



Council of the
European Union

Brussels, 1 March 2021
(OR. en)

6452/21

LIMITE

AVIATION 43
CODEC 251

**Interinstitutional File:
2013/0186(COD)**

WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	ST 12121/20
No. Cion doc.:	ST 10840/20 + ADD1
Subject:	Amended proposal for a Regulation of the European Parliament and of the Council on the implementation of the Single European Sky (recast) <ul style="list-style-type: none">– Chapter I, V and VI– Presidency compromise text

In view of the meetings of the members of the Aviation Working Party on 3 and 4 March 2021, delegations will find in annex a compromise text by the Presidency for Chapters I, V and VI of the above mentioned proposal.

The draft follows the principles related to a recast proposal. In particular, modifications to the Commission proposal are indicated by "➡ Council" in the text box preceding any changes. Furthermore, all modifications are enclosed between markers ➡ and ➡.

CHAPTER I

GENERAL ~~✗~~ PROVISIONS ~~✗~~

↓ 1070/2009 Art. 1.1 (adapted)

⇒ new

☞ Council

Article 1

~~Objective~~ ~~✗~~ Subject matter ~~✗~~ and scope

1. ⇒ This Regulation lays down rules for the creation and effective functioning of ~~✗~~ The objective of the ~~✗~~ Single European ~~✗~~ Sky initiative is to enhance ~~✗~~ in order to reinforce ~~✗~~ ☞ [...] ☞ air traffic safety standards, to contribute to the sustainable development of the air transport system and to improve the overall performance of air traffic management (~~ATM~~) and air navigation services (~~ANS~~) for general air traffic in Europe, with a view to meeting the requirements of all airspace users. ~~✗~~ This ~~✗~~ The ~~✗~~ Single European ~~✗~~ Sky shall comprise a coherent pan-European network of routes, ⇒ a progressively more integrated airspace, ⇒ network management and air traffic management systems based only on safety, efficiency, ~~technical considerations~~ ⇒ interoperability and technological modernisation ⇒ , for the benefit of all airspace users, ⇒ citizens and the environment. ⇒ ~~In pursuit of this objective, this Regulation establishes a harmonised regulatory framework for the creation of the single European sky.~~

↓ 1070/2009 Art. 1.2 (adapted)

☞ Council

2. The application of this Regulation ~~and of the measures referred to in Article 3~~ shall be without prejudice to Member States' sovereignty over their airspace and to the requirements of the Member States relating to public order, public security and defence matters, as set out in Article 44~~13~~. This Regulation ~~and the measures referred to in Article 3~~ ~~do~~ ~~✗~~ does ~~✗~~ not cover military operations and training. ☞ The coordination with military authorities shall be ensured to identify and address potential impacts of the application of this Regulation on military activities. ☞

↓ 1070/2009 Art. 1.3 (adapted)

3. The application of this Regulation ~~and of the measures referred to in Article 3~~ shall be without prejudice to the rights and duties of Member States under the 1944 Chicago Convention on International Civil Aviation (the Chicago Convention). In this context, ~~an additional objective of this Regulation is~~, ☒ aims to assist, ☒ in the fields it covers, ~~to assist~~ Member States in fulfilling their obligations under the Chicago Convention, by providing a basis for a common interpretation and uniform implementation of its provisions, and by ensuring that these provisions are duly taken into account in this Regulation and in the rules drawn up for its implementation.

↓ 550/2004

~~CHAPTER I~~

~~GENERAL~~

~~Article 1~~

~~Scope and objective~~

~~1. Within the scope of the framework Regulation, this Regulation concerns the provision of air navigation services in the single European sky. The objective of this Regulation is to establish common requirements for the safe and efficient provision of air navigation services in the Community.~~

~~2. This Regulation shall apply to the provision of air navigation services for general air traffic in accordance with and within the scope of the framework Regulation.~~

↓ 551/2004

~~CHAPTER I~~

~~GENERAL~~

~~Article 1~~

Objective and scope

~~1. Within the scope of the framework Regulation, this Regulation concerns the organisation and the use of airspace in the Single European Sky. The objective of this Regulation is to support the concept of a progressively more integrated operating airspace within the context of the common transport policy and to establish common procedures for design, planning and management ensuring the efficient and safe performance of air traffic management.~~

~~2. The use of airspace shall support the operation of the air navigation services as a coherent and consistent whole in accordance with Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation)¹.~~

↓ 551/2004 (adapted)

⇒ new

~~43. Without prejudice to Article 10, ¶1~~ This Regulation shall apply to the airspace within the ICAO EUR and AFI region where Member States are responsible for the provision of air traffic services ~~in accordance with the service provision Regulation~~. Member States may also apply this Regulation to airspace under their responsibility within other ICAO regions, on ☒ the ☒ condition that they inform the Commission and the other Member States thereof.

↓ 551/2004

~~4. The Flight Information Regions comprised within the airspace to which this Regulation applies shall be published in the Official Journal of the European Union.~~

¹ See page 10 of this Official Journal.

↓ 1070/2009 Art. 1.1

~~4. The application of this Regulation to the airport of Gibraltar is understood to be without prejudice to the respective legal positions of the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland with regard to the dispute over sovereignty over the territory in which the airport is situated.~~

↓ new

⇒ Council

5. ⇒[...]⌚

6. ⇒[...]⌚

↓ 549/2004 (adapted)

Article 2

Definitions

For the purposes of this Regulation ~~and of the measures referred to in Article 3~~, the following definitions shall apply:

↓ 549/2004 (adapted)

⇒ new

~~1. 'air traffic control (ATC) service' means a service provided for the purpose of:~~

~~12.~~ 'aerodrome control service' means an ☒ air traffic control ☒ (ATC) service for aerodrome traffic;

~~23.~~ 'aeronautical information service' means a service, established within ~~the~~ ☒ a ☒ defined area of coverage, responsible for the provision of aeronautical information and data necessary for the safety, regularity, and efficiency of air navigation;

~~35.~~ 'air navigation service provider' means a public or private entity providing ☒ one or more ☒ air navigation services for general air traffic;

~~44.~~ ‘air navigation services ~~☒~~ (ANS) ~~☒~~ ’ means air traffic services; communication, navigation and surveillance services ~~☒~~ (CNS) ~~☒~~ ; meteorological services ~~for air navigation~~ ~~☒~~ (MET) ~~☒~~ ; ~~and~~ aeronautical information services ~~☒~~ (AIS) ~~☒~~ ; ~~⇒~~ and air traffic data services (ADS); ~~⇐~~

~~51.~~ ‘air traffic control (ATC) service’ means a service provided for the purpose of:

(a) preventing collisions:

(i) between aircraft; ~~and~~

(ii) in the manoeuvring area between aircraft and obstructions; ~~and~~

(b) expediting and maintaining an orderly flow of air traffic;

↓ new

↻ Council

6. ‘air traffic data services’ means services consisting in the collection, aggregation and integration of operational data from providers of surveillance services, from providers of MET and AIS and network functions and from other relevant entities, or the provision of processed data for air traffic control and air traffic management purposes;

7. ~~⇒~~[...]☒

↓ 549/2004 (adapted)

⇒ new

↻ Council

~~89.~~ ‘air traffic flow management ~~☒~~ (ATFM) ~~☒~~ ’ means a function ~~⇒~~[...]☒ established with the objective of contributing to a safe, orderly and expeditious flow of air traffic ~~⇒~~ covering the full trajectory ~~⇐~~ by ensuring that ATC capacity is utilised to the maximum extent possible, and that the traffic volume is compatible with the capacities declared by the appropriate air traffic service providers;

↓ 1070/2009 Art. 1.2(b)

⇒ new

~~94.~~ ‘air traffic management (ATM)’ means the aggregation of the airborne and ground-based functions ~~⇒~~ or services ~~⇐~~ (air traffic services, airspace management and air traffic flow management) required to ensure the safe and efficient movement of aircraft during all phases of operations;

↓ 549/2004

⇒ Council

~~1011~~ ‘air traffic services’ means the various flight information services, alerting services, air traffic advisory services and ATC services (area, approach and aerodrome control services);

~~116~~ ‘airspace block’ means an airspace of defined dimensions, in space and time, ~~consisting of one or more airspace structures~~, ~~C~~ within which air navigation services are provided;

~~127~~ ‘airspace management’ means a planning function with the primary objective of maximising the utilisation of available airspace by dynamic time-sharing and, at times, the segregation of airspace among various categories of airspace users on the basis of short-term needs;

↓ new

13. ‘airspace structure’ means a specific volume of airspace defined with a view to ensuring the safe and optimal operation of aircraft;

↓ 1070/2009 Art. 1.2(a) (adapted)

~~148~~ ‘airspace users’ means operators of aircraft operated ~~in~~ in accordance with ~~the~~ ~~as~~ general air traffic ~~rules~~ rules ;

↓ 1070/2009 Art. 1.2(g)

~~1523b~~ ‘alerting service’ means a service provided to notify relevant organisations regarding aircraft in need of search and rescue aid, and to assist such organisations as required;

↓ 549/2004

⇒ new

~~1613~~ ‘approach control service’ means an ATC service for arriving or departing controlled flights;

~~1712~~ ‘area control service’ means an ATC service for controlled flights ~~in control areas~~ ~~a block of airspace~~ ⇒ in control areas;

↓ new

18. ‘baseline value’ means a value defined by way of estimation for the purpose of setting performance targets and concerning determined costs or determined unit costs during the year preceding the start of the relevant reference period;

19. ‘benchmark group’ means a group of air traffic service providers with a similar operational and economic environment;

20. ‘breakdown value’ means the value obtained, for a given air traffic service provider, by breaking down a Union-wide performance target to the level of each air traffic service provider and serving as a reference for assessing consistency of the performance target set in draft performance plan with the Union-wide performance target;

↓ 549/2004

~~14. ‘bundle of services’ means two or more air navigation services;~~

↓ 1070/2009 Art. 1.2(d) (adapted)

⇒ new

⇒ Council

~~21~~¹⁵ ‘certificate’ means a ⇒[...]⇒ ~~⇒certificate as defined by Article 3(12) of Regulation (EU) 2018/1139~~⇒;

↓ new

⇒ Council

22. ‘common information service (CIS)’ means a service consisting in the ⇒[...]⇒ ~~⇒dissemination of static and dynamic data to enable the provision of U-space services for the management of traffic of unmanned aircraft~~⇒;

↓ 549/2004

~~23~~¹⁶ ‘communication services’ means aeronautical fixed and mobile services to enable ground-to-ground, air-to-ground and air-to-air communications for ATC purposes;

~~18. ‘concept of operation’ means the criteria for the operational use of the EATMN or of part thereof;~~

~~2449.~~ ‘constituents’ means tangible objects such as hardware and intangible objects such as software upon which the interoperability of the European Air Traffic management Network (EATMN) depends;

↓ new

⇒ Council

25. ‘control area’ means a controlled airspace extending upwards from a specified limit above the earth;

26. ‘cooperative decision-making’ means a process in which decisions are made based on interaction and consultation with ⇒[...]☐ ⇒the relevant Member State authorities☐, operational stakeholders and other actors as appropriate;

↓ 1070/2009 Art. 1.2(j)

⇒ new

⇒ Council

~~2741~~⇒[...]☐;

↓ new

⇒ Council

28. ‘declaration’ means, for the purposes of air traffic management and air navigation services, a declaration as defined in Article 3(10) of Regulation (EU) 2018/1139;

29. ‘*en route* ⇒phase☐ ⇒[...]☐’ means ⇒[...]☐ ⇒the part of the flight☐ from the end of the take off and initial climb phase to the commencement of the approach and landing phase ⇒[...]☐.

30. ‘*en route* charging zone’ means a volume of airspace that extends from the ground up to, and including, upper airspace, where ⇒[...]☐ air navigation services ⇒relevant for the en-route phase☐ are provided and for which a single cost base ⇒and a single unit rate are established☐ ⇒[...]☐;

↓ 549/2004 (adapted)

↻ Council

~~3120~~ ‘Eurocontrol’ is the European Organisation for the Safety of Air Navigation set up by the International Convention of 13 December 1960 relating to Cooperation for the Safety of Air Navigation²;

~~3247~~ ‘European air traffic management network’ (EATMN) means the collection of systems, ~~↻ referred to ↻ [...] ↻ in point 3.1 of Annex VIII to Regulation (EU) 2018/1139 (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European air traffic management network (the interoperability Regulation)³, enabling air navigation services in the Community~~ ~~↻~~ Union ~~↻~~ to be provided, including the interfaces at boundaries with third countries;

↓ 1070/2009 Art. 1.2(c) (adapted)

↻ Council

~~3343a~~ ‘~~↻~~ European ~~↻~~ ATM Master Plan’ means the plan endorsed by Council Decision 2009/320/EC⁴, ~~↻ [...] ↻ of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR)⁵ and as subsequently amended;~~

↓ 1070/2009 Art. 1.2(f)

⇒ new

↻ Council

~~3422~~ ‘flexible use of airspace’ means an airspace management concept ~~⇒ ↻, as described by ICAO, ↻ based on the fundamental principle that airspace should not be designated as either pure civil or military airspace, but rather be considered as a continuum in which all user requirements have to be accommodated to the extent possible ↻ applied in the European Civil Aviation Conference area on the basis of the ‘Airspace management handbook for the application of the concept of the flexible use of airspace’ issued by (Eurocontrol);~~

² ~~Convention modified by the protocol of 12 February 1981 and revised by the protocol of 27 June 1997.~~

³ ~~See page 33 of this Official Journal.~~

⁴ OJ L 95, 9.4.2009, p. 41.

⁵ ~~↻ [...] ↻~~

↓ 549/2004

~~23. 'flight information region' means an airspace of defined dimensions within which flight information services and alerting services are provided;~~

↓ 1070/2009 Art. 1.2(g)

↻ Council

~~3523a.~~ 'flight information service' means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights;

↻35b. 'functional airspace block' means an airspace block based on operational requirements and established regardless of State boundaries, where the provision of air navigation services and related functions are performance-driven and optimised with a view to introducing, in each functional airspace block, enhanced cooperation among air navigation service providers or, where appropriate, an integrated provider; ⁶

↓ 549/2004

~~24. 'flight level' means a surface of constant atmospheric pressure which is related to the specific pressure datum of 1013,2 hectopascals and is separated from other such surfaces by specific pressure intervals;~~

↓ 1070/2009 Art. 1.2(h)

~~25. 'functional airspace block' means an airspace block based on operational requirements and established regardless of State boundaries, where the provision of air navigation services and related functions are performance-driven and optimised with a view to introducing, in each functional airspace block, enhanced cooperation among air navigation service providers or, where appropriate, an integrated provider;~~

⁶ Under consideration by the CLS.

↓ 549/2004 (adapted)

⇒ new

→ Council

~~3626.~~ ‘general air traffic’ means all movements of civil aircraft, as well as all movements of State aircraft (including military, customs and police aircraft) when ~~these~~ ☒ those ☒ movements are carried out in conformity with the procedures of the ☒ International Civil Aviation Organisation (ICAO) as established by the 1944 Chicago Convention on International Civil Aviation ☒ ~~ICAO~~;

~~27. ‘ICAO’ means the International Civil Aviation Organisation, as established by the 1944 Chicago Convention on International Civil Aviation;~~

~~3728.~~ ‘interoperability’ means a set of functional, technical and operational properties required of the systems and constituents of the EATMN and of the procedures for its operation, in order to enable its safe, seamless and efficient operation. ~~Interoperability is achieved by making the systems and constituents compliant with the essential requirements;~~

~~3829.~~ ‘meteorological services’ means ~~those~~ ☒ the ☒ facilities and services that provide ☞[...]☞ meteorological forecasts, ⇒ warnings, ⇐ ☒ briefings ☒ ~~briefs~~ and observations ⇒ for air navigation purposes ⇐, as well as any other meteorological information and data provided by States for aeronautical use;

↓ new

39. ‘national competent authority’ means the entities as defined in point (34) of Article 3 of Regulation (EU) 2018/1139;

40. ‘national supervisory authority’ means the national body or bodies entrusted by a Member State with the tasks under this Regulation other than the tasks covered by the national competent authority;

↓ 549/2004 (adapted)

~~4130.~~ ‘navigation services’ means ~~those~~ ☒ the ☒ facilities and services that provide aircraft with positioning and timing information;

↓ new

⇒ Council

42. ‘network crisis’ means a state of inability to provide air traffic management ~~or~~ [...] ~~or~~ air navigation services at required level resulting in a major loss of network capacity, or a major imbalance between network capacity and demand, or a major failure in the information flow ~~or integrity~~ in one or several parts of the network following an unusual and unforeseen situation;

43. ‘Network Manager’ means the entity entrusted with the tasks necessary to contribute to the execution of the network functions referred to in Article 26, in accordance with Article 27;

↓ 549/2004 (adapted)

⇒ new

~~44~~41. ‘operational data’ means information concerning all phases of flight that ~~are~~ ~~is~~ ~~is~~ required ~~to take operational decisions~~ ~~⇒~~ for operational purposes ~~⇒~~ by air navigation service providers, airspace users, airport operators and other actors involved;

~~32~~‘procedure’, as used in the context of the interoperability Regulation, means a standard method for either the technical or the operational use of systems, in the context of agreed and validated concepts of operation requiring uniform implementation throughout the EATMN;

↓ new

⇒ Council

45. ‘performance plan’ means a plan ~~or~~ [...] ~~or~~ aimed at improving the performance of air navigation services and network functions;

↓ 549/2004

~~46~~33. ‘putting into service’ means the first operational use after the initial installation or upgrade of a system;

~~47~~34. ‘route network’ means a network of specified routes for channelling the flow of general air traffic as necessary for the provision of ATC services;

~~35~~‘routing’ means the chosen itinerary to be followed by an aircraft during its operation;

~~36. ‘seamless operation’ means the operation of the EATMN in such a manner that from the user's perspective it functions as if it were a single entity;~~

↓ new

48. ‘SESAR definition phase’ means the phase comprising the establishment and updating of the long-term vision of the SESAR project, of the related concept of operations enabling improvements at every stage of flight, of the required essential operational changes within the EATMN and of the required development and deployment priorities;

49. ‘SESAR deployment phase’ means the successive phases of industrialisation and implementation, during which the following activities are conducted: standardisation, production and certification of ground and airborne equipment and processes necessary to implement SESAR solutions (industrialisation); and procurement, installation and putting into service of equipment and systems based on SESAR solutions, including associated operational procedures (implementation);

50. ‘SESAR development phase’ means the phase during which research, development and validation activities aiming to deliver mature SESAR solutions are conducted;

51. ‘SESAR project’ means the project to modernise air traffic management in Europe, aimed at providing the Union with a high performance, standardised and interoperable air traffic management infrastructure, and consisting in an innovation cycle that includes the SESAR definition phase, the SESAR development phase and the SESAR deployment phase;

52. ‘SESAR solution’ means a deployable output of the SESAR development phase introducing new or improved standardised and interoperable operational procedures or technologies;

↓ 549/2004 (adapted)

~~5338.~~ ‘surveillance services’ means ~~those~~ ☒ the ☒ facilities and services used to determine the respective positions of aircraft to allow safe separation;

~~5439.~~ ‘system’ means the aggregation of airborne and ground-based constituents, as well as space-based equipment, that provides support for air navigation services for all phases of flight;

↓ new

→ Council

55. '→[...]';

56. 'terminal charging zone' means an airport or a group of airports, located within the territories of a Member State→ or Member States →, where →[...] air navigation services →relevant for the terminal phase, aerodrome control services or aerodrome flight information services →are provided and for which a single cost base →and a single unit rate are established → →[...];

→56b. 'terminal phase' means the parts of the flight other than the *en-route* phase, including standing and taxi in the aerodrome as well as the parts of the flight related to take off and to the approach and landing→;

↓ 549/2004

5749. 'upgrade' means any modification that changes the operational characteristics of a system.

↓ 549/2004

~~Article 3~~

~~Fields for action by the Community~~

~~1. This Regulation establishes a harmonised regulatory framework for the creation of the single European sky in conjunction with:~~

~~(a) Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the Single European Sky (the airspace Regulation)⁷;~~

~~(b) Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the Single European Sky (the service provision Regulation)⁸; and~~

⁷ See page 20 of this Official Journal.

⁸ See page 10 of this Official Journal.

~~(e) Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the interoperability Regulation)⁹;~~

~~and with the implementing rules adopted by the Commission on the basis of this Regulation and the regulations referred to above.~~

~~2. The measures referred to in paragraph 1 shall apply subject to the provisions of this Regulation.~~

⁹ ~~See page 26 of this Official Journal.~~

↓ 551/2004 (adapted)

CHAPTER ~~II~~ V

AIRSPACE ~~ARCHITECTURE~~ ☒ , INTEROPERABILITY AND TECHNOLOGICAL INNOVATION ☒

↓ 1070/2009 Art. 3.2

~~Article 3~~

~~European Upper Flight Information Region (EUIR)~~

~~1. The Community and its Member States shall aim at the establishment and recognition by the ICAO of a single EUIR. To that effect, for matters which fall within the competence of the Community, the Commission shall submit a recommendation to the Council in accordance with Article 300 of the Treaty at the latest by 4 December 2011.~~

~~2. The EUIR shall be designed to encompass the airspace falling under the responsibility of the Member States in accordance with Article 1(3) and may also include airspace of European third countries.~~

~~3. The establishment of the EUIR shall be without prejudice to the responsibility of Member States for the designation of air traffic service providers for the airspace under their responsibility in accordance with Article 8(1) of the service provision Regulation.~~

~~4. Member States shall retain their responsibilities towards the ICAO within the geographical limits of the upper flight information regions and flight information regions entrusted to them by the ICAO on the date of entry into force of this Regulation.~~

↓ 1070/2009 Art. 3.3

⇒ new

~~Article 323a~~

Electronic aeronautical information

Without prejudice to the publication by Member States of aeronautical information and in a manner consistent with that publication, the Network Manager, in cooperation with ~~Eurocontrol~~ ⇒ the Commission ⇐ , shall establish a Union-wide aeronautical information infrastructure to further the availability of electronic aeronautical information of high quality, presented in an easily accessible way and serving the requirements of all relevant users in terms of data quality and timeliness.

⇒ The aeronautical information thus made available shall only be the information that complies with the essential requirements set out in point 2.1 of Annex VIII of Regulation (EU) 2018/1139. ⇐

~~2. For the purpose of paragraph 1, the Commission shall:~~

~~(a) ensure the development of a Community-wide aeronautical information infrastructure in the form of an electronic integrated briefing portal with unrestricted access to interested stakeholders. That infrastructure shall integrate access to and provision of required data elements such as, but not limited to aeronautical information, air traffic services reporting office (ARO) information, meteorological information and flow management information;~~

~~(b) support the modernisation and harmonisation of the provision of aeronautical information in its broadest sense in close cooperation with Eurocontrol and the ICAO.3. The Commission shall adopt detailed implementing rules for this Article in accordance with the regulatory procedure referred to in Article 5(3) of the framework Regulation.~~

↓ 1070/2009 Art. 3.4

~~Article 4~~

~~Rules of the air and airspace classification~~

~~The Commission shall, in accordance with the regulatory procedure referred to in Article 5(3) of the framework Regulation, adopt implementing rules in order to:~~

~~(a) adopt appropriate provisions on rules of the air based upon ICAO standards and recommended practices;~~

~~(b) harmonise the application of the ICAO airspace classification, with appropriate adaptation, in order to ensure the seamless provision of safe and efficient air traffic services within the single European sky.~~

↓ 551/2004 (adapted)

~~CHAPTER III~~

~~FLEXIBLE USE OF AIRSPACE IN THE SINGLE EUROPEAN SKY~~

↓ 551/2004 (adapted)

⇒ new

⇒ Council

Article ~~33~~¹⁰

Flexible use of airspace

1. Taking into account ⇒ the characteristics and nature of military activity in each Member State as well as ~~the~~ the organisation of military aspects under their responsibility, Member States shall ensure the ~~uniform~~ application within the single European sky of the concept of the flexible use of airspace ⇒ [...], in order to facilitate airspace management and air traffic management in the context of the common transport policy ⇒ and ⇒ [...] ~~and~~ taking into account ~~with the European ATM Master Plan~~ ⇐ .
2. Member States shall report annually to the Commission on the application, in the context of the common transport policy, of the concept of the flexible use of airspace in respect of the airspace under their responsibility.
3. Where, in particular ⇒ [...] ~~and~~ in the light of ~~the~~ the reports submitted by Member States, ⇒ [...] ~~and~~ uniform conditions for ~~the~~ the application of the concept of the flexible use of airspace within the Single European sky ⇒ are needed ~~the~~, ~~the~~ the Commission shall, ⇒ [...] ~~and~~ implementing rules within the ⇒ [...] ~~and~~ limits ~~of the common transport policy~~ ⇒ and without prejudice to Member States' responsibilities over their airspace, adopt ~~the~~ ⇒ [...] ~~and~~ implementing acts ~~in accordance with the~~ ~~examination~~ ~~procedure~~ ~~under~~ ~~referred to in~~ ~~Article 37(3)~~ ⇒ with a view to facilitating air space and air traffic management and to ensuring better cooperation between civil and military entities responsible for air traffic management that operate in the airspace under the responsibility of Member States ~~of the framework Regulation~~.

¹⁰ Recital 6 of Regulation 551/2004 and Recital 22 of Regulation 549/2004 will be maintained.

↓ new

☞ Council

Article 34

SESAR coordination

The entities in charge of tasks established in Union law in the areas of coordination of the SESAR definition phase, the SESAR development phase and the SESAR deployment phase, as the case may be, shall ☞[...]☞ ensure effective coordination between those three phases so as to achieve a seamless and timely transition between them☞, focussing in particular on synchronising and accelerating the processes in the industrialisation phase ☞.

All relevant civil and military stakeholders shall be involved to the widest possible extent.

☞The Commission shall put in place mechanisms for monitoring the effectiveness of SESAR coordination. ☞

↓ 1070/2009 Art. 2.10

~~Article 15a~~

~~Common projects~~

~~1. Common projects may assist the successful implementation of the ATM Master Plan. Such projects shall support the objectives of this Regulation to improve the performance of the European aviation system in key areas such as capacity, flight and cost efficiency as well as environmental sustainability, within the overriding safety objectives.~~

~~2. The Commission may, in accordance with the regulatory procedure referred to in Article 5(3) of the framework Regulation, develop guidance material concerning the way in which such projects can support the implementation of the ATM Master Plan. Such guidance material shall not prejudice mechanisms for the deployment of such projects concerning functional airspace blocks as agreed upon by the parties of those blocks.~~

~~3. The Commission may also decide, in accordance with the regulatory procedure referred to in Article 5(3) of the framework Regulation, to set up common projects for network-related functions which are of particular importance for the improvement of the overall performance of air traffic management and air navigation services in Europe. Such common projects may be considered eligible for Community funding within the multiannual financial framework. To this end, and without prejudice to Member States' competence to decide on the use of their financial resources, the Commission shall carry out an independent cost-benefit analysis and appropriate consultations with Member States and with relevant stakeholders in accordance with Article 10 of the framework Regulation, exploring all appropriate means for financing the deployment thereof. The eligible costs of deployment of common projects shall be recovered in accordance with the principles of transparency and non-discrimination.~~

↴ new

➡ Council

Article 35

Common projects

1. The Commission may set up common projects for implementing the essential operational changes identified in the European ATM Master Plan having a network-wide impact ➡ with a view to improving the performance of the Single European Sky Ⓒ.

2. The Commission may also establish governance mechanisms for common projects and their implementation. ➡ All relevant civil and military stakeholders shall be involved in these mechanisms to the widest possible extent and, where possible and as appropriate, have the leading role. The Commission may establish incentive schemes for the timely and effective implementation of common projects, including financial disincentives for delaying or not implementing common projects. Ⓒ

3. Common projects may be eligible for Union funding ➡ within the multiannual financial framework Ⓒ. To this end, and without prejudice to Member States' competence to decide on the use of their financial resources, the Commission shall carry out an independent cost-benefit analysis and appropriate consultations with Member States and with relevant stakeholders in accordance with Article ➡38Ⓒ➡[...]Ⓒ, exploring ➡prioritisation andⒸall appropriate means for financing the implementation thereof.

4. The Commission shall establish the common projects and governance mechanisms referred to in paragraphs 1 and 2 through implementing acts adopted in accordance with the examination procedure referred to in Article 37(3).

Functional airspace blocks (FAB)

Member States may implement a functional airspace block with a view to achieving the required capacity and efficiency of the air traffic management network within the Single European Sky and maintaining a high level of safety and contributing to the overall performance of the air transport system and a reduced environmental impact. Member States may jointly execute tasks and responsibilities under this Regulation at the level of the functional airspace block. Where relevant, cooperation may also include third countries taking part in functional airspace blocks. ☞

↓ 551/2004

~~Article 8~~

~~Temporary suspension~~

~~1. In cases where the application of Article 7 gives rise to significant operational difficulties, Member States may temporarily suspend such application on condition that they inform without delay the Commission and the other Member States thereof.~~

~~2. Following the introduction of a temporary suspension, adjustments to the rules adopted under Article 7(3) may be worked out for the airspace under the responsibility of the Member State(s) concerned, in accordance with the procedure under Article 8 of the framework Regulation~~

CHAPTER ~~IV~~ VI

FINAL PROVISIONS

↓ 1070/2009 Art. 2.11

~~Article 17~~

~~Revision of Annexes~~

~~Measures, designed to amend non-essential elements of the Annexes in order to take into account technical or operational developments, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 5(4) of the framework Regulation.~~

~~On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 5(5) of the framework Regulation.~~

¹¹ Under consideration by the CLS.

↓ new

⇒ Council

Article 36

⇒[...]⇐

↓ 549/2004 (adapted)

⇒ new

⇒ Council

Article 37 ~~5~~

Committee procedure

1. The Commission shall be assisted by the Single Sky Committee, hereinafter referred to as ‘the Committee’, composed of two representatives of each Member State and chaired by ~~a representative of~~ the Commission. The Committee shall ensure an appropriate consideration of the interests of all categories of users. ⇒ The Committee shall be a committee within the meaning of Regulation (EU) No 182/2011. ⇐

2. Where reference is made to this paragraph, Articles ~~3 and 7~~ ⇐ 4 ⇐ of ~~Decision 1999/468/EC~~ ⇐ Regulation (EU) No 182/2011 ⇐ shall apply, ~~having regard to the provisions of Article 8 thereof.~~

3. Where reference is made to this paragraph, Articles ~~5 and 7~~ of ~~Decision 1999/468/EC~~ ⇐ Regulation (EU) No 182/2011 ⇐ shall apply, ~~having regard to the provisions of Article 8 thereof.~~

⇐4. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply. ⇐

~~The period referred to in Article 5(6) of Decision 1999/468/EC shall be set at one month.~~

↓ 1070/2009 Art. 1.4

~~4. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.~~

~~5. Where reference is made to this paragraph, Article 5a(1), (2), (4),(6) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.~~

↓ 1070/2009 Art. 1.5 (adapted)

Article 38~~40~~

⊠ Consultation of stakeholders ⊠

↓ new

⇒ Council

1. Member States, national supervisory authorities, ⇒[...] and the Network Manager shall establish consultation mechanisms for appropriate consultation of stakeholders for the exercise of their tasks in the implementation of this Regulation.

↓ 1070/2009 Art. 1.5 (adapted)

⇒ new

⇒ Council

2. The Commission shall establish ⇒[...] a ~~consultation~~ mechanism at ~~Community~~ ⊠ Union ⊠ level ⇒ to consult ⇒the relevant stakeholders on matters related to the implementation of this Regulation where appropriate ⇐. The specific Sectoral Dialogue Committee set up under ⊠ Commission ⊠ Decision 98/500/EC shall be involved in the consultation. ~~3. Consultation of stakeholders shall cover, in particular, the development and introduction of new concepts and technologies in the EATMN.~~ ⇒ For the purpose of point (e) of paragraph 3, when consultation relating to military aspects is required, the Commission shall, in addition to Member States, consult the European Defence Agency and other competent military experts designated by the Member States. ⇐

3. ⇒For the purposes of paragraphs 1 and 2, the ⇐ ⇒[...]⇐⇐ following ⇐stakeholders ⇒[...]⇐⇐ shall be consulted if relevant⇐⇐[...]⇐:

(a) air navigation service providers ⇒ or relevant groups representing them ⇐ ;

↓ new

(b) the Network Manager;

↓ 1070/2009 Art. 1.5 (adapted)

⇒ new

- (c) airport operators ⇒ or relevant groups representing them ⇐
 - (d) ~~relevant~~ airspace users or relevant groups representing ⊗ them; ⊗ ~~airspace users~~
 - (e) ⊗ the ⊗ military ~~authorities~~
 - (f) ⊗ the ⊗ manufacturing industry; ~~and~~
 - (g) professional staff representative bodies;
-

↓ new

⇒ Council

(h) ⇒ [...] ⇐ ⇒ national and local authorities;

(i) national airport coordinators. ⇐

↓ 1070/2009 Art. 1.5 (adapted)

~~Article 6~~

~~Industry consultation body~~

~~Without prejudice to the role of the Committee and of Eurocontrol, the Commission shall establish an ‘industry consultation body’, to which air navigation service providers, associations of airspace users, airport operators, the manufacturing industry and professional staff representative bodies shall belong. The role of this body shall solely be to advise the Commission on the implementation of the single European sky.~~

Relations with ~~European~~ third countries

↓ 1070/2009 Art. 1.5 (adapted)

⇒ new

↻ Council

The ~~Community~~ ☒ Union ☒ and its Member States shall aim at and support the extension of the ~~Single European Sky~~ to countries which are not members of the European Union. To that end, they shall endeavour, ~~either~~ in the framework of agreements concluded with neighbouring third countries ~~or in the context of agreements on functional airspace blocks~~, to extend the ~~application of this Regulation, and of the measures referred to in Article 3,~~ ☒ Single European Sky ☒ to those countries. ⇒ In addition, they shall endeavour to cooperate with those countries either in the context of agreements on ↻ cross-border service provision, on cooperation on ATM modernisation, on ↻ network functions, or in the framework of the Agreement between the Union and Eurocontrol providing a general framework for enhanced cooperation, reinforcing the 'pan-European dimension' of ATM. ⇐

↓ 1070/2009 Art. 1.5

~~Article 8~~~~Implementing rules~~

~~1. For the development of implementing rules the Commission may issue mandates to Eurocontrol or, where appropriate, to another body, setting out the tasks to be performed and the timetable for this and taking into account the relevant deadlines laid down in this Regulation. The Commission shall act in accordance with the advisory procedure referred to in Article 5(2).~~

~~2. When the Commission intends to issue a mandate in accordance with paragraph 1 it shall endeavour to make the best use of existing arrangements for the involvement and consultation of all interested parties, where these arrangements correspond to Commission practices on transparency and consultation procedures and do not conflict with its institutional obligations.~~

↓ new

↻ Council

Article 40

Support by other bodies

The Commission may request support from other bodies for the fulfilment of its tasks under this Regulation ➡, including from Eurocontrol in the framework of the Agreement between the Union and Eurocontrol providing a general framework for enhanced cooperation Ⓒ.

↓ 1070/2009 Art. 2.1

~~Article 4~~

Safety requirements

~~The Commission shall, in accordance with the regulatory procedure referred to in Article 5(3) of the framework Regulation, adopt implementing rules incorporating the relevant provisions of the Eurocontrol safety regulatory requirements (ESARRs) and subsequent amendments to those requirements falling within the scope of this Regulation, where necessary with appropriate adaptations.~~

↓ 550/2004 (adapted)

~~CHAPTER IV~~

~~FINAL PROVISIONS~~

↓ 1070/2009 Art. 2.11 (adapted)

⇒ new

➡ Council

Article 41~~48~~

Confidentiality

1. Neither the national supervisory authorities, acting in accordance with their national legislation, nor the Commission ⇒ ➡[...]Ⓒ nor the Network Manager ⇐ shall disclose information of a confidential nature, in particular information about air navigation service providers, their business relations or their cost components.

2. Paragraph 1 shall be without prejudice to the right of disclosure by national supervisory authorities or the Commission [...] where this is essential for the fulfilment of their duties, in which case such disclosure shall be proportionate and shall have regard to the legitimate interests of air navigation service providers, airspace users, airports or other relevant stakeholders in the protection of their ~~business secrets~~ commercially sensitive information.

3. Information and data [...] reported pursuant to [...] Article [...] 19 (6) [...], in particular as regards determined costs, actual costs and revenues of designated air traffic service providers referred to in Article 14 shall be publicly disclosed, subject to the protection of commercial interests of a natural or legal person, including intellectual property, unless there is an overriding public interest in disclosure.

↓ 1070/2009 Art. 1.5 (adapted)

⇒ new

→ Council

Article 42

Penalties

~~The penalties that~~ Member States shall lay down rules on penalties applicable to for infringements of this Regulation and of the ~~measures referred to in Article 3~~ [...] implementing acts adopted on the basis thereof in particular by airspace users, airport operators and air navigation service providers, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

↓ 549/2004

Article 12

~~Supervision, monitoring and methods of impact assessment~~

~~1. The supervision, monitoring and methods of impact assessment shall be based on the submission of annual reports by the Member States on implementation of the actions taken pursuant to this Regulation and to the measures referred to in Article 3.~~

↓ 1070/2009 Art. 1.6(a)

~~2. The Commission shall periodically review the application of this Regulation and of the measures referred to in Article 3, and shall firstly report to the European Parliament and to the Council by 4 June 2011, and at the end of each reference period referred to in Article 11(3)(d) thereafter. When justified for this purpose, the Commission may request from the Member States information additional to the information contained in the reports submitted by them in accordance with paragraph 1 of this Article.~~

↓ 549/2004

~~3. For the purposes of drafting the reports referred to in paragraph 2, the Commission shall request the opinion of the Committee.~~

↓ 1070/2009 Art. 1.6(b)

~~4. The reports shall contain an evaluation of the results achieved by the actions taken pursuant to this Regulation including appropriate information about developments in the sector, in particular concerning economic, social, environmental, employment and technological aspects, as well as about quality of service, in the light of the original objectives and with a view to future needs.~~

↓ new

→ Council

Article 43

Evaluation

1. The Commission shall conduct an evaluation to assess the application of this Regulation by →[...]→ 10 years after its entry into force→. When justified for this purpose, the Commission may request from the Member States information relevant to the application of this Regulation.

2. The Commission shall →[...]→ submit→ its findings to the European Parliament and to the Council. The findings of the evaluation shall be made public.

↓ 1070/2009 Art. 2.12 (adapted)

~~Article 18a~~

~~Review~~

~~The Commission shall submit a study to the European Parliament and to the Council no later than 4 December 2012 evaluating the legal, safety, industrial, economic and social impacts of the application of market principles to the provision of communication, navigation, surveillance and aeronautical information services, compared to existing or alternative organisational principles and taking into account developments in the functional airspace blocks and in available technology.~~

↓ 551/2004 (adapted)

~~CHAPTER IV~~

~~FINAL PROVISIONS~~

~~Article 10~~

~~Review~~

~~In the context of the periodical review referred to in Article 12(2) of the framework Regulation, the Commission shall finalise a prospective study on the conditions for future application of the concepts referred to in Articles 3, 5 and 6 to lower airspace.~~

~~On the basis of the study's conclusions and in the light of the progress achieved, the Commission shall submit at the latest by 31 December 2006 a report to the European Parliament and to the Council accompanied, if appropriate, by a proposal to extend the application of these concepts to lower airspace, or to determine any other steps. In the event of such an extension being envisaged, the relevant decisions should preferably be taken before 31 December 2009.~~

↓ 549/2004 (adapted)

→ Council

Article 44~~43~~

Safeguards

This Regulation shall not prevent the application of measures by a Member State to the extent ~~to which~~ ☒ that ☒ these are needed to safeguard essential security or defence policy interests ☒ as well as flight testing ☒. Such measures are in particular those which are imperative:

- (e) for the surveillance of airspace that is under its responsibility in accordance with ICAO Regional Air Navigation agreements, including the capability to detect, identify and evaluate all aircraft using such airspace, with a view to seeking to safeguard safety of flights and to take action to ensure security and defence needs;
- (f) in the event of serious internal disturbances affecting the maintenance of law and order;
- (g) in the event of war or serious international tension constituting a threat of war;
- (h) for the fulfilment of a Member State's international obligations in relation to the maintenance of peace and international security;
- (i) in order to conduct military operations and training, including the necessary possibilities for exercises.

↓ 1070/2009 Art. 1.7

~~Article 13a~~

~~European Aviation Safety Agency~~

~~When implementing this Regulation and Regulations (EC) No 550/2004, (EC) No 551/2004, (EC) No 552/2004 and Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency¹², Member States and the Commission, in accordance with their respective roles as provided for by this Regulation, shall coordinate as appropriate with the European Aviation Safety Agency to ensure that all safety aspects are properly addressed.~~

¹² ~~OJ L 79, 19.3.2008, p. 1~~



Article 45

Repeal

Regulations (EC) Nos 549/2004, 550/2004 and 551/2004 are repealed.

References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.

↓ 550/2004 (adapted)

☞ Council

Article ~~46~~⁴⁹

Entry into force ☒ and application ☒

1. This Regulation shall enter into force on the ~~20th~~ ☒ twentieth ☒ day following that of its publication in the *Official Journal of the European Union*.

~~2. However, Articles 7 and 8 shall enter into force one year after publication of the common requirements, as referred to in Article 6, in the Official Journal of the European Union.~~

↓ new

2. Article 3(3) ☞, Article 8(3) and Article 25(3) ☹ shall apply from *[OP please insert the date - ☞ [...]☹ ☞ 72☹ months after the entry into force of this Regulation]*.

Articles 10 to 24 shall apply as from ☞ one year after its adoption ☹ ☞ [...]☹. However, Article 11 of Regulation (EC) No 549/2004 and Article 15 of Regulation (EC) No 550/2004, and the implementing acts adopted on the basis thereof, shall continue to apply for the purposes of the implementation of the performance and charging schemes pertaining to the third reference period. ☞ Commission Implementing Decision (EU) 2019/709 shall continue to apply until the end of the fourth reference period or until it is amended, whichever is the earliest. ☹

Article 26(3) and Article 32 shall apply to the Network Manager from the day on which an appointment decision, adopted in accordance with Article 27(2) after the entry into force of this Regulation and encompassing those provisions, becomes applicable.

↓ 550/2004

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President