EP proposal):</i> (a) they shall strive gradual improvements in respect of the climate and environmental, operational and economic performance of air navigation services;
203.	(b) they shall be realistic and achievable during the reference period concerned,	(b)they shall be realistic and achievable during the reference period concerned,	(b) they shall be realistic and achievable during the reference period concerned,	203 <i>(Tentatively agreed, difference between EP and Council's texts</i>

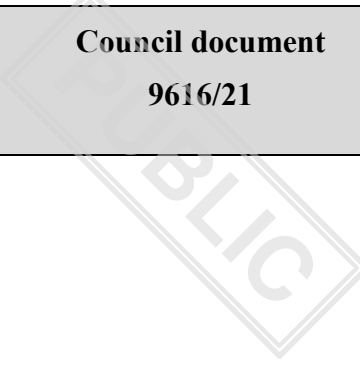
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	whilst fostering longer term structural and technological developments enabling the efficient, sustainable and resilient provision of air navigation services.	and shall promote longer term structural and technological developments enabling the efficient, sustainable and resilient provision of air navigation services.	[...] enabling the efficient, sustainable and resilient provision of air navigation services whilst fostering longer term technological developments;	<i>to be checked with Lawyer linguists)</i>

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204.			(c) they shall take into account the economic and operational context of the reference period, including traffic forecast and operational data, as well as the interdependencies between the key performance areas referred to in Article 10(2)a) and the need to fulfil EU environmental objectives.	204 Tentatively agreed, with the exception of the reference to Article 10(2)(b), which is refused by EP: (c) they shall take into account the economic and operational context of the reference period, including traffic forecast and operational data, as well as the interdependencies between the key performance areas referred to in Article 10(2)(a) and (b) and the need to be aligned with the objectives of Regulation (EU) 2021/1119 ¹ .
204a.				204a Compromise text proposed by the PCY: (cc) they shall take into account local circumstances of the

¹ The mention ‘aligned with the objectives of Regulation (EU) 2021/1119’ is the agreed text in the ETS directive for referring to EU environmental objectives.

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				Member States. EP proposes to delete this line.
205.			(d) they shall take into account the safety indicators referred to in article 10(2)c).	205 <i>(Tentatively agreed):</i> (d) they shall take into account the safety indicators referred to in article 10(2)(d).
206.	3. For the purposes of preparing its decisions on Union-wide performance targets, the Commission shall collect any necessary input from stakeholders. Upon request of the Commission, the Agency acting as PRB shall provide assistance to the Commission for the analysis and preparation of those decisions, by way of an opinion.	3. For the purposes of preparing its decisions on Union-wide performance targets, and, if the case, on complementary baseline values and breakdown values or benchmark groups the Commission shall collect any necessary input from stakeholders and the relevant national authorities . Upon request of the Commission, the Agency acting as PRB shall provide assistance to the Commission for the analysis and preparation of those decisions, by way of an opinion.	3. For the purposes of preparing its decisions on Union-wide performance targets, the Commission shall consult and collect any necessary input from national authorities, EUROCONTROL, and operational stakeholders [...] and may request the opinion of the PRB where a PRB has been designated in accordance with Article 9b.	206 Compromise text proposed by the PCY (previously tentatively agreed): 3. For the purposes of preparing its decisions on Union-wide performance targets and indicative performance values and, if defined in application of Article 11(1), on complementary baseline values and breakdown values or benchmark groups, the Commission shall consult and collect any necessary inputs from national authorities, EUROCONTROL, the Network

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				Manager and operational stakeholders.
207.	Article 12 - Classification of <i>en route</i> and terminal air navigation services	Article 12 - Classification of <i>en route</i> and terminal air navigation services	[...]	
208.	1. Before the start of each reference period, each Member State shall notify to the Commission which air navigation services to be provided during that period in the airspace under their responsibility it intends to classify as <i>en route</i> air navigation services and as terminal air navigation services respectively. At the same time, each Member State shall notify the Commission of the designated air traffic service providers of those respective services.		[...]	208 (Tentatively agreed): [...]
209.	2. In due time before the start of the relevant reference period,	2. In due time before the start of the relevant reference period,	[...]	209 (Tentatively agreed):

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	<p>the Commission, shall adopt implementing decisions addressed to each Member State as to whether the intended classification of the services concerned complies with the criteria set out in points (28) and (55) of Article 2. Upon request of the Commission, the Agency acting as PRB shall provide assistance to the Commission for the analysis and preparation of those decisions, by way of an opinion.</p>	<p>the Commission, shall adopt implementing <i>acts in the form of</i> decisions addressed to each Member State <i>stating</i> whether <i>their</i> intended classification of the services concerned complies with the criteria set out in points (29) and (55) of Article 2. <i>At the</i> request of the Commission, the Agency acting as PRB shall provide the Commission <i>with information, in the form of an opinion, to assist it in its analysis of compliance by the Member States</i> and <i>in the</i> preparation of those decisions.</p>		<p>[...]</p>

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210.	3. Where a decision adopted under paragraph 2 finds that the intended classification does not comply with the criteria set out in points (28) and (55) of Article 2, the Member State concerned shall, having regard to that decision, submit a new notification whose terms comply with those criteria. The Commission shall take a decision on this notification in accordance with paragraph 2.	3. Where a decision adopted under paragraph 2 states that the intended classification does not comply with the criteria set out in points (29) and (55) of Article 2, the Member State concerned shall, having regard to that decision, submit a new notification whose terms comply with those criteria. The Commission shall take a decision on this notification in accordance with paragraph 2.	[...]	210 (Tentatively agreed): [...]
211.	4. The designated air traffic service providers concerned shall base their draft performance plans for <i>en route</i> and terminal air navigation services on the classifications the Commission has found to be in compliance with the criteria set out in points (28) and (55) of Article 2. The Agency	4. The designated air traffic service providers concerned shall base their draft performance plans for <i>en route</i> and terminal air navigation services on the classifications referred to in paragraph 1, that the Commission has found to be in compliance with the criteria set out in points (29) and (55) of Article 2. The	[...]	211 (Tentatively agreed): [...]

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	acting as PRB shall base itself on those same classifications when assessing the allocation of costs between <i>en route</i> and terminal air navigation services under Article 13(3).	Agency acting as PRB shall base itself on those same classifications when assessing the allocation of costs between <i>en route</i> and terminal air navigation services under Article 13(4)..		
212.	Article 13 - Performance plans and performance targets for <i>en route</i> air navigation services of designated air traffic service providers	Article 13 - Performance plans and performance targets for <i>en route</i> air navigation services of designated air traffic service	Article 13 - Performance plans and performance targets for air navigation services	212 <i>(Tentatively agreed):</i> Article 13 - Performance plans and performance targets for air navigation services
213.	1. The designated air traffic service providers for <i>en route</i> air traffic services shall, for each reference period, adopt draft performance plans in respect of all the <i>en route</i> air navigation services which they provide and, where applicable, procure from other providers.		1. [...]Member States shall, for each reference period, individually or collectively at functional airspace block level, adopt a draft performance plan, [...] as prepared by the national supervisory authority, with inputs from other national authorities if relevant, based in particular on the input of the designated air traffic service provider(s) in respect of all	213 Compromise text proposed by the PCY: 1. The designated air traffic service providers shall, for each reference period and for the air navigation services they provide and, where applicable, procure from other providers, prepare inputs to the draft performance plan and submit them to the national supervisory authority. The

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			<p>[...] the air navigation services which [...] that service provider provides and, where applicable, procures from other providers.</p>	<p>national supervisory authority may request that those inputs are in the form of a draft performance plan.</p> <p>1aa. Such inputs shall be prepared by the designated air traffic service providers after the setting of Union-wide performance targets, so that the national supervisory authority prepares the draft performance plan before the start of the reference period concerned.</p> <p>1a. Where they are designated in accordance with Article 7a, MET service providers shall also provide inputs on their cost base to the national supervisory authority.</p> <p>1b. The national supervisory authority shall review the information provided by each</p>

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				<p>designated air navigation service providers and shall approve it or shall make the necessary changes where appropriate. Subsequently, based on that information, the NSA, with inputs from other national authorities if appropriate, shall develop a single national draft performance plan which shall be adopted by the Member State.</p> <p>The draft performance plan shall be developed by the NSA after the setting of Union-wide performance targets, and before the start of the reference period concerned.</p> <p>1bb. Member States may decide to apply the provisions of Articles 10 to 24 also to providers of air navigation services having the permission</p>

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				<p>to provide air navigation services to general air traffic pursuant to Article 6(6).</p> <p>Last compromise agreed by the EP:</p> <ol style="list-style-type: none"> 1. The designated air traffic service providers shall, for each reference period, prepare draft performance plans for the air navigation services they provide and, where applicable, procure from other providers, and submit it to the national supervisory authority. <p>Each draft performance plan shall be prepared by the designated air traffic service providers after the setting of Union-wide performance targets, and before the start of the reference period concerned. The draft performance plans shall contain performance targets</p>

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				<p>for en route air navigation services consistent with the Union-wide performance targets and performance targets for terminal air navigation services, in the key performance areas of climate and environment, capacity and cost-efficiency.</p> <p>1a. Where they are designated in accordance with Article 7a, MET service providers shall also provide inputs on their cost base to the national supervisory authority.</p> <p>1b. The national supervisory authority shall review the information provided by each designated air navigation service providers and shall approve it or shall make the necessary changes where appropriate. Subsequently,</p>

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				based on that information, the NSA, with inputs from other national authorities if appropriate, shall develop one national performance plan which shall be adopted by the Member State.
213a.				<p>213a</p> <p>Compromise text proposed by the PCY:</p> <p>1c. Several Member States may develop a joint performance plan for the en-route services and, as appropriate, the terminal services.</p> <p>As an alternative to have the conditions for joint performance plans detailed in the Article, the PCY also proposes to accept the following recital:</p> <p><i>+New Recital: Member States may develop joint performance plans for air navigation</i></p>

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				<p><i>services with the aim to improve the level of performance of air traffic management beyond the level which would be achievable on an individual Member States basis, covering at least the duration of the reference period and include joint targets and initiative on cross-border cooperation.</i></p> <p>Compromise text proposed by the EP:</p> <p>Several Member States may develop a joint performance plan for the en-route services and the terminal services where:</p> <p>(a) It is demonstrated that the level of performance established in the performance plan goes beyond the level which would be achievable on an</p>

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				<p>individual Member States basis.</p> <p>(b) The performance plan shall include initiatives on cross-border cooperation between air navigation service providers including joint procurement and joint governance;</p> <p>(c) The performance plan shall contain joint targets for the key performance areas referred to in Article 10(2)(a).</p>

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214.	The draft performance plans shall be adopted after the setting of Union-wide performance targets and before the start of the reference period concerned. They shall contain performance targets for en route air navigation services in the key performance areas of the environment, capacity and cost-efficiency, consistent with the Union-wide performance targets.	The draft performance plans shall be adopted after the setting of Union-wide performance targets, and before the start of the reference period concerned. They shall contain performance targets for <i>en route</i> air navigation services in the key performance areas of the climate and the environment , capacity and cost-efficiency, consistent with the Union-wide performance targets.	The draft performance plan shall be adopted after the setting of Union-wide performance targets and before the start of the reference period concerned. [...]	214 (Tentatively agreed, see line 213): [...]
214a.	Those draft performance plans shall take account of the European ATM Master Plan. (Moved to line 218)	Those draft performance plans shall take account of and contribute to the implementation of the European ATM Master Plan. (Moved to line 218)	[...]	214a (Tentatively agreed) [...]

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214b.	The draft performance plans shall be made publicly available. <i>(Moved to line 227)</i>	The draft performance plans shall be made publicly available. <i>(Moved to line 227)</i>	[...]	214b <i>(Tentatively agreed)</i> [...]
215.	2. The draft performance plans for <i>en route</i> air navigation services referred to in paragraph 1 shall include relevant information provided by the Network Manager.	2. The draft performance plans for <i>en route</i> air navigation services referred to in paragraph 1 shall include relevant information provided by the Network Manager.	2. The draft performance plan [...] referred to in paragraph 1 shall include relevant information [...], in particular traffic forecasts and operational data, provided by EUROCONTROL and the Network Manager or local sources as appropriate.	215 Compromise text proposed by the PCY (based on Article 10(2) of Regulation 2019/317): 2. The draft performance plan [...] referred to in paragraph 1 shall include relevant information [...], in particular traffic forecasts and operational data, provided by EUROCONTROL and the Network Manager or, if appropriate and justified and after consultation with airspace users and air navigation service providers concerned, other traffic forecasts. Last compromise text proposed by EP: 2. The draft performance plans [...] referred to in paragraph 1

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				shall include relevant information, <i>in particular traffic forecasts and operational data</i> , provided by EUROCONTROL and the Network Manager or, if appropriate and justified, after consultation with airspace users, other en route and terminal traffic forecasts.
216.	Before adopting those draft plans, designated air traffic service providers shall consult airspace users' representatives and, where relevant, military authorities, airport operators and airport coordinators. The designated air traffic service providers shall also submit those plans to the national competent authority responsible for their certification, which shall verify the compliance with Regulation (EU) 2018/1139 and the	Before adopting those draft plans, designated air traffic service providers shall consult airspace users' representatives airport operators and airport coordinators, scientific experts in the domains of climate and environment, professional staff representative bodies and, where relevant, military authorities, airport operators and airport coordinators. The designated air traffic service providers shall also submit those	In preparing the draft performance plan the national supervisory authority shall consult airspace users' representatives and, where relevant, military authorities, airport operators and airport coordinators as well as the national competent authority in case the national supervisory authority and the national competent	216 <i>(Tentatively agreed):</i> In developing the draft performance plan, the national supervisory authority shall consult airspace users' representatives and, where relevant, military authorities, airport operators, airport coordinators, as well as the national competent authority without prejudice to the national set-up resulting from Article 3(4). The compliance with Regulation (EU) 2018/1139 and the delegated

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	delegated and implementing acts adopted on the basis thereof.	plans to the national competent authority responsible for their certification, which shall verify the compliance with Regulation (EU) 2018/1139 and the delegated and implementing acts adopted on the basis thereof.	authority are two different entities. The compliance with Regulation (EU) 2018/1139 and the delegated and implementing acts adopted on the basis thereof shall be verified.	and implementing acts adopted on the basis thereof shall be verified.
217.	3. Draft performance plans for <i>en route</i> air navigation services shall contain performance targets for <i>en route</i> air navigation services that are consistent with the respective Union-wide performance targets in all key performance areas and fulfil the additional conditions laid down in the third subparagraph.	3. Draft performance plans for en route air navigation services shall contain performance targets for en route air navigation services that are consistent with the respective Union-wide performance targets in all key performance areas, including those regarding climate and the environment , and fulfil the additional conditions laid down in the third subparagraph. Data concerning military training and operations shall not be included in the assessment of performance objectives.	1b. For each reference period, the national supervisory authority shall set and include in the draft performance plan, in the key performance areas referred to in Article 10(2)a), performance targets for en route air navigation services consistent with the Union-wide performance targets and performance targets for terminal air navigation services.	217 Compromise text proposed by PCY: 3. The draft performance plan shall contain, as appropriate, performance targets for <i>en route</i> air navigation services consistent with the Union-wide performance targets and performance targets for terminal air navigation services, in the key performance areas of the climate and environment, capacity and cost-efficiency. Last compromise proposal by EP: 3. Draft performance plans

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				prepared by designated air navigation service providers shall contain, as appropriate, performance targets for en route air navigation services consistent with the Union-wide performance targets and performance targets for terminal air navigation services in the key performance areas referred to in Article 10(2)(a).
218.	Those draft performance plans shall take account of the European ATM Master Plan. <i>(moved from line 214)</i>	Those draft performance plans shall take account of and contribute to the implementation of the European ATM Master Plan. <i>(moved from line 214)</i>	Those draft performance plans shall take account of the European ATM Master Plan and the interdependencies between the key performance areas referred to in Article 10(2)a) and the need to fulfil the relevant EU safety requirements and EU environmental objectives.	218 Compromise text proposed by PCY: Draft performance plans shall take account of the European ATM Master Plan, the interdependencies between the key performance areas referred to in Article 10(2)(a) and (b) and the local circumstances. Compromise text proposed by EP (see also line 198): Those draft performance plans

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				shall take account of the European ATM Master Plan.
219.	Consistency of performance targets for <i>en route</i> air navigation service with Union-wide performance targets shall be established according to the following criteria:		Consistency of performance targets for en route air navigation services, to be included in the draft performance plan , with Union-wide performance targets shall be established taking into account local circumstances and interdependencies between the key performance areas referred to in Article 10(2)a) and safety and according to all or part of the following criteria:	219 Compromise text proposed by the PCY is to simplify the text of lines 219 to 226a. The Presidency also proposes to refer to Article 18 since it specifies that examination procedure will be used to further develop the criteria and conditions: The assessment of the performance plans for en route and terminal air navigation including the assessment of the consistency of performance targets for en route air navigation services with Union-wide performance targets, the assessment of the performance targets for terminal air navigation

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				<p>services and the assessment of the allocation of common costs between en route and terminal air navigation services shall be established according to criteria and conditions defined in accordance with Article 18.</p> <p>Last compromise text proposed by EP: The assessment of the performance plans for en route and terminal air navigation including the assessment of the consistency of performance targets for en route air navigation services with Union- wide performance targets, the assessment of the performance targets for terminal air navigation services and the assessment of the allocation of costs between en route and terminal air navigation services shall be established according to criteria and</p>

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				<p>conditions defined in an implementing act adopted in accordance with the advisory procedure referred to in Article 37(2) as provided in Article 18.</p> <p>For the establishment of the consistency of performance targets for en route air navigation services with Union- wide performance targets, and for the assessment of the performance targets for terminal air navigation services consideration shall be given to performance improvements over time for the reference period covered by performance plan, and, additionally for the overall period comprising both the preceding reference period and the reference period covered by performance plan.</p>
220.	(a) where breakdown values		(a) where breakdown values	220

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	have been established in conjunction with Union-wide performance targets, comparison of the performance targets contained in the draft performance plan with those breakdown values;		have been established in conjunction with Union-wide performance targets, comparison of the performance targets contained in the draft performance plan with those breakdown values;	<i>(Tentatively agreed):</i> [...]
221.	(b) evaluation of performance improvements over time, for the reference period covered by the performance plan, and additionally for the overall period comprising both the preceding reference period and the reference period covered by the performance plan;		(b) evaluation of performance improvements over time, for the reference period covered by the performance plan, and additionally for the overall period comprising both the preceding reference period and the reference period covered by the performance plan;	221 <i>(Tentatively agreed):</i> [...]

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222.	(c) comparison of the planned level of performance of the air traffic service provider concerned with other air traffic service providers being part of the same benchmark group.		(c) comparison of the planned level of performance of the air traffic service provider concerned within the [...] relevant benchmark group. The assessment of the consistency of performance targets in the key performance area of cost-efficiency shall exclude the costs referred to in point (b) (d) and (e) of Article 20(3).	222 <i>(Tentatively agreed):</i> [...]
223.	In addition, the draft performance plan must comply with the following conditions:		3a. In addition, the adopted draft performance plan must comply with the following conditions:	223 <i>(Tentatively agreed):</i> [...]
224.	(a) key assumptions applied as a basis for target setting and measures intended to achieve the targets during the reference period, including baseline values, traffic forecasts and economic assumptions		(a) key assumptions applied as a basis for target setting and measures intended to achieve the targets during the reference period, including baseline values, traffic forecasts and economic assumptions	224 <i>(Tentatively agreed):</i> [...]

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	used, must be accurate, adequate and coherent;		used, must be accurate, adequate and coherent at the time of preparing the performance plan;	
225.	(b) the draft performance plan must be complete in terms of data and supporting material;		(b) the adopted draft performance plan must be complete in terms of data and supporting material;	225 <i>(Tentatively agreed):</i> [...]
226.	(c) cost bases for charges must comply with Article 20.		(c) cost bases for charges must comply with Article 20.	226 <i>(Tentatively agreed):</i> [...]
226a.		<i>(c a) description of how the plan and targets within it contribute to the overall objectives of the Single European Sky referred to in Article 1(1). (Moved from line 271)</i>		226a <i>(Tentatively agreed):</i> [...]

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227.	The draft performance plans shall be made publicly available. <i>(Moved from line 214)</i>	The draft performance plans shall be made publicly available. <i>(Moved from line 214)</i>	3b. The adopted draft performance plans shall be made publicly available, without prejudice to confidentiality of sensitive information.	227 <i>(Tentatively agreed):</i> 3aa. The adopted draft performance plans shall be made publicly available. Where services are provided under market conditions, commercially sensitive information shall be presented in an aggregated manner.
228.	4. The allocation of costs between <i>en route</i> and terminal air navigation services shall be assessed by the Agency acting as PRB on the basis of the methodology referred to in Article 10(3)(k) and the classification of the different services as assessed by the Commission pursuant to Article 12.	4. Where relevant , the allocation of costs between <i>en route</i> and terminal air navigation services shall be evaluated by the national supervisory authority on the basis of the methodology referred to in Article 10(3)(k) and the classification of the different services as assessed by the Commission pursuant to Article 12.	1a. Before the start of each reference period, each national supervisory authority shall lay down the criteria to allocate the costs common to en route and terminal air navigation services between the two categories of services taking into account the principle of cost-relatedness. It shall include this information in the draft performance plan. The national supervisory authority shall ensure that the cost bases for charges comply	228 Compromise text proposed by the PCY: 4. In order to lay down the general principles referred to Article 10(3)(k), the Commission shall review the existing national criteria to allocate costs common to en-route and terminal air navigation services and shall consult national supervisory authorities and stakeholders. Based on this review, the

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			with those criteria and the requirements of Article 20.	<p>Commission shall then establish those general principles no later than 12 months before the start of the first reference period following the adoption of this regulation. Those general principles shall be used by the designated air navigation service providers when providing their inputs to the performance plans. National supervisory authorities shall assess that the allocation of costs complies with those general principles when developing the performance plans.</p> <p>Compromise text proposed by EP:</p> <p>4. In order to lay down the general principles referred to Article 10(3)(k), the Commission shall review the</p>

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				<p>existing national criteria to allocate costs common to en-route and terminal air navigation services and shall consult national supervisory authorities and stakeholders.</p> <p>National supervisory authorities shall then establish the methodology for the allocation of costs between en route and terminal air navigation services that complies with those general principles. The methodology shall be used by the designated air navigation service providers when preparing the performance plan. National supervisory authorities shall assess that the allocation of costs complies with those general principles when developing the performance plans.</p>

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229.	5. The draft performance plans for <i>en route</i> air navigation services referred to in paragraph 1, including where relevant the allocation of costs between <i>en route</i> and terminal air navigation services, shall be submitted to the Agency acting as PRB for assessment and approval.	5. The draft performance plans for <i>en route</i> air navigation services referred to in paragraph 1, including where relevant the allocation of costs between <i>en route</i> and terminal air navigation services, shall, once they have been evaluated by the national supervisory authority , be submitted to the Agency acting as PRB for assessment and approval.	5. The adopted draft performance plans [...] shall be submitted to the [...] Commission for assessment and approval in accordance with Article 13a .	229 (Tentatively agreed): 5. The adopted draft performance plans shall be submitted to the Commission for assessment and approval in accordance with Article 13a.
229a.				229a (Tentatively agreed): [...]
229b.				229b (Tentatively agreed): [...]
230.				230 (Tentatively agreed): [...]

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231.	6. In the case of a designated air traffic service provider providing both <i>en route</i> air navigation services and terminal air navigation services, the Agency acting as PRB shall first assess the allocation of costs between the respective services in accordance with paragraph 4.	6. In the case of a designated air traffic service provider providing both <i>en route</i> air navigation services and terminal air navigation services, the [...] PRB shall first assess the allocation of costs between the respective services <i>on the basis of the evaluation by the national supervisory authority and</i> in accordance with <i>the methodology and classification referred to in</i> paragraph 4.	[...]	231 (Tentatively agreed): [...]
232.	Where the Agency acting as PRB finds that the allocation of costs does not comply with the methodology or with the classification referred to in paragraph 4, the designated air traffic service provider concerned shall present a new draft performance plan complying with that	Where the [...] PRB finds that the allocation of costs does not comply with the methodology or with the classification referred to in paragraph 4, the designated air traffic service provider concerned shall present a new draft performance plan complying with that methodology and with that classification.	[...]	232 (Tentatively agreed): [...]

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	methodology and with that classification.			
233.	Where the Agency acting as PRB finds that the allocation of costs complies with that methodology and with that classification, it shall take a decision to that effect, notifying the designated air traffic service provider and national supervisory authority concerned. The national supervisory authority shall be bound by the conclusions of that decision in respect of the allocation of costs for the purposes of the assessment of the draft performance plan for terminal air navigation services referred to in Article 14.	Where the /... / PRB finds that the allocation of costs complies with that methodology and with that classification, it shall take a decision to that effect, notifying the designated air traffic service provider and national supervisory authority concerned. The national supervisory authority shall be bound by the conclusions of that decision in respect of the allocation of costs for the purposes of the assessment of the draft performance plan for terminal air navigation services referred to in Article 14.	[...]	233 <i>(Tentatively agreed):</i> [...]

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233a.			Article 13a (new) - Assessment of performance targets and performance plans by the Commission	233a (Tentatively agreed): Article 13a (new) - Assessment of performance plans
234.	7. The Agency acting as PRB shall assess the performance targets for <i>en route</i> air navigation services and the performance plans according to the criteria and conditions set out in paragraph 3. Where paragraph 6 applies, this assessment shall take place after a decision on the allocation of costs has been taken in accordance with the fourth subparagraph of paragraph 6.	7. The Agency acting as PRB shall assess the performance targets for en route air navigation services and the performance plans according to the criteria and conditions set out in paragraph 3, including regarding climate and environment. Where paragraph 6 applies, this assessment shall take place after a decision on the allocation of costs has been taken in accordance with the third subparagraph of paragraph 6.	1. The Commission shall assess the performance targets for en route air navigation services and the adopted draft performance plans referred to in Article 13 according to the criteria and conditions set out in Article 13(3) and (3a).	234 (Tentatively agreed with the exception of the Articles mentioned): 1. The Commission shall assess the adopted draft performance plans referred to in Article 13 according to the criteria and conditions defined in accordance with Article 13(3) and with Article 18. Last compromise text proposed by the EP: 1. The Commission shall assess the adopted draft performance plans referred to in Article 13 according to the criteria and conditions defined in accordance with Article 13(3) and with Article 18(a).

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235.			<p>2. Where consistency of performance targets for en route air navigation services with the Union-wide performance targets cannot be established on the basis of the criteria laid down in Article 13(3), the Commission shall assess whether the divergence from these criteria can be justified by local circumstances and/or interdependencies between key performance areas referred to in Article 10(2)a), in the light of the information provided in the draft performance plans and safety considerations. If that is the case, performance targets for en route air navigation services shall be considered consistent with Union-wide targets.</p>	<p>235 <i>(Tentatively agreed with the exception of the mention of Article 18 (EP proposes “and Article 18” instead of “in accordance with Article 18”):</i></p> <p>2. When assessing the consistency of performance targets for en route air navigation services with the Union-wide performance targets on the basis of the criteria laid down in Article 13(3) in accordance with Article 18, the Commission shall take due account of local circumstances and interdependencies between key performance areas referred to in Article 10(2)(a).</p>
236.			The Commission may allow a	236

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			deviation of performance targets for en route air navigation services from Union-wide performance targets with respect to cost-efficiency, or capacity key performance areas where necessary to ensure consistency of performance targets for those services with the Union-wide performance targets with respect to environment key performance area. In addition, deviations shall be allowed to enable compliance with the relevant EU safety requirements set out in Regulation (EU) 2018/1139 and the implementing and delegated acts adopted on the basis thereof.	Compromise text proposed by the PCY: The Commission may allow a deviation of performance targets for en route air navigation services from Union-wide performance targets with respect to one key performance area where necessary to ensure consistency of performance targets for those services with the Union-wide performance targets with respect to other key performance areas. EP proposes to delete this line.
237.	Where the Agency acting as PRB finds that the draft performance plan meets those criteria and conditions, it shall approve it.	Where the [...] PRB finds that the draft performance plan meets those criteria and conditions, it shall approve it.	3. Where the Commission finds that the adopted draft performance plan meets the criteria and conditions set out in Article 13(3) and (3a) read in	237 <i>(Tentatively agreed):</i> 3. Where the Commission finds that the adopted draft performance plan meets the

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			combination with paragraph 2 of this Article, it shall approve it in accordance with the examination procedure referred to in Article 37(3).	criteria and conditions set out in Article 13(3) read in combination with paragraph 2 of this Article, it shall approve it in accordance with the advisory procedure referred to in Article 37(2).
238.	Where the Agency acting as PRB finds that one or several performance targets for <i>en route</i> air navigation services are not consistent with the Union-wide performance targets or the performance plan does not meet the additional conditions set out in paragraph 3, it shall deny the approval.		4. Where the Commission finds that there are doubts about the compliance of the draft performance plan with the criteria and conditions set out in Article 13(3) and (3a) read in combination with paragraph 2 of this Article, it shall initiate a detailed examination of that draft performance plan, requesting additional information from the Member State concerned if necessary.	238 <i>(Tentatively agreed, EP though insisting that it could not accept second subparagraph of paragraph 2):</i> 4. Where the Commission finds that there are doubts whether the adopted draft performance plans meet the criteria and condition set out in Article 13(3) read in combination with paragraph 2 of this Article, it shall initiate a detailed examination of that draft performance plan, requesting additional information from the Member State concerned if necessary.
239.	8. Where the Agency acting	8. Where the Agency acting as	[...]	239

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	as PRB has denied approval of a draft performance plan in accordance with paragraph 7, a revised draft performance plan shall be presented by the designated air traffic service provider concerned, including where necessary revised targets.	PRB has denied approval of a draft performance plan in accordance with paragraph 7, a revised draft performance plan shall be presented by the designated air traffic service provider concerned, including where necessary revised targets for climate and the environment, capacity and cost efficiency. The revised draft performance plan shall be evaluated by the national supervisory authority.		<i>(Tentatively agreed):</i> [...]
240.	9. The Agency acting as PRB shall assess the revised draft performance plan referred to in paragraph 8 in accordance with the criteria and conditions set out in paragraph 3. Where a revised draft performance plan meets those criteria and conditions, the Agency acting as PRB shall approve it.	9. The Agency acting as PRB shall assess the revised draft performance plan taking in account the evaluation referred to in paragraph 8 in accordance with the criteria and conditions set out in paragraph 3. Where a revised draft performance plan meets those criteria and conditions, the Agency acting as PRB	5. Where, having carried out the detailed examination, the Commission finds that the draft performance plan meets the criteria and conditions set out in Article 13(3) and (3a) read in combination with paragraph 2 of this Article, it shall approve it in accordance with the examination procedure referred to in Article 37(3).	240 <i>(Tentatively agreed):</i> 5. Where, having carried out the detailed examination, the Commission finds that the adopted draft performance plan meets the criteria and conditions set out in Article 13(3) read in combination with paragraph 2 of this Article, it shall approve it in accordance with the advisory

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		shall approve it.		procedure referred to in Article 37(2).
241.	Where a revised draft performance plan does not meet those criteria and conditions, the Agency acting as PRB shall deny its approval and shall require the designated air traffic service provider to present a final draft performance plan.	Where a revised draft performance plan does not meet those criteria and conditions, the [...] PRB shall deny its approval and shall require the designated air traffic service provider to present a final draft performance plan.	Where however the Commission finds that the draft performance plan is not consistent with those criteria and conditions, the Commission shall adopt a decision setting out the corrective measures which the Member State(s) concerned is to take, in accordance with the examination procedure referred to in Article 37(3).	241 <i>(Tentatively agreed, EP accepting examination procedure here):</i> Where however the Commission finds that the adopted draft performance plan does not meet those criteria and conditions, the Commission shall adopt a decision, in accordance with the examination procedure referred to in Article 37(3), requesting the Member State(s) concerned to submit a revised draft performance plan, which shall comply with the criteria and conditions defined in accordance with Article 13(3), and, when relevant, setting out the corrective measures to be taken by the Member State(s) concerned.
242.			The Member State(s) concerned shall communicate to the	242 <i>(Tentatively agreed):</i>

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			Commission the measures that it has taken pursuant to that decision, as well as information demonstrating that those measures comply with that decision.	The Member State(s) concerned shall communicate to the Commission the measures that it has taken pursuant to that decision, as well as information demonstrating that those measures comply with that decision.
243.			Where the Commission finds that those measures are sufficient to ensure compliance with its decision, it shall notify the Member State(s) concerned thereof and approve the draft performance plan in accordance with the examination procedure referred to in Article 37(3).	243 <i>(Tentatively agreed, with the exception of the comitology procedure which should be agreeable for the EP):</i> Where the Commission finds that those measures are sufficient to ensure compliance with its decision, it shall notify the Member State(s) concerned thereof and approve the draft performance plan in accordance with the advisory procedure referred to in Article 37(2).
244.	Where the revised draft performance plan submitted in accordance with paragraph 8	Where the revised draft performance plan submitted in accordance with paragraph 8 is	Where the Commission finds that those measures are not sufficient to ensure compliance	244 <i>(Tentatively agreed):</i> Where the Commission finds that

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	<p>is denied because it contains performance targets for en route air navigation services that are not consistent with the Union-wide performance targets, the Agency acting as PRB shall establish performance targets in consistency with the Union-wide performance targets for the designated air traffic service provider concerned, taking into account the findings made in the decision referred to in paragraph 7. The final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets thus established by the Agency acting as PRB, as well as the measures to achieve those targets.</p>	<p>denied because it contains performance targets for <i>en route</i> air navigation services that are not consistent with the Union-wide performance targets, including that regarding climate and the environment, the Agency acting as PRB shall establish performance targets in consistency with the Union-wide performance targets for the designated air traffic service provider concerned, taking into account the findings made in the decision referred to in paragraph 7. The final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets thus established by the Agency acting as PRB, as well as the measures to achieve those</p>	<p>with the decision, it shall notify the Member State concerned and take, where appropriate, action to address the non-compliance, including through actions provided for in Article 258 of the Treaty on the Functioning of the European Union.</p>	<p>those measures are not sufficient to ensure compliance with the decision, it shall notify the Member State(s) concerned. The Commission shall take, where appropriate, action to address the non-compliance, including through actions provided for in Article 258 of the Treaty on the Functioning of the European Union.</p>

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		targets, including for climate and the environment.		
245.	Where approval of the revised draft performance plan submitted in accordance with paragraph 8 is denied only because it does not comply with the conditions set out in the third subparagraph of paragraph 3, the final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets contained in the draft performance plan and found to be consistent with the Union-wide performance targets by the Agency acting as PRB, and shall contain the amendments necessary in view of the conditions the Agency acting as PRB has found not being met.	Where approval of the revised draft performance plan submitted in accordance with paragraph 8 is denied only because it does not comply with the conditions set out in the third subparagraph of paragraph 3, the final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets contained in the draft performance plan and found to be consistent with the Union-wide performance targets by the Agency acting as PRB, and shall contain the amendments necessary in view of the conditions the Agency acting as PRB has found not being met, including those regarding climate and the	[...]	245 <i>(Tentatively agreed):</i> [...]

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		environment.		
246.	Where approval of the revised draft performance plan submitted in accordance with paragraph 8 is denied because it contains performance targets for <i>en route</i> air navigation services that are not consistent with the Union-wide performance targets and because, in addition, it does not comply with the conditions set out in the third subparagraph of paragraph 3, the final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets established by the Agency acting as PRB in accordance with the third subparagraph and the measures to achieve those targets and shall	Where approval of the revised draft performance plan submitted in accordance with paragraph 8 is denied because it contains performance targets for <i>en route</i> air navigation services that are not consistent with the Union-wide performance targets and because, in addition, it does not comply with the conditions set out in the third subparagraph of paragraph 3, the final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets established by the Agency acting as PRB in accordance with the third subparagraph and the measures to achieve those targets and shall contain the amendments	[...]	246 (Tentatively agreed): [...]

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	contain the amendments necessary in view of the conditions the Agency acting as PRB has found not being met.	necessary in view of the conditions the Agency acting as PRB has found not being met including those regarding climate and the environment.		
247.	10. Draft performance plans approved by the Agency acting as PRB shall be adopted by the designated air traffic service providers concerned as definitive plans, and shall be made publicly available.	10. Draft performance plans approved by the [...] PRB shall be adopted by the designated air traffic service providers concerned as definitive plans, and shall be made publicly available.	6. Draft performance plans approved by the [...] Commission in accordance with this Article shall be adopted by the Member States concerned as definitive plans, and shall be made publicly available, without prejudice to confidentiality of sensitive information.	247 <i>(Tentatively agreed):</i> 6. Draft performance plans approved by the Commission in accordance with this Article shall be adopted by the Member State(s) concerned as definitive plans, and shall be made publicly available. Where services are provided under market conditions, commercially sensitive information shall be presented in an aggregated manner.
248.			Article 13b (new) - Performance monitoring	248 <i>(Tentatively agreed):</i>

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				Article 13b (new) – Performance monitoring
249.			1. The national supervisory authority, in cooperation with the national competent authority where it is a different entity, shall assess whether the air navigation services provided in the airspace under their responsibility meet the performance targets contained in the performance plans approved in accordance with Article 13a, whether those plans are implemented correctly and whether it shall implement the positive or negative incentives following from the schemes referred to in Article 10(3)h).	249 <i>(Tentatively agreed):</i> 1. The national supervisory authority shall assess, in cooperation with the national competent authority without prejudice to the national set-up resulting from Article 3(4), whether the air navigation services provided in the airspace under their responsibility meet the performance targets contained in the performance plans approved in accordance with Article 13a and whether those plans are implemented correctly, and shall implement the incentives schemes referred to in Article 10(3)h).
250.	11.The Agency acting as PRB shall issue regular reports, within the time limits referred to in the implementing acts to be adopted in accordance with	11. The Agency acting as PRB shall issue regular reports, within the time limits referred to in the implementing acts to be adopted in accordance with	2. The national supervisory authority shall issue regular reports on the monitoring of performance of air navigation services provided by the	250 <i>(Tentatively agreed):</i> 2. The national supervisory authority shall issue regular reports on the monitoring of

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	<p>Article 18, on the monitoring of performance of <i>en route</i> air navigation services and network functions, including regular assessments of the achievement of the <i>en route</i> Union-wide performance targets and of performance targets for <i>en route</i> air navigation services for air traffic service providers and making the results of those assessments publicly available.</p>	<p>Article 18, on the monitoring of performance of <i>en route</i> air navigation services and network functions, including regular reports on the achievement of the <i>en route</i> Union-wide performance targets, including that regarding climate and the environment, and of performance targets for <i>en route</i> air navigation services for air traffic service providers and making the results of those assessments publicly available.</p>	<p>designated air traffic service providers and make the results of those assessments publicly available without prejudice to confidentiality of sensitive information.</p>	<p>performance of air navigation services provided by the designated air traffic service providers and make them available to the Commission. The results of those assessments shall be made publicly available. In case where services are provided under market conditions commercial sensitive information shall be presented in an aggregated manner.</p>

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251.	The designated air traffic service provider shall provide the information and data necessary for the monitoring of the performance of air navigation services. This shall include information and data related to actual costs and revenues.	The designated air traffic service provider shall provide the information and data necessary for the monitoring of the performance of air navigation services. This shall include information and data related to actual costs and revenues.	The designated air traffic service providers shall provide the information and data necessary for such monitoring . This shall include information and data related to actual costs of the services provided and, where applicable, without prejudice to confidentiality of sensitive information, and data related to actual costs of the services procured from other service providers.	251 <i>(Tentatively agreed, read in combination with Article 41):</i> The designated air traffic service providers shall provide the information and data necessary for such monitoring to the national supervisory authority. This shall include information and data related to actual costs of the services provided and procured and revenues.
252.		National supervisory authority shall report on an annual basis to the Agency acting as PRB on the achievement of performance targets by the designated air traffic service providers for the purpose of the regular reports referred to in the first subparagraph.		252 <i>(Tentatively agreed):</i> [...]

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253.	Where performance targets are not reached or the performance plan is not correctly implemented, the Agency acting as PRB shall issue decisions requiring corrective measures to be implemented by the air traffic service providers.	Where performance targets are not reached or the performance plan is not correctly implemented, including those regarding climate and the environment , the Agency acting as PRB after consultation with the Network Manager , shall issue decisions requiring corrective measures, including fines and periodic penalty payments in accordance with Article 42a of this Regulation and Article 84 of the [Regulation (EU) 2018/1139 as amended by Regulation PRB] , to be implemented by the air traffic service providers.	2a. Where performance targets contained in the performance plans are not reached or the performance plan is not correctly implemented, the national supervisory authority shall assess whether this is due to safety considerations or external factors beyond the air traffic service provider’s control. In particular, the national supervisory authority shall assess the impact of any detrimental effect of measures adopted in order to improve the overall functioning of the network on the actual performance of the air traffic service provider. In case the underperformance cannot be justified by safety considerations or external factors, the national	253 Compromise text proposed by the PCY: 2a. Where performance targets contained in the performance plans are not reached or the performance plan is not correctly implemented, the national supervisory authority shall require corrective measures to be implemented by the concerned air navigation service providers. Those corrective measures shall take into account safety considerations and any detrimental effect of measures adopted in order to improve the overall functioning of the network on the actual performance of the air traffic service provider and shall address, as far as practicable, unforeseeable and significant events outside the air traffic service provider’s control.

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			supervisory authority shall require corrective measures to be implemented by the air traffic service provider.	Compromise text proposed by the EP: 2a. Where performance targets contained in the performance plans are not reached or the performance plan is not correctly implemented, the national supervisory authority shall require corrective measures to be implemented by the air traffic service providers.
254.	These corrective measures may include, where objectively necessary, a requirement for an air traffic service provider to delegate the provision of the relevant services to another air traffic service provider.	These corrective measures may include, where objectively necessary, a requirement addressed to a Member State to delegate the provision of the relevant services to another air traffic service provider.	[...]	254 <i>(Tentatively agreed):</i> [...]
255.	Where the performance targets continue to be missed, or where the performance plan continues to be incorrectly implemented or where corrective measures imposed are not or not properly applied, the Agency acting as	Where the performance targets continue to be missed, or where the performance plan continues to be incorrectly implemented or where corrective measures imposed are not or not properly applied, including those	[...]	255 <i>(Tentatively agreed):</i> Where corrective measures imposed are not properly applied, the Member State(s) concerned shall take appropriate measures and inform the Commission.

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	PRB shall conduct an investigation and provide an opinion to the Commission in accordance with Article 24(2). The Commission may take action in accordance with Article 24(3).	regarding climate and the environment the Agency acting as PRB shall conduct an investigation and provide an opinion to the Commission in accordance with Article 24(2). The Commission may take action in accordance with Article 24(3).		In case of persisting underperformance, the Commission may take action in accordance with Article 24(3).
256.			2b. Financial incentives and disincentives shall take into account the deterioration of service and be proportionate to the magnitude of the variation between the achieved performances and the performance targets set in the approved performance plans. Financial incentives and disincentives may only be applied where the over or under performance is attributable to the air traffic service provider concerned. Such disincentives shall not be such as to affect the	256 <i>(Tentatively agreed):</i> [...] <i>PCY accepts to delete this line, given the inclusion of similar provisions in line 193.</i>

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			financial viability of that air traffic service provider and the safety and quality of the services provision.	
257.			3. The Commission shall carry out regular assessments of the overall achievement of the Union-wide performance targets and present the results to the committee referred to in Article 37(1).	257 <i>(Tentatively agreed):</i> 3. The Commission shall monitor the performance of the provision of air navigation services and carry out regular assessments of the overall achievement of the Union-wide performance targets and present the results to the committee referred to in Article 37(1).
258.	Article 14 - Performance plans and performance targets for terminal air navigation services of designated air traffic service providers	Article 14 - Performance plans and performance targets for terminal air navigation services of designated air traffic service providers	[...]	258 <i>(Tentatively agreed):</i> [...]
259.	1. The designated air traffic service providers for terminal air traffic services shall, for each reference period, adopt		[...]	259 <i>(Tentatively agreed):</i> [...]

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	draft performance plans in respect of all the terminal air navigation services which they provide and, where applicable, procure from other providers.			
260.	The draft performance plans shall be adopted after the setting of Union-wide performance targets and before the start of the reference period concerned. They shall contain performance targets for terminal air navigation services in the key performance areas of environment, capacity and cost-efficiency, consistent with the Union-wide performance targets. Those draft performance plans shall take account of the European ATM Master Plan. The draft performance plans shall be made publicly available.	The draft performance plans shall be adopted after the setting of Union-wide performance targets and before the start of the reference period concerned. They shall contain performance targets for terminal air navigation services in the key performance areas of climate and the environment , capacity and cost-efficiency, consistent with the Union-wide performance targets. Those draft performance plans shall take account and shall contribute to the implementation of the European ATM Master Plan. The draft performance plans	[...]	260 <i>(Tentatively agreed):</i> [...]

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		shall be made publicly available.		
261.	2. The draft performance plans for terminal air navigation services referred to in paragraph 1 shall include relevant information provided by the Network Manager.	2. The draft performance plans for terminal air navigation services referred to in paragraph 1 shall include relevant information provided by the Network Manager.	[...]	261 <i>(Tentatively agreed):</i> [...]
261a.	Before adopting those draft plans, designated air traffic service providers shall consult airspace users' representatives and, where relevant, military authorities, airport operators and airport coordinators. The designated air traffic service providers shall also submit those plans to the national competent authority responsible for their certification, which shall verify the compliance with Regulation (EU) 2018/1139 and the delegated and implementing acts adopted on	Before adopting those draft plans, designated air traffic service providers shall consult airspace users' representatives, airport operators and airport coordinators, scientific experts in the fields of climate and the environment, professional staff representative bodies and, where relevant, military authorities, airport operators and airport coordinators. The designated air traffic service providers shall also submit those plans to the national competent authority	[...]	261a <i>(Tentatively agreed):</i> [...]

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	the basis thereof.	responsible for their certification, which shall verify the compliance with Regulation (EU) 2018/1139 and the delegated and implementing acts adopted on the basis thereof.		
262.	3. Draft performance plans for terminal air navigation services shall contain performance targets for terminal air navigation services that are consistent with the respective Union-wide performance targets in all key performance areas and fulfil the additional conditions laid down in the third subparagraph.	3. Draft performance plans for terminal air navigation services shall contain performance targets for terminal air navigation services that are consistent with the respective Union-wide performance targets in all key performance areas including those regarding climate and the environment , and fulfil the additional conditions laid down in the third subparagraph	[...]	262 <i>(Tentatively agreed):</i> [...]
263.	Consistency of performance targets for terminal air navigation service with Union-wide performance		[...]	263 <i>(Tentatively agreed):</i> [...]

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	targets shall be established according to the following criteria:			
264.	(a) where breakdown values have been established in conjunction with Union-wide performance targets, comparison of the performance targets contained in the draft performance plan with those breakdown values;		[...]	264 <i>(Tentatively agreed):</i> [...]
265.	(b) evaluation of performance improvements over time, for the reference period covered by the performance plan, and additionally for the overall period comprising both the preceding reference period and the reference period covered by the performance plan;		[...]	265 <i>(Tentatively agreed):</i> [...]

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266.	(c) comparison of the planned level of performance of the air traffic service provider concerned with other air traffic service providers being part of the same benchmark group.		[...]	266 <i>(Tentatively agreed):</i> [...]
267.	In addition, the draft performance plan must comply with the following conditions:		[...]	267 <i>(Tentatively agreed):</i> [...]
268.	(a) key assumptions applied as a basis for target setting and measures intended to achieve the targets during the reference period, including baseline values, traffic forecasts and economic assumptions used, must be accurate, adequate and coherent;		[...]	268 <i>(Tentatively agreed):</i> [...]

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269.	(b) the draft performance plan must be complete in terms of data and supporting material;		[...]	269 (Tentatively agreed): [...]
270.	(c) cost bases for charges must comply with Article 20.		[...]	270 (Tentatively agreed): [...]
271.		(ca) description of how the plan and targets within it contribute to the overall objectives of the Single European Sky referred to in Article 1(1).		271 (Tentatively agreed): [...]
272.	4. The draft performance plans for terminal air navigation services referred to in paragraph 1, shall be submitted to the national supervisory authority for assessment and approval.		[...]	272 (Tentatively agreed): [...]
273.	5. In the case of a designated air traffic service provider providing both <i>en route</i> air		[...]	273 (Tentatively agreed): [...]

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	navigation services and terminal air navigation services, the draft performance plan for terminal air navigation services to be submitted to the national supervisory authority shall be the plan subject to a positive decision on the allocation of costs taken by the Agency acting as PRB in accordance with the third subparagraph of Article 13(6).			
274.	6. The national supervisory authority shall assess the performance targets for terminal air navigation services and the performance plans according to the criteria and conditions set out in paragraph 3. Where paragraph 5 applies, the national supervisory authority shall base its assessment on the conclusions of the decision	6. The national supervisory authority shall assess the performance targets for terminal air navigation services and the performance plans according to the criteria and conditions set out in paragraph 3, including those regarding climate and the environment. Where paragraph 5 applies, the national supervisory authority	[...]	274 <i>(Tentatively agreed):</i> [...]

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	taken by the Agency acting as PRB in respect of the allocation of costs.	shall base its assessment on the conclusions of the decision taken by the Agency acting as PRB in respect of the allocation of costs.		
275.	Where the national supervisory authority finds that the draft performance plan meets those criteria and conditions, it shall approve it.		[...]	275 <i>(Tentatively agreed):</i> [...]
276.	Where the national supervisory authority finds that one or several performance targets for terminal air navigation services are not consistent with the Union-wide performance targets or the performance plan does not meet the additional conditions set out in paragraph 3, it shall deny the approval.		[...]	276 <i>(Tentatively agreed):</i> [...]

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277.	7. Where the national supervisory authority has denied approval of a draft performance plan in accordance with paragraph 6, a revised draft performance plan shall be presented by the designated air traffic service provider concerned, including where necessary revised targets.	7. Where the national supervisory authority has denied approval of a draft performance plan in accordance with paragraph 6, a revised draft performance plan shall be presented by the designated air traffic service provider concerned, including where necessary revised targets, including those regarding climate and the environment.	[...]	277 <i>(Tentatively agreed):</i> [...]
278.	8. The national supervisory authority shall assess the revised draft performance plan referred to in paragraph 7 in accordance with the criteria and conditions set out in paragraph 3. Where a revised draft performance plan meets those criteria and conditions, the national supervisory authority shall approve it.		[...]	278 <i>(Tentatively agreed):</i> [...]

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279.	Where a revised draft performance plan does not meet those criteria and conditions, the national supervisory authority shall deny its approval and shall require the designated air traffic service provider to present a final draft performance plan.		[...]	279 <i>(Tentatively agreed):</i> [...]
280.	Where the revised draft performance plan submitted in accordance with paragraph 7 is denied because it contains performance targets for terminal air navigation services that are not consistent with the Union-wide performance targets, the national supervisory authority shall establish performance targets in consistency with the Union-wide performance targets for the designated air traffic service provider	Where the revised draft performance plan submitted in accordance with paragraph 7 is denied because it contains performance targets for terminal air navigation services that are not consistent with the Union-wide performance targets, including those regarding climate and the environment , the national supervisory authority shall establish performance targets in consistency with the Union-wide performance targets for	[...]	280 <i>(Tentatively agreed):</i> [...]

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	concerned, taking into account the findings made in the decision referred to in paragraph 6. The final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets thus established by the national supervisory authority as well as the measures to achieve those targets.	the designated air traffic service provider concerned, taking into account the findings made in the decision referred to in paragraph 6. The final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets thus established by the national supervisory authority as well as the measures to achieve those targets, including those regarding the climate and the environment.		
281.	Where approval of the revised draft performance plan submitted in accordance with paragraph 7 is denied only because it does not comply with the conditions set out in the third subparagraph of paragraph 3, the final draft performance plan to be	Where approval of the revised draft performance plan submitted in accordance with paragraph 7 is denied only because it does not comply with the conditions set out in the third subparagraph of paragraph 3, the final draft performance plan to be	[...]	281 <i>(Tentatively agreed):</i> [...]

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	presented by the designated air traffic service provider concerned shall include the performance targets contained in the draft performance plan and found to be consistent with the Union-wide performance targets by the national supervisory authority, and shall contain the amendments necessary in view of the conditions the national supervisory authority has found not being met.	presented by the designated air traffic service provider concerned shall include the performance targets contained in the draft performance plan and found to be consistent with the Union-wide performance targets by the national supervisory authority, and shall contain the amendments necessary in view of the conditions the national supervisory authority has found not being met, including those regarding climate and the environment.		
282.	Where approval of the revised draft performance plan submitted in accordance with paragraph 7 is denied because it contains performance targets for terminal air navigation services that are not consistent with the Union-wide performance targets and	Where approval of the revised draft performance plan submitted in accordance with paragraph 7 is denied because it contains performance targets for terminal air navigation services that are not consistent with the Union-wide performance targets and	[...]	282 <i>(Tentatively agreed):</i> [...]

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	because, in addition, it does not comply with the conditions set out in the third subparagraph of paragraph 3, the final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets established by the national supervisory authority in accordance with the third subparagraph and the measures to achieve those targets and shall contain the amendments necessary in view of the conditions the national supervisory authority has found not being met.	because, in addition, it does not comply with the conditions set out in the third subparagraph of paragraph 3, the final draft performance plan to be presented by the designated air traffic service provider concerned shall include the performance targets established by the national supervisory authority in accordance with the third subparagraph and the measures to achieve those targets and shall contain the amendments necessary in view of the conditions that the national supervisory authority has found are not being met, including those regarding climate and the environment.		
283.	9. Draft performance plans approved by the national supervisory authority shall be adopted by the designated air		[...]	283 (Tentatively agreed): [...]

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	traffic service providers concerned as definitive plans, and shall be made publicly available.			
283a.			Article 13b (new) - Performance monitoring <i>(moved from line 248)</i>	283a <i>(Tentatively agreed):</i> [...]
284.	10. The national supervisory authority concerned shall issue regular reports on the monitoring of performance of terminal air navigation services, including regular assessments of the achievement of the performance targets for terminal air navigation services for air traffic service providers and making the results of those assessments publicly available.	10. The national supervisory authority concerned shall issue regular reports on the monitoring of performance of terminal air navigation services, including regular assessments of the achievement of the performance targets for terminal air navigation services for air traffic service providers, including those regarding climate and the environment , and making the results of those assessments publicly available.	2. The national supervisory authority shall issue regular reports on the monitoring of performance of air navigation services provided by the designated air traffic service providers and make the results of those assessments publicly available without prejudice to confidentiality of sensitive information. <i>(moved from 250)</i>	284 <i>(Tentatively agreed):</i> [...]

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285.	The designated air traffic service provider shall provide the information and data necessary for the monitoring of the performance of air navigation services. This shall include information and data related to actual costs and revenues.		The designated air traffic service providers shall provide the information and data necessary for such monitoring . This shall include information and data related to actual costs of the services provided and, where applicable, without prejudice to confidentiality of sensitive information, and data related to actual costs of the services procured from other service providers. <i>(moved from line 251)</i>	285 <i>(Tentatively agreed):</i> [...]
286.	Where performance targets are not reached or the performance plan is not correctly implemented, the national supervisory authority shall issue decisions requiring corrective measures to be implemented by the air traffic service providers.	Where performance targets are not reached or the performance plan is not correctly implemented, including those regarding climate and the environment , the national supervisory authority shall issue decisions requiring corrective measures, including fines and periodic penalty payments to be implemented	2a. Where performance targets contained in the performance plans are not reached or the performance plan is not correctly implemented, the national supervisory authority shall assess whether this is due to safety considerations or external factors beyond the air traffic service provider’s control. In particular, the	286 <i>(Tentatively agreed):</i> [...]

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		by the air traffic service providers. These corrective measures may include, where objectively necessary, a requirement for an air traffic service provider to delegate the provision of the relevant services to another air traffic service provider.	national supervisory authority shall assess the impact of any detrimental effect of measures adopted in order to improve the overall functioning of the network on the actual performance of the air traffic service provider. In case the underperformance cannot be justified by safety considerations or external factors, the national supervisory authority shall require corrective measures to be implemented by the air traffic service provider. <i>(moved from line 253)</i>	
287.	These corrective measures may include, where objectively necessary, a requirement for an air traffic service provider to delegate the provision of the relevant services to another air traffic service provider.		[...]	287 <i>(Tentatively agreed):</i> [...]

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288.	Where the performance targets continue to be missed, or where the performance plan continues to be incorrectly implemented, or where corrective measures imposed are not or not properly applied, the national supervisory authority shall request the Agency acting as PRB to conduct an investigation in accordance with Article 24(2), and the Commission may take action in accordance with Article 24(3).	Where the performance targets continue to be missed, or where the performance plan continues to be incorrectly implemented, or where corrective measures imposed are not or not properly applied, including regarding climate and the environment , the national supervisory authority shall request the Agency acting as PRB to conduct an investigation in accordance with Article 24(2), and the Commission may take action in accordance with Article 24(3).	[...]	288 (Tentatively agreed): [...]
289.	11. Member States shall ensure that decisions taken by the national supervisory authority pursuant to this Article are subject to judicial review.		[...]	289 (Tentatively agreed): [...]
290.	12. Where the Agency acting as PRB carries out the tasks of a national supervisory authority		[...]	290 (Tentatively agreed): [...]

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	in accordance with Article 3(8), the draft performance plans for terminal air navigation services shall be submitted to the Agency acting as PRB together with the draft performance plans for <i>en route</i> air navigation services. Where the Agency has taken a decision in respect of the allocation of costs as referred to in the third subparagraph of Article 13(6), this decision shall be binding on it for the purposes of the assessment of the draft performance plans for terminal air navigation services.			
291.	Article 15 - Role of the Agency acting as PRB as regards the monitoring of Union-wide performance targets for terminal air navigation services	Article 15 - Role of the Agency acting as PRB as regards the monitoring of Union-wide performance targets for terminal air navigation services	[...]	Compromise proposal by the PCY is to delete lines 291 to 293 in line with general approach (see also proposal dedicated to the PRB): [...]

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292.	1. The Agency acting as PRB shall on a regular basis establish a Union-wide overview of the performance of terminal air navigation services and of how it relates to Union-wide performance targets.	1. The Agency acting as PRB shall on a regular basis once per year , establish a Union-wide overview of the performance of terminal air navigation services and of how it relates to Union-wide performance targets, including those regarding climate and the environment.	[...]	Compromise proposal by the PCY is to delete lines 291 to 293 in line with general approach (see also proposal dedicated to the PRB): [...]
293.	2. For the purpose of the preparation of the overview referred to in point 1, the national supervisory authorities shall notify their reports referred to in Article 14(10) to the Agency acting as PRB and shall provide any other information the Agency acting as PRB may request for those purposes.		[...]	Compromise proposal by the PCY is to delete lines 291 to 293 in line with general approach (see also proposal dedicated to the PRB): [...]

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294.	Article 16 - Network Performance Plan	Article 16 - Network Performance Plan	Article 16 - Network Performance Plan	
295.	1. The Network Manager shall, for each reference period, draw up a draft Network Performance Plan in respect of all the network functions which it delivers.	1. The Network Manager shall, for each reference period, draw up a draft Network Performance Plan in respect of all the network functions which it <i>supports and</i> delivers.	1. The Network Manager shall, for each reference period, draw up, in accordance [...] with the cooperative decision-making process referred to in Article 27(7) , a draft Network Performance Plan.	295 <i>(Tentatively agreed):</i> 1. The Network Manager shall, for each reference period, draw up, in accordance with the cooperative decision-making process referred to in Article 27(7), a draft Network Performance Plan.
296.	The draft Network Performance Plan shall be drawn up after the setting of Union-wide performance targets and before the start of the reference period concerned. It shall contain performance targets in the key performance areas of the environment, capacity and cost-efficiency.	The draft Network Performance Plan shall be drawn up after the setting of Union-wide performance targets and before the start of the reference period concerned. It shall contain specific performance targets for Network Manager in the key performance areas of climate and the environment, capacity and cost-efficiency.	The draft Network Performance Plan shall be drawn up after the setting of Union-wide performance targets and before the start of the reference period concerned. It shall contain performance targets in the key performance areas [...] referred to in Article 10(2)a).	296 <i>(Tentatively agreed):</i> The draft Network Performance Plan shall be drawn up after the setting of Union-wide performance targets and before the start of the reference period concerned. It shall contain performance targets in the key performance areas referred to in Article 10(2)a).

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297.	2. The draft Network Performance Plan shall be submitted to the Agency acting as PRB and to the Commission.		2. The draft Network Performance Plan shall be submitted to the [...] Commission for assessment and adoption.	297 <i>(Tentatively agreed):</i> 2. The draft Network Performance Plan shall be submitted to the Commission for assessment and adoption.
298.	The Agency acting as PRB shall, upon request from the Commission, deliver an opinion to the Commission on the draft Network Performance Plan based on the following essential criteria:		2a. [...] The Commission [...] shall assess the draft Network Performance Plan based on the following essential criteria:	298 <i>(Tentatively agreed):</i> 2a. The Commission shall assess the draft Network Performance Plan based on the following essential criteria:
299.	(a) consideration of performance improvements over time, for the reference period covered by the performance plan, and additionally for the timeframe comprising both the preceding reference period and the reference period covered by the performance plan;		(a) consideration of performance improvements over time, for the reference period covered by the performance plan, and [...] for the timeframe comprising both the preceding reference period and the reference period covered by the performance plan as well as	299 <i>(Tentatively agreed):</i> (a) consideration of performance improvements over time, for the reference period covered by the performance plan, and for the timeframe comprising both the preceding reference period and the reference period covered by the performance plan as well as

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			contribution towards Union wide performance targets;	contribution towards Union wide performance targets;
300.	(b) completeness of the draft Network Performance Plan in terms of data and supporting materials.		(b) completeness and consistency of the draft Network Performance Plan in terms of data and supporting materials, including key assumptions applied and traffic forecasts.	300 <i>(Tentatively agreed):</i> (b) completeness and consistency of the draft Network Performance Plan in terms of data and supporting materials, including key assumptions applied and traffic forecasts.
301.	Where the Commission finds that the draft Network Performance Plan is complete and shows adequate performance improvements, it shall adopt the draft Network Performance Plan as a definitive plan. Otherwise, the Commission may request the Network Manager to submit a revised draft Network Performance Plan.		2b. Where the Commission finds that the draft Network Performance Plan is complete and shows adequate performance improvements, it shall adopt the draft Network Performance Plan as a definitive plan. Otherwise, the Commission [...] shall request the Network Manager to submit a revised draft Network Performance Plan.	301 <i>(Tentatively agreed):</i> 2b. Where the Commission finds that the draft Network Performance Plan is complete and shows adequate performance improvements, it shall adopt the draft Network Performance Plan as a definitive plan. Otherwise, the Commission shall request the Network Manager to submit a revised draft Network Performance Plan.

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302.	Article 17 - Revision of performance targets and performance plans during a reference period	Article 17 - Revision of performance targets and performance plans during a reference period	Article 17 - Revision of performance targets and performance plans during a reference period	
303.	1. Where, during a reference period, Union-wide performance targets are no longer adequate, in light of significantly changed circumstances, and where the revision of targets is necessary and proportionate, the Commission shall revise those Union-wide performance targets. Article 11 shall apply to such decision. Subsequent to such revision, designated air traffic service providers shall adopt new draft performance plans, to which Articles 13 and 14 shall apply. The Network Manager shall draw up a new draft Network Performance Plan, to which Article 16 shall apply.	1. Where, during a reference period, Union-wide performance targets are no longer adequate, in light of significantly changed circumstances, and where the revision of targets is necessary and proportionate, the Commission shall revise those Union-wide performance targets, including those regarding climate and the environment . Article 11 shall apply to such decision. Subsequent to such revision, designated air traffic service providers shall adopt new draft performance plans, to which Articles 13 and 14 shall apply. The Network Manager shall draw up a new draft Network	1. Where, during a reference period, Union-wide performance targets are no longer adequate, in light of significantly changed circumstances or safety considerations , and where the revision of one or several targets is necessary and proportionate, the Commission shall revise those Union-wide performance targets. Article 11 shall apply to such decision [...].	303 Compromise text proposed by the PCY (previously tentatively agreed): 1. Where, during a reference period, Union-wide performance targets are no longer adequate, in light of significantly changed circumstances or safety considerations, and where the revision of one or several targets is necessary and proportionate, the Commission shall revise those Union-wide performance targets. Article 11 shall apply to such decision.

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		Performance Plan, to which Article 16 shall apply.		<p>Last compromise agreed by EP:</p> <p>1. Where, during a reference period, Union-wide performance targets are no longer adequate, in light of unforeseeable and significant events or safety considerations, and where the revision of one or several targets is necessary and proportionate, the Commission shall revise those Union-wide performance targets. Article 11 shall apply to such decision.</p>
304.			<p>Where, following such revision, the performance targets contained in the performance plans adopted pursuant to Article 13a(6) are no longer consistent with the Union-wide performance targets, Member States shall revise those plans with</p>	<p>304</p> <p>Compromise text proposed by the PCY (previously tentatively agreed):</p> <p>Where, following such revision, the performance targets contained in the performance plans adopted pursuant to Article 13a(6) are no longer consistent with the Union-</p>

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			<p>respect to the performance targets concerned. Articles 13 and 13a shall apply to the revision of those plans. The consultation referred to in Article 13(2) may be limited, for the purpose of this subparagraph, to the performance targets and parts of the draft performance plans which are directly or indirectly affected by the revision.</p>	<p>wide performance targets, the national supervisory authorities shall revise those plans with respect to the performance targets concerned. Articles 13, 13a and 13b shall apply to the revision of those plans. The consultation referred to in Article 13(2) may be limited, for the purpose of this subparagraph, to the performance targets and parts of the draft performance plans which are directly or indirectly affected by the revision.</p> <p>Last compromise agreed by EP: Where, following such revision, the performance targets contained in the performance plans adopted pursuant to Articles 13b(4) and 14(4) are no longer consistent with the Union-wide performance targets, [...] the designated air traffic service providers shall revise those plans with respect to</p>

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				<p>the performance targets concerned. Articles 13, 13a, 13b and 14 shall apply to the revision of those plans. The consultation referred to in Article 13(2) may be limited, for the purpose of this subparagraph, to the performance targets and parts of the draft performance plans which are directly or indirectly affected by the revision</p>

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305.			<p>Following the revision referred to in the first subparagraph, the Network Manager shall draw up a new draft Network Performance Plan. Article 16 shall apply to the adoption of that new plan.</p>	<p>305 Compromise text proposed by the PCY (previously tentatively agreed): Following the revision referred to in the first subparagraph, national supervisory authorities shall prepare new draft performance plans, to which Articles 13, 13a and 13b shall apply. The Network Manager shall draw up a new draft Network Performance Plan, to which Article 16 shall apply.</p> <p>Last compromise agreed by EP: Following the revision referred to in the first subparagraph, designated air traffic service providers shall prepare new draft performance plans, to which Articles 13, 13a, 13b, 14 and 14a shall apply. The Network Manager shall draw up a new draft Network Performance Plan,</p>

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				to which Article 16 shall apply
306.	2. The decision on the revised Union-wide performance targets referred to in paragraph 1 shall include transitional provisions for the time period until the definitive performance plans adopted pursuant to Article 13(6) and Article 14(6) become applicable.		2. The decision on the revised Union-wide performance targets referred to in paragraph 1 shall include transitional provisions for the time period until the definitive revised performance plans [...] become applicable. Revised Union-wide targets and transitional provisions shall not apply retroactively.	306 <i>(Tentatively agreed):</i> 2. The decision on the revised Union-wide performance targets referred to in paragraph 1 shall include transitional provisions for the time period until the definitive revised performance plans become applicable. Revised Union-wide targets and transitional provisions shall not apply retroactively.
307.			2a. In case of a network crisis which prevents the issuing of reliable traffic forecasts, the transitional provisions mentioned in paragraph 2 may include the suspension of the performance system until new reliable forecasts are available. In such a case, the Commission shall define the relating conditions, including necessary	307 <i>(Tentatively agreed):</i> [...] <i>PCY accepts to delete this line provided that such types of situations are already addressed in line 196.</i>

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			adaptations to applicable charges, in the decision referred to in paragraph 1.	
308.	3. Designated air traffic service providers may request permission from the Agency acting as PRB as regards <i>en route</i> air navigation services, or from national supervisory authority concerned as regards terminal air navigation services, to revise one or several performance targets during a reference period. Such a request can be made where alert thresholds are reached, or where the designated air traffic service providers demonstrate that the initial data, assumptions and rationales underpinning the performance targets are to a significant and lasting extent no longer accurate due to circumstances that were		3. [...]Member States may revise one or several performance targets, during a reference period [...] where alert thresholds are reached, or where it is demonstrated [...] that the initial data, assumptions and rationales underpinning the performance targets are to a significant and lasting extent no longer accurate due to circumstances that were unforeseeable at the time of the adoption of the performance plan.	308 Compromise text proposed by the PCY (previously tentatively agreed to delete): 3. Member States may, subject to the approval of the Commission, revise one or several performance targets, during a reference period [...] where alert thresholds are reached, or where it is demonstrated [...] that the initial data, assumptions and rationales underpinning the performance targets are to a significant and lasting extent no longer accurate due to circumstances that were unforeseeable at the time of the adoption of the performance plan. The Commission may approve this revision provided that the revision is necessary and proportionate and the revised

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	unforeseeable at the time of the adoption of the performance plan.			performance targets are consistent with Union-wide performance targets.
309.	4. The Agency acting as PRB as regards <i>en route</i> air navigation services, or the national supervisory authority concerned as regards terminal air navigation services, shall authorise the designated air traffic service provider concerned to proceed with the intended revision only if it is necessary and proportionate, and where the revised performance targets ensure that consistency with the Union-wide performance targets is maintained.	4. The Agency acting as PRB as regards <i>en route</i> air navigation services, or the national supervisory authority concerned as regards terminal air navigation services, shall authorise the designated air traffic service provider concerned to proceed with the intended revision only if it is necessary and proportionate, and where the revised performance targets ensure that consistency with the Union-wide performance targets is maintained, including those regarding climate and the environment.	[...]	309 (Tentatively agreed): [...]
310.	Where the revision has been authorised, designated air traffic service providers shall adopt new draft performance plans, in		In such a case, Member States shall revise the performance plans with respect to the targets	310 Compromise text proposed by the PCY (previously tentatively agreed to delete):

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	<p>accordance with the procedures set out in Articles 13 and 14.</p>		<p>concerned, in accordance with the procedures set out in Articles 13 and 13a. The consultation referred to in Article 13(2) may be limited, for the purpose of this paragraph, to the performance targets and parts of the performance plans which are directly or indirectly affected by the revision.</p>	<p>In such a case, Member States shall revise the performance plans with respect to the targets concerned, in accordance with the procedures set out in Articles 13 and 13a. The consultation referred to in Article 13(2) may be limited, for the purpose of this paragraph, to the performance targets and parts of the performance plans which are directly or indirectly affected by the revision.</p>

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311.	Article 18 - Implementation of the performance scheme	Article 18 - Implementation of the performance scheme	Article 18 - Implementation of the performance scheme	
312.	For the implementation of the performance scheme, the Commission shall adopt detailed requirements and procedures in respect of Articles 10(3), 11, 12, 13, 14, 15, 16 as well as 17, in particular as regards the development of draft performance plans, the setting of performance targets, the criteria and conditions for their assessment, the methodology for allocation of costs between <i>en route</i> and terminal air navigation services, the monitoring of performance and issuance of corrective measures, and the timetables for all procedures. Those requirements and procedures shall be set out in an implementing act adopted in accordance with the advisory procedure referred to in Article	In order to ensure uniform implementation of and compliance with the requirements referred to in Articles 10 to 17, the Commission shall with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:	For the implementation of the performance scheme, the Commission shall, by means of implementing acts adopted in accordance with the examination procedure referred to in Article 37(3) , adopt detailed requirements and procedures in respect of Articles 10(3), 11, [...] 13, 13a, 13b, [...] 16 [...] and 17 , in particular as regards	312 <i>(Tentatively agreed):</i> For the implementation of the performance scheme, the Commission shall adopt detailed requirements and procedures in respect of Articles 7a , 10(3), 11, 13, 13a, 13b, 16 and 17, in particular as regards: <i>Nota: The EP now considers adapting the wording as follows:</i> In order to ensure uniform implementation of and compliance with the provisions referred to in Articles 10(3), 11, 13, 13a, 13b, 16 and 17, with a view to achieving the objectives set out in Article 1, the Commission shall, adopt detailed requirements and procedures in particular as regards:

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	37(2).			
313.		(a) the rules, procedures and methodology for the development, , assessment, monitoring and revision of the draft performance plans for air navigation services and network functions referred to in Articles 13, 14 and 16;	the preparation, assessment, approval and revision of performance plans,	313 <i>(Tentatively agreed):</i> (a) the preparation, development, assessment, approval and revision of performance plans,
314.		(b) the rules and procedures for the setting of performance targets, the criteria and conditions for their assessment, referred to in Articles 10(3), 13 and 14;	the setting of performance targets, [...] the monitoring of performance ,	314 <i>(Tentatively agreed):</i> (b) the setting of performance targets, the criteria and conditions for their assessment, and a methodology to define breakdown values,
315.		(c) the rules and procedures for classification of en route and terminal air navigation services, referred to in Article 12;		315 <i>(Tentatively agreed):</i> [...]

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316.		(d) the rules and procedures for elaboration of the methodology for allocation of costs between en route and terminal air navigation services, referred to in Articles 10(3), 13 and 14;	[...]	316 Compromise text proposed by the PCY: (c) general principles for the allocation of common costs between en route and terminal air navigation services, as referred to in Article 10(3)(k); Compromise text proposed by EP in coherence with current regulation: (c) the methodology for the allocation of common costs between en route and terminal air navigation services, as referred to in Article 10(3)(k);
317.		(e) the rules and procedures for the monitoring of performance plans, alert mechanisms for revision of performance plans and targets and for the revision of Union-wide performance	the issuance of corrective measures,	317 <i>(Tentatively agreed):</i> (d) the monitoring of performance plans, alert mechanisms for revision of performance plans and targets and for the revision of Union-wide

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		targets during the course of a reference period and targets and issuance of corrective measures, referred to in Articles 10(3), 13, 14, 15 and 17;		performance targets during the course of a reference period and targets and issuance of corrective measures as referred to in Articles 10(3), 13, 13a, 13b and 17;
318.		(f) the rules and procedures for the timetables for all procedures, referred in Article 10(3)	and the timetables for all procedures.	318 <i>(Tentatively agreed):</i> (e) the timetables for all procedures;
319.		(g) the rules and procedures for a mechanism to address unforeseeable and significant events, referred to in Article 10(3).		319 <i>(Tentatively agreed):</i> (f) a mechanism to address unforeseeable and significant events, referred to in Article 10(3).
320.		(h) rules and procedures for the collection, validation, examination, evaluation and dissemination of relevant data related to the performance of air		320 <i>(Tentatively agreed):</i> [...]

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		navigation services and network functions;		

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321.		(i) rules and procedures for the setting of key performance indicators and indicators for monitoring.		321 (Tentatively agreed): (g) the setting of key performance indicators and indicators for monitoring.
322.			methodology for benchmarking,	322 (Tentatively agreed): (h) methodology for benchmarking,
323.			the incentive schemes,	323 (Tentatively agreed): (i) the incentive schemes,
323a.				323a The Presidency proposes to accept the compromise text proposed by the EP, which allows not to specify those conditions in line 213a: (j) conditions for the establishment of the joint performance plans.
324.		Those implementing acts shall be adopted in	See line 312: by means of implementing acts	324 Compromise text proposed by

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		<p>accordance with the advisory procedure referred to in Article 37(2).</p>	<p>adopted in accordance with the examination procedure referred to in Article 37(3),</p>	<p>the PCY: Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 37(3).</p> <p>Compromise text proposed by the EP: Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 37(2).</p>