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Subject:	Amended proposal for a Regulation of the European Parliament and of the Council on the implementation of the Single European Sky (recast) – Presidency compromise text

In view of the meeting of the members of the Aviation Working Party on 22 March 2021, delegations will find in annex a compromise text by the Presidency for 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.

Deletions are marked as "➡ [...] ⬅" and added text is underlined. Latest additions are also marked in **bold underlined**.

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. **Article 6 of this Regulation shall not apply to the air navigation services referred to in Article 2(3)c) of Regulation 2018/1139.** ☞

↓ 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

↻ Council

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

~~12.~~ ‘aerodrome control service’ means an ~~air~~ air traffic control ~~(ATC)~~ (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;

↻2a. ‘Agency’ means the European Union Aviation Safety Agency established by Regulation (EU) 2018/1139; ↻

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~~ **☞ for air navigation** ☒ (MET) ☒ ; ~~and~~ aeronautical information services ☒ (AIS) ☒ ; ☞ and air traffic data services (ADS) **☞ including services which augment signals emitted by satellites of core constellations of GNSS for the purpose of air navigation**; ☞ ; ☞

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 **☞ generating operational data** ☞ , ☞ [...] ☞ **☞ and** ☞ 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

⇒ Council

~~940.~~ ‘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, **⇒including flight procedures design; and services consisting in the origination and processing of data and the formatting and delivering of data to general air traffic for the purpose of air navigation** ⇐) required to ensure the safe and efficient movement of aircraft during all phases of operations;

↓ 549/2004

⇒ Council

~~1044.~~ ‘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,** ⇐ within which air navigation services are provided;

~~127.~~ ‘airspace management’ means a planning function with the primary objective of ⇐ [...] ⇐ **⇒optimising** ⇐ 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

⇒ Council

13. ‘airspace structure’ means a specific volume of airspace defined with a view to ensuring the safe and optimal operation of **⇒air traffic management** ⇐ [...] ⇐;

↓ 1070/2009 Art. 1.2(a) (adapted)

~~148.~~ ‘airspace users’ means operators of aircraft operated ☒ in accordance with ☒ ~~as~~ general air traffic ☒ 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

~~1643~~ 'approach control service' means an ATC service for arriving or departing controlled flights;

~~1742~~ 'area control service' means an ATC service for controlled flights ⇒ in control areas ⇐ a block of airspace;

↓ new

⇒ Council

18. 'baseline value' means a value defined ⇒ [...] for the purpose of setting performance targets and concerning ⇒ [...] **an estimation of actual costs or actual 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 **one or more air traffic service providers** ⇒ [...] 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;~~

~~24~~¹⁹. ‘constituents’ means tangible objects such as hardware and intangible objects such as software upon which the interoperability of the European Air Traffic management Network (EATMN) depends;

↓ 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 ⇒consensus through☐ 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~~ ⇒ [...] ⇒ **‘cross-border services’ means air navigation services provided by a service provider established in a State to a recipient established in another State** ⇒;

↓ 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. ‘*enroute* ⇒ *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;

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.~~

↓ 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);

↓ 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;

⇒35a. ‘function’ means an activity which is specified in context of the resource (human or machine) that performs it.⁶

⁴ OJ L 95, 9.4.2009, p. 41.

⁵ ~~⇒[...]~~ ~~⊙~~

⁶ Source: Eurocontrol lexicon.

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; ☺

↓ 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;~~

↓ 549/2004 (adapted)

⇒ new

☺ Council

36~~26~~. '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;~~

37~~28~~. '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;~~

38~~29~~. '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

↻ Council

39. 'national competent authority' means **one or more entities designated by a Member State pursuant to Regulation (EU) 2018/1139 and having the necessary powers and allocated responsibilities for performing the tasks laid down in this Regulation and in the implementing acts adopted on the basis thereof, and in** [...] Regulation (EU) 2018/1139;

40. [...] ↻

↓ 549/2004 (adapted)

↻ Council

41. 'navigation services' means ~~those~~ ☒ the ☒ facilities and services that provide **operational stakeholders** [...] with positioning and timing information;

↓ new

↻ Council

42. 'network crisis' means a state of inability to provide air traffic management [...] **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 **or** [...] 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;

43a. 'Network Operations Plan (NOP)' means a plan adopted through a cooperative decision-making process, to implement the objectives of the network functions;

↓ 549/2004 (adapted)

⇒ new

⇒ Council

~~4431.~~ ‘operational data’ means information concerning all phases of flight that are ~~⊗~~ is ~~⊗~~ required ~~to take operational decisions~~ ⇒ for operational purposes ⇐ by air navigation service providers, airspace users, airport operators and other actors involved;

⇒44a. ‘operational stakeholders’ means the civil and military airspace users, civil and military air navigation service providers and airport operators which operate in the airspace; ☹

~~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 ⇒[...]☹ aimed at improving the performance of air navigation services and network functions;

↓ 549/2004

⇒ Council

~~4633.~~ ‘putting into service’ means the first operational use after the initial installation or upgrade of a system;

~~4734.~~ ‘route network’ means a network of specified routes for channelling the flow of general air traffic as necessary for the provision of ATC services;

⇒47a. ‘service’ means a contractual provision of something (a non physical object), by for the use of one or more others, normally provided for remuneration. ☹⁷

~~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;~~

⁷ Based on Eurocontrol lexicon and Article 57 TFEU.

↓ 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)

~~538~~ ‘surveillance services’ means ~~those~~ ☒ the ☒ facilities and services used to determine the respective positions of aircraft to allow safe separation;

~~543~~ ‘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 State⁸ or Member States⁹, where ⁸[...] air navigation services ⁹relevant for the terminal phase, aerodrome control services or aerodrome flight information services ⁹are provided and for which a single cost base ⁸and a single unit rate are established ⁹[...] ⁹;

⁸56b. '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 landing⁹;

↓ 549/2004

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

↓ 549/2004

→ Council

⁸Article 2a⁸

Functional airspace blocks

1. 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. Without prejudice to Article 5(3) to (5a) of this Regulation, Member States may, including at the level of the level of their national competent authorities, jointly execute their obligations under Articles 4, 5, 7, 7a, 7b, 8, 10, 13, 13a, 13b and 17 of this Regulation and of the implementing rules adopted on the basis thereof at the level of the functional airspace block. Member States may also agree on common principles for charging policy at the level of the functional airspace block.

2. Where relevant, cooperation may also include third countries taking part in functional airspace blocks.

⁸ **Corresponding recital: Without prejudice to their obligations under the Chicago Convention, in particular under Article 83 of that Convention, Member States should be authorised to implement, for the purpose of the execution of some of the obligations laid down in this Regulation, 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.**

3. Functional airspace blocks shall ensure consistency with the measures adopted in accordance with Articles 26 and 27 and comply with conditions stemming from regional agreements concluded within the ICAO.

4. Functional airspace blocks shall be established by means of an international agreement concluded between the Member States concerned and, where relevant, the third countries concerned having responsibility for any part of the airspace covered by the functional airspace block. The agreement shall be notified to the Commission for publication in the Official Journal of the European Union. ©

~~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)⁹;~~

~~(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)¹⁰; and~~

~~(c) 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)¹¹;~~

~~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 20 of this Official Journal.

¹⁰ See page 10 of this Official Journal.

¹¹ See page 26 of this Official Journal.

↓ 1070/2009 Art. 1.3 (adapted)

⇒ new

⇒ Council

CHAPTER II

⊗ NATIONAL ⇒ [...]⇨⇨COMPETENT⇨ AUTHORITIES ⊗

Article 34

⊗ **Nomination, establishment and requirements regarding** ⊗ ~~N~~national ⇒ [...]⇨⇨
competent ⇨ authorities

1. ⇒ [...]⇨⇨Member States shall entrust the national competent authority designated for the purposes of Regulation 2018/1139 with the tasks provided for in this Regulation and shall ensure that this authority complies with the requirements laid down in this Article. ⇨

~~2. The national supervisory authorities shall be independent of air navigation service providers. This independence shall be achieved through adequate separation, at the functional level at least, between the national supervisory authorities and such providers.~~

↓ 1070/2009 Art. 1.3 (adapted)

⇒ new

⇒ Council

~~32.~~ ⊗ The ⊗ ~~N~~national ⇒competent ⇨ [...]⇨ authorit⇨ [...]⇨⇨⇨ shall exercise
⇨ [...]⇨⇨its ⇨ powers impartially, independently and transparently. ~~This shall be achieved by
applying appropriate management and control mechanisms~~ ⇒ and shall be organised, staffed,
managed and financed accordingly. ⇨ ~~, including within the administration of a Member State.
However, this shall not prevent the national supervisory authorities from exercising their tasks
within the rules of organisation of national civil aviation authorities or any other public bodies~~

↓ new

→ Council

3. → [...] → The national **competent** authority shall be independent, **from any air navigation service providers**, in organisational, hierarchical and decision-making terms, , **in particular by avoiding conflicts of interest with those service providers**. That independence shall not prevent **that authority and those service providers from being part of the same civil service, public entity or administration.** →

→ [...] →

4. Member States may set up → [...] → authorities which are competent for several regulated sectors, if those integrated regulatory authorities fulfil the independence requirements set out in this Article. → **In particular, t** → → [...] → he national → [...] → **competent** → authority may → [...] → be joined in respect of its organisational structure with → **other public authorities, in particular** → the national competition authority referred to in Article 11 of Council Regulation (EC) No 1/2003¹², → or, if applicable, **with a national transport authority,** → → [...] → provided that → the joint body → **hereby set up** → fulfils the independence requirements set out in this Article.

5. → [...] →

6. → [...] →

¹² Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).

↓ 1070/2009 Art. 1.3 (adapted)

⇒ new

⇒ Council

74. ⇒ [...] ⇐

↓ new

⇒ Council

8. ⇒ [...] ⇐

↓ 1070/2009 Art. 1.3

⇒ new

⇒ Council

95. Member States shall notify the Commission of the names and addresses of the national ⇒
competent ⇐ ⇒ [...] ⇐ authorities, as well as changes thereto, and of the measures taken to ensure
compliance with ⇒ this Article ⇐ ~~paragraphs 2,3 and 4.~~

↓ new

⇒ Council

10. ⇒ [...] ⇐

↓ 1070/2009 Art. 2.1 (adapted)

→ Council

Article ~~42~~

Tasks of the national → [...] → competent authorities

1. The national → [...] → competent authorities → [...] → ~~4 of the framework Regulation~~ shall **→, in addition to the tasks assigned to it by Article 62 of Regulation (EU) 2018/1139 in relation in particular to the certification process of air navigation service providers and oversight of holders of certificates, carry out the tasks assigned to it under this Regulation and the implementing acts adopted on the basis thereof, in particular the following tasks:** → ensure the appropriate supervision of the application of this Regulation, in particular with regard to the safe and efficient operation of air navigation service providers which provide services relating to the airspace falling under the responsibility of the Member State which nominated or established the relevant authority~~22~~:

↓ new

→ Council

- (a) → [...] → **→ verify the compliance with, and the fulfilment of national security and defence requirements by the service providers referred to in Article 7(1a)b, Article 8(1) and Article 8(4)d;** →
- (b) → [...] → **→ monitor compliance with the requirements set out in Article 8(3);** →
- (bb) **→ assess and approve the price setting for the provision of the CIS, in accordance with Article 9;** →
- (c) **→ tasks linked to the preparation of the draft performance plan, including the criteria for allocation of costs and the setting of performance targets, the monitoring of** → → [...] → performance and **→ to the** → charging schemes **→ as** → set out **→, and within the limits of,** → → [...] → Articles 10 to **→ 13b,** → 17 and 19 to 22 and the implementing acts referred to in Articles 18 and 23 → [...] →

➡ (d) ➡ [...] ➡ oversee the application of the Regulation regarding the transparency of accounts
➡ [...] ➡ in accordance with Article 25 ➡, **audit or verify and approve the financial data referred to in Article 25(4)** ➡.

2. ➡ [...] ➡.

↓ 1070/2009 Art. 2.1 (adapted)

⇒ new

➡ Council

~~32. To this end, each~~ Each national ➡ [...] ➡ **competent** ➡ authority shall ~~organise proper~~
⊗ conduct the necessary ⊗ ➡ [...] ➡ ~~and surveys~~ ➡ [...] ➡ monitoring activities ➡ **including,**
as appropriate, inspections and audits, ➡ ⇐ to ⇒ identify possible infringements by entities
subject to their oversight under this Regulation of the requirements set out in this Regulation ➡ [...] ➡
➡ implementing acts adopted on the basis thereof ⇐ ~~verify compliance with the requirements of this~~
~~Regulation including human resources requirements for the provision of air navigation services.~~

It shall take all necessary enforcement measures ➡ **in particular in accordance with Article 41(4)**
of the Regulation (EU) 2018/1139 ➡ ➡ [...] ➡.

The air navigation service providers, airport operators and the ➡ [...] ➡ **CIS** ➡ providers
concerned shall comply with the measures taken by the national ➡ [...] ➡ **competent** ➡
authorities to this effect.

↓ new

➡ Council

Article 5

Co-operation between national ➡ [...] ➡ **competent** ➡ authorities

1. The national ➡ [...] ➡ **competent** ➡ authorities shall exchange information ➡ **as appropriate,**
in particular information relating to their work and decision-making process, best practices
and procedures, as well as to the application of this Regulation. To this end, the national
competent authorities may participate and work together in a network that convenes at
regular intervals ➡.

2. The national ~~☞ [...]~~ ~~☞~~ **competent** ~~☞~~ authorities ~~☞ [...]~~ ~~☞~~ **may** ~~☞~~ cooperate, ~~☞ in particular in the case of the provision of air navigation services in an airspace falling under the responsibility of another Member State or in the case of provision of any other type of cross-border services,~~ ~~☞ [...]~~ ~~☞~~ through working arrangements, for the purposes of mutual assistance in their monitoring and supervisory tasks and handling of investigations and surveys.

↓ 1070/2009 Art. 2.1 (adapted)

⇒ new

☞ Council

3. ~~☞ In the case of provision of air navigation services in an~~ ~~☞~~ **In respect of functional airspace blocks that extend across the** ~~☞ [...]~~ ~~☞~~ airspace falling under the responsibility of ~~☒~~ two or ~~☒~~ more ~~than one~~ Member State ~~☒~~ States ~~☒~~ **☞ in particular with respect to functional airspace blocks** ~~☞~~, the Member States concerned shall conclude ~~☞ if appropriate,~~ ~~☞~~ an agreement on the supervision ⇒ to be carried out by ~~☞ them or their authorities~~ ~~☞~~ ~~☞ [...]~~ ~~☞~~ under this Regulation, of ~~☞ with regard to~~ the air navigation service providers ~~☒~~ concerned ~~☒~~ ~~providing services relating to those blocks.~~ ~~☞ [...]~~ ~~☞~~

↓ 1070/2009 Art. 2.1

~~4. National supervisory authorities shall cooperate closely to ensure adequate supervision of air navigation service providers holding a valid certificate from one Member State that also provide services relating to the airspace falling under the responsibility of another Member State. Such cooperation shall include arrangements for the handling of cases involving non-compliance with the applicable common requirements set out in Article 8b(1) of Regulation (EC) No 216/2008 6 or with the conditions set out in Annex II.~~

↓ 1070/2009 Art. 2.1

~~5. In the case of cross border provision of air navigation services, such arrangements shall include an agreement on the mutual recognition of the supervisory tasks set out in paragraphs 1 and 2 and of the results of these tasks. This mutual recognition shall apply also where arrangements for recognition between national supervisory authorities are made for the certification process of service providers.~~

↓ new

⇒ Council

4. In the case of provision of air navigation services in an airspace falling under the responsibility of another Member State, the agreements referred to in paragraph 3 shall provide for the mutual recognition of the discharge, by each **Member States or their** authorities, of the tasks set out in this Regulation and of the results of the discharge of these tasks. They shall also specify which national **competent** authority shall be in charge of the **tasks** set out in Article **4(1)**.

↓ 1070/2009 Art. 2.1 (adapted)

⇒ new

⇒ Council

~~65.~~ ~~If~~ Where ~~is~~ permitted by national law and with a view to regional cooperation, national **competent** authorities may also conclude agreements on the ~~regarding the~~ division of responsibilities regarding the supervisory tasks.

5a. Agreements referred to in this Article, shall ~~be~~ notified to the Commission ~~and~~

↓ 1070/2009 Art. 2.1

~~Article 3~~

~~Qualified entities~~

~~1. National supervisory authorities may decide to delegate in full or in part the inspections and surveys referred to in Article 2(2) to qualified entities that fulfil the requirements set out in Annex I.~~

~~2. Such a delegation granted by a national supervisory authority shall be valid within the Community for a renewable period of three years. National supervisory authorities may instruct any of the qualified entities located in the Community to undertake these inspections and surveys.~~

↓ 1070/2009 Art. 1.5

~~Article 10~~

~~Consultation of stakeholders~~

~~1. The Member States , acting in accordance with their national legislation, shall establish consultation mechanisms for appropriate involvement of stakeholders, including professional staff representative bodies, in the implementation of the single European sky.~~

CHAPTER III

~~RULES FOR THE~~ SERVICE ~~PROVISION OF SERVICES~~

↓ 550/2004 (adapted)

↻ Council

~~Article 6~~

~~Common requirements~~

~~Common requirements for the provision of air navigation services shall be established in accordance with the procedure referred to in Article 5(3) of the framework Regulation. The common requirements shall include the following:~~

~~technical and operational competence and suitability,~~

~~systems and processes for safety and quality management,~~

~~reporting systems,~~

~~quality of services,~~

~~financial strength,~~

~~liability and insurance cover,~~

~~ownership and organisational structure, including the prevention of conflicts of interest,~~

~~human resources, including adequate staffing plans,~~

~~security.~~

~~Article 67~~

[...] Certification or declaration of air navigation service providers

~~1. The provision of all air navigation services within the Community shall be subject to certification by Member States.~~

↓ 550/2004

~~2. Applications for certification shall be submitted to the national supervisory authority of the Member State where the applicant has its principal place of operation and, if any, its registered office.~~

↓ new

↻ Council

1. ↻ [...]↻ Air navigation service providers shall be required to hold the certificate referred to in Article 41 of Regulation (EU) 2018/1139 or, as regards providers of flight information services, a valid declaration where Article 41(5) of Regulation (EU) 2018/1139 applies. ↻

↻ [...]↻

2. ↻ [...]↻ **Without prejudice to the exemptions for the requirements to hold the certificate, foreseen in Article 41(6) of Regulation (EU) 2018/1139 and the delegated and implementing acts adopted on the basis thereof as well as Articles 7 and 7a of this Regulation, a** ↻ an entity that holds a ↻ [...]↻ certificate **↻ or a declaration ↻** referred to in paragraph 1 ↻ [...]↻ shall be entitled to provide within the Union air navigation services for airspace users, under non-discriminatory conditions ↻ [...]↻.

3. ↻ [...]↻

4. ↻ [...]↻

5. ↻ [...]↻

6. ↻ [...]↻

↓ 550/2004

~~3. National supervisory authorities shall issue certificates to air navigation service providers where they comply with the common requirements referred to in Article 6. Certificates may be issued individually for each type of air navigation service as defined in Article 2 of the framework Regulation, or for a bundle of such services, *inter alia*, where a provider of air traffic services, whatever its legal status, operates and maintains its own communication, navigation and surveillance systems. The certificates shall be checked on a regular basis.~~

~~4. Certificates shall specify the rights and obligations of air navigation service providers, including non-discriminatory access to services for airspace users, with particular regard to safety. Certification may be subject only to the conditions set out in Annex II. Such conditions shall be objectively justified, non-discriminatory, proportionate and transparent.~~

~~5. Notwithstanding paragraph 1, Member States may allow the provision of air navigation services in all or part of the airspace under their responsibility without certification in cases where the provider of such services offers them primarily to aircraft movements other than general air traffic. In those cases, the Member State concerned shall inform the Commission and the other Member States of its decision and of the measures taken to ensure maximum compliance with the common requirements.~~

↓ 1070/2009 Art. 2.3

~~7. National supervisory authorities shall monitor compliance with the common requirements and with the conditions attached to the certificates. Details of such monitoring shall be included in the annual reports to be submitted by Member States pursuant to Article 12(1) of the framework Regulation. If a national supervisory authority finds that the holder of a certificate no longer satisfies such requirements or conditions, it shall take appropriate measures while ensuring continuity of services on condition that safety is not compromised. Such measures may include the revocation of the certificate.~~

↓ 550/2004

~~8. A Member State shall recognise any certificate issued in another Member State in accordance with this Article.~~

~~9. In exceptional circumstances, Member States may postpone compliance with this Article beyond the date resulting from Article 19(2) by six months. Member States shall notify the Commission of such postponement, giving their reasons therefor.~~

↓ 1070/2009 Art. 2.4

⇒ new

⇒ Council

Article 7

Designation of air traffic service providers

1. Member States shall ensure the provision of air traffic services on an exclusive basis within specific airspace blocks in respect of the airspace under their responsibility. For this purpose, Member States shall ~~designate an air traffic service provider holding a valid certificate in the~~

~~Community.~~ ⇒ individually or collectively, designate one or more air traffic service provider(s).

⇒ Member States shall have discretionary powers in **designating** an air traffic service provider, on the condition that the air traffic service providers fulfills the requirements **laid down** in this Article. ©

⇒ **1a.** © The air traffic service providers shall fulfill the following conditions: ⇐

↓ new

⇒ Council

(a) they ⇒[...]☒ **⇒comply with the requirements laid down in Article 6;**☒

(b) they ⇒[...]☒ comply with the national security and defence requirements.

☒(c) their principal place of business is located in the territory of a Member State;

(d) Member States or nationals of Member States own more than 50% of the service provider and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except where otherwise provided for in an agreement with a third country to which the Union is a party. ☒

☒[...]☒.

↓ 1070/2009 Art. 2.4 (adapted)

⇒ new

⇒ Council

~~[2. For the provision of cross-border services, Member States shall ensure that compliance with this Article and Article 18 10(3) is not prevented by their national legal system requiring that air traffic service providers providing services in the airspace under the responsibility of that Member State~~

⇒ The designation of the air traffic service providers shall not be subject to any condition requiring those providers to ⇐ :

(a) be owned directly or through a majority holding by ~~that~~ ☒ the designating ☒ Member State or its nationals;

(b) have their principal place of operation or registered office in the territory of ~~that~~ ☒ the designating ☒ Member State; ~~or~~

(c) use only facilities in ~~that~~ ☒ the designating ☒ Member State.]¹³

¹³ Under consideration by CLS.

3. Member States shall ~~define~~ ⇒ specify ⇐ the rights and obligations to be met by the ~~designated~~ air traffic service providers ⇒ , designated ⇐[...]⇐ ⇐ **in accordance with this Article** ⇐. ⇐ ⇐[...]

↓ 1070/2009 Art. 2.4

~~4. Member States shall have discretionary powers in choosing an air traffic service provider, on condition that the latter fulfils the requirements and conditions referred to in Articles 6 and 7.~~

~~5. In respect of functional airspace blocks established in accordance with Article 16_9a that extend across the airspace under the responsibility of more than one Member State, the Member States concerned shall jointly designate, in accordance with paragraph 1 of this Article, one or more air traffic service providers, at least one month before implementation of the airspace block.~~

46. Member States shall inform the Commission and other Member States immediately of any decision within the framework of this Article regarding the designation of air traffic service providers within specific airspace blocks in respect of the airspace under their responsibility.

↓ new

⇐ Council

⇐ Article 7a

Designation of providers of meteorological services

1. Member States may designate , **individually or collectively**, a provider of meteorological services to supply all or part of meteorological data **for air navigation purposes** on an exclusive basis in all or part of the airspace under their responsibility, taking into account safety considerations.

2. Member States shall inform the Commission and other Member States without delay of any decision within the framework of this Article regarding the designation of a provider of meteorological services.

Article 7b

Relations between air navigation service providers

1. Air navigation service providers may avail themselves of the services of other service providers **that comply with Article 6.**

With respect to the provision of air traffic services, such cooperation shall be subject to the approval of the Member States concerned.

2. For the purpose of paragraph 1, air navigation service providers shall formalise their working relationships by means of written agreements or equivalent legal arrangements, setting out the specific duties, **including financial settlements,** and functions assumed by each provider. Those agreements or arrangements shall be notified to the national **competent** authority or authorities concerned. ©

Article 8

Conditions regarding the provision of CNS, AIS, ADS, MET and ☞[...]☞ air traffic services
☞for aerodrome control and approach control ☞

1. ☞[...]☞ **Without prejudice to Article 7(3), designated air** ☞traffic service providers may decide to procure CNS, AIS, **☞or ☞ADS ☞**☞services under market conditions.

☞1a. Except in cases where Member States have designated a MET service providers in accordance with Article 7a, without prejudice to Article 7(3), air traffic service providers may decide to procure MET services under market conditions. ☞

☞1b. Without prejudice to Article 7b(1), ☞Member States ☞[...]☞may ☞ allow airport operators to procure ☞[...]☞ air traffic services for aerodrome control under market conditions ☞ and airport operators or a group of airport operators to procure air traffic services for approach control under market conditions, provided that they aim at an improvement of the overall performance of those services☞.

☞[...]☞

➤1c. Member States shall designate the service provider selected as a result of procurement referred to in **paragraphs 1a and 1b.** ☒

2. ➤[...]☒

3. ➤In addition to the requirement on all air navigation service providers concerning the separation of accounts referred to in Article 25(3), air navigation services providers which compete for or engage in the provision of CNS, AIS, ADS, MET or terminal air traffic services under market conditions shall place activities related to those services in a business entity operating independently.

The national **competent** authority shall monitor the compliance with the requirements of this paragraph and, where it concludes that an air navigation service provider has failed to comply with those requirements, it shall impose appropriate remedial measures to be implemented by the service provider concerned. ☒

➤[...]☒

4. A provider of CNS, AIS, ADS, MET or ➤[...]☒air traffic services ➤**for aerodrome control or for approach control** ☒ may only be selected ➤**or designated** ☒ to provide services in a Member State, when:

- (a) ➤[...]☒➤**it complies with the requirements set out in Article 6**☒;
- (b) its principal place of business is located in the territory of a Member State;
- (c) Member States or nationals of Member States own more than 50% of the service provider and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except as provided for in an agreement with a third country to which the Union is a party; and
- (d) the service provider fulfils national security and defence requirements.

5. Articles 13, 13a, 13b and 17 and the implementing rules relating to those Articles adopted on the basis of Article 18 shall not apply to the air traffic service providers designated as a result of a procurement procedure in accordance with paragraph 1b. Those air traffic service providers shall provide data on the performance of air navigation services in the key performance areas referred to in Article 10(2) the national competent authority and the Commission for monitoring purposes.

Article 9

Provision of common information services

1. Where CIS are provided, the data disseminated shall present the integrity and quality necessary to enable the safe provision of services for the management of traffic of unmanned aircraft.

2. **The price of such services shall be made publicly available.**

Where CIS are provided on an exclusive basis, the CIS provider shall fulfill the following requirements:

(a) **they comply with the national security and defence requirements;**

(b) **their principal place of business is located in the territory of a Member State;**

(c) **Member States or nationals of Member States own more than 50% of the service provider and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except where otherwise as provided for in an agreement with a third country to which the Union is a party.**

In such a case, Member States may impose that the price for CIS is based on the fixed and variable costs of providing the service concerned and or include a mark-up reflecting an appropriate risk-return trade-off.

Those costs shall be set out in an account separate from the accounts for any other activities of the operator concerned and shall be accessible by the national competent authority concerned.

3. **The price set by the CIS provider shall be** subject to assessment and approval by the national **competent** authority concerned.

4. Access to relevant operational data shall be granted to **CIS** providers, on a non-discriminatory basis, without prejudice to **national security**, **public order**, **and** defence policy interests. **CIS providers shall use those data only for operational purposes of the services they provide.**

Prices for access to such data shall be based on the **additional** cost of making the data available, where **those** costs are not covered under Article 20 **and unless other financial resources are used by Member States to cover such costs**.

Article 9a¹⁴

Availability of and access to operational data for general air traffic

1. With regard to general air traffic, relevant operational data shall be made available in real-time, on a non-discriminatory basis and without prejudice to national security or defence policy interests, by all air navigation service providers, airspace users, airports, and the Network Manager, including on **a** cross-border and a Union-wide basis. Such availability shall be to the benefit of certified or declared air navigation service providers, military air **navigation** service providers, airspace users and airports as well as the Network Manager. The data shall be used only for operational purposes.

2.

3. **Access** to relevant operational data as referred to in paragraph 1 shall be granted free of charge to the authorities in charge of security, public order, **and** defence, **to national competent authorities**, **to** the Network Manager, and **to** the Agency in accordance with Regulation (EU) 2018/1139.

4. The Commission shall **by means of implementing acts adopted in accordance with the examination procedure referred to in Article 37(3), determine the specific operational data covered by this Article and define the technicalities of such data provision, as well as the conditions for access to those data.**

¹⁴ **Ex-Article 31**

Article 9b

Performance review body

In accordance with the examination procedure referred to in Article 37(3), the Commission may, by means of an implementing act, designate an independent, impartial and competent body to act as a Performance Review Body (PRB), and select and appoint the chair and the members thereof. The role of the PRB shall be to advise the Commission and to assist the national competent authorities on request in the implementation of the performance scheme referred to in Article 10 and the charging scheme referred to in Article 19. ¹⁵

↓ 550/2004

Article 9

Designation of providers of meteorological services

1. Member States may designate a provider of meteorological services to supply all or part of meteorological data on an exclusive basis in all or part of the airspace under their responsibility, taking into account safety considerations.

2. Member States shall inform the Commission and other Member States without delay of any decision within the framework of this Article regarding the designation of a provider of meteorological services.

¹⁵ **Under consideration by CLS**

CHAPTER III

~~RULES FOR THE~~ ~~✗~~ SERVICE ~~✗~~ PROVISION ~~OF SERVICES~~

↓ 1070/2009 Art. 1.5 (adapted)

⇒ new

⇒ Council

Article ~~1044~~

Performance scheme

1. To improve the performance of air navigation services and ~~⇒ [...]~~ ~~⇒~~ ~~of network management~~ in the ~~s~~Single European ~~s~~Sky, a performance scheme for air navigation services and network ~~⇒ [...]~~ ~~⇒~~ ~~management~~ shall ~~be set up~~ ⇒ apply in accordance with this Article and Articles 11 to 18. ~~⇒ It 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:

(a) ~~Community~~ ~~✗~~ Union ~~✗~~ -wide performance targets ~~⇒ for air services relevant for the en-route phase~~ ~~on~~ ~~✗~~ in ~~✗~~ the key performance areas of the ~~⇒ safety,~~ ~~⇒ safety,~~ the environment, capacity and cost-efficiency ⇒ for each reference period ⇐ ;

(b) ~~national~~ ~~✗~~ performance ~~✗~~ plans ~~or plans for functional airspace blocks,~~ including ⇒ binding ⇐ performance targets, ~~ensuring consistency with the Community -wide performance targets~~ ~~⇒ and incentive schemes~~ ~~⇒~~ in the key performance areas mentioned in point (a) for each reference period ⇐ ; ~~and~~

(c) periodic review, monitoring and benchmarking of ~~the performance of air navigation services and network functions~~ ⇒ in the key performance areas ~~⇒ [...]~~ ~~⇒~~ ~~mentioned in point (a)~~ ⇐ .

⇒ [...]

~~2. In accordance with the regulatory procedure referred to in Article 5(3), the Commission may designate Eurocontrol or another impartial and competent body to act as a ‘performance review body’. The role of the performance review body shall be to assist the Commission, in coordination with the national supervisory authorities, and to assist the national supervisory authorities on request in the implementation of the performance scheme referred to in paragraph 1. The Commission shall ensure that the performance review body acts independently when carrying out the tasks entrusted to it by the Commission.~~

~~3. (a) The Community-wide performance targets for the air traffic management network shall be adopted by the Commission in accordance with the regulatory procedure referred to in Article after taking into account the relevant inputs from national supervisory authorities at national level or at the level of functional airspace blocks.~~

~~(b) The national or functional airspace block plans referred to in point (b) of paragraph 1 shall be drawn up by national supervisory authorities and adopted by the Member State(s). These plans shall include binding national targets or targets at the level of functional airspace blocks and an appropriate incentive scheme as adopted by the Member State(s). Drafting of the plans shall be subject to consultation with air navigation service providers, airspace users' representatives, and, where relevant, airport operators and airport coordinators.~~

~~(c) The consistency of the national or functional airspace block targets with the Communitywide and performance targets shall be assessed by the Commission using the assessment criteria referred to in point (d) of paragraph 6.~~

~~In the event that the Commission identifies that one or more national or functional airspace block targets do not meet the assessment criteria, it may decide, in accordance with the advisory procedure referred to in Article 5(2), to issue a recommendation that the national supervisory authorities concerned propose revised performance target(s). The Member State(s) concerned shall adopt revised performance targets and appropriate measures which shall be notified to the Commission in due time.~~

~~Where the Commission finds that the revised performance targets and appropriate measures are not adequate, it may decide, in accordance with the regulatory procedure referred to in Article 5(3), that the Member States concerned shall take corrective measures.~~

~~Alternatively, the Commission may decide, with adequate supporting evidence, to revise the Community-wide performance targets in accordance with the regulatory procedure referred to in Article 5(3).~~

~~(d) The reference period for the performance scheme, referred to in paragraph 1, shall cover a minimum of three years and a maximum of five years. During this period, in the event that the national or functional airspace block targets are not met, the Member States and/or the national supervisory authorities shall apply the appropriate measures they have defined. The first reference period shall cover the first three years following the adoption of the implementing rules referred to in paragraph 6.~~

~~(e) The Commission shall carry out regular assessments of the achievement of the performance targets and present the results to the Single Sky Committee.~~

3. ~~The following procedures shall apply to the performance scheme referred to in~~

~~paragraph 1~~ ~~☒~~ ~~☐~~ ~~☑~~ ~~☒~~ ~~☐~~ ~~☑~~ The performance scheme referred to ~~☐~~ in ~~☐~~ paragraphs 1 and 2 ~~☐~~ shall be based on ~~☒~~ :

(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 competent authorities, ~~☐~~ and other national authorities, ~~☐~~ ~~☐~~ ~~☑~~ ~~☐~~ ~~☐~~ ~~☑~~ , the Agency, ~~☐~~ and ~~☐~~ the Network Manager ~~☐~~ ~~☐~~ ~~☑~~ ~~☐~~ ~~☐~~ ~~☑~~ ;

↓ new

☐ Council

(b) key performance indicators for target setting in the key performance areas ~~☐~~ referred to in paragraph 2(a) ~~☐~~ ~~☐~~ ~~☑~~ ~~☐~~ ;

(c) indicators for monitoring performance in the key performance areas ~~☐~~ referred to in paragraph 2(a) ~~☐~~ ~~☐~~ ~~☑~~ ~~☐~~ ;

~~☐~~ (cc) a methodology to calculate breakdown values; ~~☐~~

(d) ~~☒~~ ~~☐~~ ~~☐~~ ~~☑~~ ~~☐~~ ~~☐~~ ~~☑~~ principles governing ~~☐~~ the ~~☐~~ ~~☐~~ ~~☑~~ ~~☐~~ ~~☐~~ ~~☑~~ establishment ~~☐~~ of performance plans and ~~☐~~ ~~☐~~ ~~☑~~ ~~☐~~ ~~☐~~ ~~☑~~ for the network ~~☐~~ ~~☐~~ ~~☑~~ ~~☐~~ ~~☐~~ ~~☑~~ management, as well as the content of such plans ~~☐~~ ;

(e) the assessment of the draft performance plans and targets for air navigation services and network ~~☐~~ ~~☐~~ ~~☑~~ ~~☐~~ ~~☐~~ ~~☑~~ management ~~☐~~ ;

(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;

(g) benchmarking of air navigation service providers ~~☐~~ , where relevant ~~☐~~ ;

(h) incentive schemes including for ~~☐~~ both ~~☐~~ financial ~~☐~~ positive incentives and ~~☐~~ disincentives applicable where an air traffic service provider ~~☐~~ goes beyond or ~~☐~~ does not comply with the relevant binding 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 ~~☐~~ ;

(i) risk sharing mechanisms in respect of traffic and costs;

(j) timetables for target setting, assessment of performance plans and targets, monitoring and benchmarking;

(k) ➡[...]⌄;

(l) mechanisms to address unforeseeable and significant events which have a material impact on the implementation of the performance and charging schemes.¹⁶

➡**4. The setting of 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 take into account the impact of local circumstances as well as factors that fall outside the air navigation service providers' and the network manager's control.** ⌄

Article 11

Establishment of the Union-wide performance targets

1. The Commission shall ➡**by means of implementing acts adopted in accordance with the examination procedure referred to in Article 37(3) and with paragraphs 2 to 3 of this Article,** ⌄adopt the Union-wide performance targets for ➡[...]⌄ air navigation services ➡**relevant for en route phase**⌄➡[...]⌄ in the key performance areas ➡**referred to in Article 10(2)** ⌄➡[...]⌄ for each reference period **and define the duration of that period** ⌄. In conjunction 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**⌄.

2. Union-wide performance targets referred to in paragraph 1 shall be defined on the basis of the following essential criteria:

(a) they shall drive gradual, ➡[...]⌄ improvements in respect of the ➡**environmental,** ⌄ operational and economic performance of air navigation services;

¹⁶ **Recital will be added to define the scope (duration or suspension of on-going reference period, evolution of performance targets over a reference period) as well as the conditions triggering such mechanisms, namely a significant deviation from traffic forecasts.**

(b) they shall be realistic and achievable during the reference period concerned, enabling the efficient, sustainable and resilient provision of air navigation services **whilst fostering longer term technological developments;**

(c) they shall take into account the economic and operational context of the reference period, including traffic forecast, as well as the interdependencies between the key performance areas referred to in Article 10(2) and the importance of safety and environmental considerations.

3. For the purposes of preparing its decisions on Union-wide performance targets, the Commission shall collect any necessary input from national authorities stakeholders and may request the opinion of the the PRB where a PRB has been designated in accordance with Article 9b.

Article 12

Article 13

Performance plans and performance targets for air navigation services

1. Member States shall, for each reference period, individually or collectively at functional airspace block level, adopt a draft performance plan, as drawn up by the national competent authority, and based in particular on the input of the designated air traffic service provider in respect of all the air navigation services which that designated air traffic service provider provide and, where applicable, procure from other providers.

The draft performance plans shall be adopted after the setting of Union-wide performance targets and before the start of the reference period concerned.

1a. Before the start of each reference period, each national competent authority shall lay down the criteria to allocate the costs common to services relevant for the en-route phase and services relevant for the terminal phase, taking into account the principle of cost-relatedness, and shall include this information in the draft performance plans. The national competent authority shall ensure that the cost bases for charges comply with those criteria and the requirements of Article 20.

1b. For each reference period, the national **competent** authority shall set and include in the draft performance plan, in the key performance areas **referred to in Article 10(2)** [...] performance targets for [...] air navigation services [...] **relevant for the en-route phase** consistent with the Union-wide performance targets **and performance targets for air navigation services relevant for the terminal phase**. 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) and overriding safety and environmental considerations**. [...]

2. The draft performance plans [...] referred to in paragraph 1 shall include relevant information **, in particular traffic forecasts and operational data,** provided by the Network Manager. **In drawing up the draft performance plans the national competent authority** [...] shall consult airspace users' representatives and, where relevant, military authorities, airport operators and airport coordinators [...].

3. [...] Consistency of performance targets for [...] air navigation service **relevant for the en-route phase**, to be included in the draft performance plan, with Union-wide performance targets shall be established **taking into account local circumstances and** according to **all or part of** the following criteria:

(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;

(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;

(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.

The assessment of the consistency of performance targets in the key performance area of cost-efficiency shall exclude the costs referred to in points (b) and (d) of Article 20(3).

3.a In addition, the adopted draft performance plan must comply with the following conditions:

(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;

(b) the adopted draft performance plan must be complete in terms of data and supporting material;

(c) cost bases for charges must comply with Article 20.

(d) consistency with the Network Performance Plan referred to in Article 16.

3b. The adopted draft performance plans shall be made publicly available, **without prejudice to confidentiality of sensitive information.**

[...]

5. The adopted draft performance plans [...] shall be submitted to the

Commission [...] for assessment and approval in accordance with Article 13a.

[...]

Article 13a

Assessment of performance targets and performance plans by the Commission

1. The [...] **Commission** shall assess the performance targets for [...] air navigation services **relevant for the en-route phase** and the adopted draft performance plans referred to in Article 13 according to the criteria and conditions set out in Article 13 paragraph 3 and 3a. [...]

2. Where consistency of performance targets for air navigation services relevant for the *en-route* phase with Union-wide 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, in the light of the information provided in the draft performance plans. If that is the case, performance targets for air navigation services relevant for the *en-route* phase shall be considered consistent with Union-wide targets.

A deviation of performance targets for air navigation services relevant for the *en-route* phase from Union-wide performance targets with respect to cost-efficiency or capacity key performance areas may be allowed where necessary to ensure consistency of performance targets for air navigation services relevant for the *en-route* phase with Union-wide performance targets with respect to safety and environment key performance areas.

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 combination with paragraph 2 of this Article, it shall approve it by means of an implementing act adopted in accordance with the examination procedure referred to in Article 37(3).

Where Commission finds that the adopted draft performance plan does not meet those criteria and conditions, it shall, by means of an implementing act adopted in accordance with the examination procedure referred to in Article 37(3), request the Member State concerned to submit a revised draft performance plan.

[...]

4. Draft performance plans approved by the [...] Commission in accordance with paragraph 3 shall be adopted by [...] Member States concerned as definitive plans, and shall be made publicly available, without prejudice to confidentiality of sensitive information.

Article 13b

Performance monitoring

1. The national **competent** authorities 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(4) and implement correctly those plans and shall implement the** incentive schemes referred to in Article 10(3)h).

2. The national **competent** authorities 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.**

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 and revenues of the services provided and, where applicable, of the services procured from other service providers.

2a. Where performance targets **contained in the performance plans** are not reached or the performance plan is not correctly implemented, the national **competent** authority shall **assess whether this is due to external factors beyond the air traffic service provider's control. In particular, the national competent 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 is not due to external factors, the national competent authority may require corrective measures to be implemented by the air traffic service providers. Member States shall ensure that decisions taken by the national competent authority pursuant to this paragraph are subject to appeal.**

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 disincentives may only be applied where the under performance of the air traffic service provider is attributable to that service provider. Their amount shall be duly adjusted in order to take into account the impact on that performance of actions of other stakeholders as well as of any detrimental effect of measures adopted in order to improve the overall functioning of the network. Such disincentives shall not be such as to affect significantly the financial viability of the air traffic service provider concerned and the safety and quality of the services provision.

☞[...]☞

3. The Commission shall carry out regular assessments of the overall achievement of the Union-wide performance targets and present the results to the Single Sky Committee referred to in Article 37(1).

☞[...]☞

Article 14

☞[...]☞

Article 15

☞[...]☞

Article 16

Network Performance Plan

1. The Network Manager shall, for each reference period, draw up **☞in accordance with the decision-making process referred to in Article 26(3), ☞a draft Network Performance Plan☞[...]☞.**

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) ☞.**

2. The draft Network Performance Plan shall be submitted [...] to the Commission **for assessment and adoption**.

2a. The [...] Commission **shall assess** [...] the draft Network Performance Plan based on the following essential criteria:

(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 contribution towards EU-wide performance targets**;

(b) completeness **and consistency** of the draft Network Performance Plan in terms of data and supporting materials **, including key assumptions applied and traffic forecasts**.

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.

Article 17

Revision of performance targets and performance plans during a reference period

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 **one or several** targets is necessary and proportionate, the Commission shall revise those Union-wide performance targets. Article 11 shall apply to such decision.

[...] **Where, following such revision, the performance targets contained in the performance plan adopted pursuant to Article 13a no longer comply with the Union-wide performance targets Member States shall revise those** [...] plans **with 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.**

Where, following the revision referred in the first subparagraph, the performance targets contained in the **Network** performance plan adopted pursuant to Article 16 no longer comply with the Union-wide performance targets, the Network Manager shall revise that Plan. Article 16 shall apply to the revision of that Plan.

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.

3. Member States may revise one or several performance targets during a reference period. Such a proposal 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.

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 Articles 13(2) may be limited, for the purpose of this paragraph, to the performance targets and parts of the draft performance plans which are directly or indirectly affected by the revision.

Article 18

Implementation of the performance scheme

For the implementation of the performance scheme, the Commission shall adopt detailed requirements and procedures in respect of Articles 10(3), 11, 12, 13, ~~...~~ 13a and 13b, 16 as well as 17, in particular as regards the ~~...~~ **preparation, assessment, approval and revision** of ~~...~~ performance plans, the setting of performance targets, ~~...~~ the monitoring of performance ~~...~~, **the incentive schemes, the** 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 ~~...~~ **examination** procedure referred to in Article 37(~~...~~ **3**).

↓ 1070/2009 Art. 1.

~~(b) selection of appropriate key performance areas on the basis of ICAO Document No 9854 'Global air traffic management operational concept', and consistent with those identified in the Performance Framework of the ATM Master Plan, including safety, the environment, capacity and cost efficiency areas, adapted where necessary in order to take into account the specific needs of the Single European Sky and relevant objectives for these areas and definition of a limited set of key performance indicators for measuring performance;~~

~~(c) establishment of Community wide performance targets that shall be defined taking into consideration inputs identified at national level or at the level of functional airspace blocks;~~

~~6. For the detailed functioning of the performance scheme, the Commission shall by 4 December 2011 and within a suitable time frame with a view to meeting the relevant deadlines laid down in this Regulation, adopt implementing rules in accordance with the regulatory procedure referred to in Article 5(3). These implementing rules shall cover the following:~~

~~(e) criteria for the setting up by the national supervisory authorities of the national or functional airspace block performance plans, containing the national or functional airspace block performance targets and the incentive scheme. The performance plans shall:~~

~~(i) be based on the business plans of the air navigation service providers;~~

~~(ii) address all cost components of the national or functional airspace block cost base;~~

~~(iii) include binding performance targets consistent with the Community performance targets; (d) assessment of the national or functional airspace block performance targets on the basis of the national or functional airspace block plan; and~~

~~(e) monitoring of the national or functional airspace block performance plans, including appropriate alert mechanisms.; (d) criteria assess whether the national or functional airspace block targets are consistent with the Community wide performance targets during the reference period and to support alert mechanisms;~~

~~(e) general principles for the setting up by Member States of the incentive scheme;~~

~~(f) principles for the application of a transitional mechanism necessary for the adaptation to the functioning of the performance scheme not exceeding 12 months following the adoption of the implementing rules.;~~

~~(b) the reference periods and intervals for the assessment of the achievement of performance targets and the setting of new targets;~~

~~(a) the content and timetables of the procedures referred to in paragraph 4;~~

↓ 1070/2009 Art. 1.5

~~5. The establishment of the performance scheme shall take into account that en-route services, terminal services and network functions are different and should be treated accordingly, if necessary also for performance measuring purposes.~~

↓ 550/2004 (adapted)

~~CHAPTER III~~

~~CHARGING SCHEMES~~

↓ 1070/2009 Art. 2.8

~~Article 14~~

~~General~~

~~In accordance with the requirements of Articles 15 and 16, the charging scheme for air navigation services shall contribute to greater transparency in the determination, imposition and enforcement of charges to airspace users and shall contribute to the cost efficiency of providing air navigation services and to efficiency of flights, while maintaining an optimum safety level. This scheme shall also be consistent with Article 15 of the 1944 Chicago Convention on International Civil Aviation and with Eurocontrol's charging system for en-route charges.~~

↓ 1070/2009 Art. 2.9 (adapted)

Article ~~1945~~

Principles ☒ for the charging scheme ☒

↓ new

→ Council

1. Without prejudice to the possibility for Member States to finance the provision of air →[...]☒ →navigation☒ services covered in this Article through public funds, charges for air navigation services shall be determined, imposed and enforced on airspace users →in accordance with Article 15 of the Chicago Convention and with this Article as well as Articles 20 to 22 and the implementing acts adopted on the basis thereof.¹⁷ ☒
2. Charges shall be based on the costs of air →navigation☒ →[...]☒ service providers →[...]☒ →incurred in relation to the provision of ☒ services and functions delivered →to, or ☒ for the benefit of →, ☒ airspace users over fixed reference periods as defined in Article 10(2). Those costs may include a reasonable return on assets →[...]☒.
3. Charges shall encourage the safe, efficient, effective and sustainable provision of air navigation services →with a view to achieving a high level of safety and cost-efficiency whilst reducing the environmental impact of aviation☒ →[...]☒.
4. →[...]☒

¹⁷ Corresponding recital : The provision of air traffic services, as envisaged by this Regulation, is connected with the exercise of the powers of a public authority, which are not of an economic nature justifying and therefore not subject to the application of the Treaty rules of competition [Under consideration by the CLS].

5. Revenues received by an air navigation service provider from charges imposed on airspace users in accordance with this Article shall not be used to finance services which that air navigation service provider may provide [...] under market conditions in accordance with Article 8 or to finance any other commercial activity performed by that provider.

6. Financial data on determined [...] and actual costs [...] of designated air traffic service providers shall be reported to national [...] competent authorities [...].

Article 20

Cost bases for charges

1. The cost bases for charges for [...] air navigation services [...] shall consist of the determined costs, as established in the performance plans adopted in accordance with Articles 13 and 13a, related to the provision of those services in the *en route* charging zone and terminal charging zone concerned [...].

2. The determined costs referred to in paragraph 1 shall include the costs of relevant facilities and services, appropriate amounts for [...] cost of capital and depreciation of assets, as well as the costs of maintenance, operation, management and administration and a reasonable return on assets.

3. The determined costs referred to in paragraph 1 shall also include the following costs:

(a) [...]

(b) costs [...] incurred by national competent authorities, unless other financial resources are used by Member States to cover such costs;

(c) costs incurred by the air traffic service providers in relation to the provision of air navigation services [...] unless other financial resources are used by Member States to cover such costs.

➤(d) costs incurred **in relation to network functions, in particular** in relation to the tasks entrusted to the Network Manager, **as well as** costs stemming from the Eurocontrol International Convention relating to cooperation for the safety of air navigation of 13 December 1960 as last amended, unless other financial resources are used by Member States to cover such costs. ☐

4. Determined costs shall not include the costs of penalties imposed by Member States ➤**in accordance with**☐☐[...]☐Article 42 ➤[...]☐.

5. ➤**Costs that pertain to services relevant to the *en route* phase and to services relevant to the terminal phase shall be allocated in a proportional way between those two phases.** ☐

Cross-subsidy shall not be allowed between ➤[...]☐air navigation services➤**relevant to the *en-route phase***☐ and ➤[...]☐ air navigation services➤ **relevant to the terminal phase**☐.

➤[...]☐Cross-subsidy shall be allowed between different air navigation services ➤**with**☐in either one of those two categories only when justified for objective reasons, subject to transparent identification in accordance with Article 25(3).

6. Designated air traffic service providers shall provide details of their cost base to the ➤[...]☐national ➤[...]☐☐**competent**☐authorit➤y☐☐[...]☐, and the Commission. To this end, costs shall be broken down ➤[...]☐by distinguishing staff costs, operating costs other than staff costs, depreciation costs, cost of capital, costs ➤**referred to in Article 20(3)** ☐ ➤[...]☐, and exceptional costs.

Article 21

➤**Charging zone and** ☐ ➤[...]☐**unit rates**

1. Unit rates shall be set per calendar year and for each charging zone, on the basis of the determined costs and the traffic forecasts established in the performance plans as well as applicable adjustments deriving from previous years and other revenues.

1a. Without prejudice to Article 20(5), **first subparagraph** national **competent** authorities shall define, before the start of a reference period, the charging zones for air navigation services and shall identify the air traffic service providers falling under the scope of each charging zone.

2. Unit rates shall be set by the **Member States**, **and be subject to** verification by the **Commission** that they comply with Article 19, Article 20 and with this Article. Where the **Commission** finds that a unit rate does not fulfill those requirements, the unit rate shall be reviewed accordingly by the **Member States** concerned.

Article 22

Establishment of charges

1. Charges shall be levied on airspace users for the provision of air navigation services, under non-discriminatory conditions, taking into account the relative productive capacities of the different aircraft types concerned. When imposing charges on different airspace users for the use of the same service, no distinction shall be made in relation to the nationality or category of the user.

2. The charge for air navigation services **relevant for en-route phase** for a given flight in a given *en route* charging zone shall be calculated on the basis of the unit rate established for that *en route* charging zone and the *en route* service units for that flight.

3. The charge for air navigation services **relevant for terminal phase** for a given flight in a given terminal charging zone shall be calculated on the basis of the unit rate established for that terminal charging zone and the terminal service units for that flight. For the purpose of calculating the charge for navigation services **relevant for terminal phase**, the approach and departure of a flight shall count as a single flight.

4. Exemption of certain airspace users from air navigation charges, especially light aircraft and State aircraft, may be permitted, provided that the cost of such exemption is covered by other resources and is not passed on to other airspace users.

5. Charges ~~may~~ be modulated to encourage air ~~traffic~~ service providers, ~~and~~ airspace users to support improvements in environmental performance, or service quality such as **the use of the most fuel-efficient available routing**, increased use of sustainable alternative fuels, increased capacity, reduced delays and sustainable development, while maintaining an optimum safety level, in particular for implementing the European ATM Master Plan. The modulation shall consist of financial advantages or disadvantages and shall be revenue neutral for air traffic service providers.

5a. The Commission shall, in consultation with **the Member States**, air traffic service providers and airspace users conduct a study, including a feasibility study, on the **impact of the modulation of charges on air traffic and on stakeholders, including on flight paths, capacity, fleet composition and costs of airspace users, as well as on mechanisms to ensure revenue neutrality of air traffic service providers. This study shall also cover the contribution of that modulation to achievement of the Single European Sky objectives referred to in Article 1(1), taking into consideration competitiveness aspects and other known alternatives.** On the basis of that study, the Commission may adopt **guidelines** to enable Member States to implement modulation of charges on a voluntary basis.

Article 23

Implementation of the charging scheme

For the implementation of the charging scheme, the Commission shall adopt detailed requirements and procedures in respect of Articles 19, 20, 21 and 22 in particular regarding the cost bases and determined costs, the setting of unit rates **for services relevant for terminal phase**, ~~and~~ risk sharing mechanisms and the modulation of charges. Those requirements and procedures shall be set out in an implementing act adopted in accordance with the ~~examination~~ ~~procedure~~ referred to in Article 37(~~3~~).

~~(a) the cost to be shared among airspace users shall be the determined cost of providing air navigation services, including appropriate amounts for interest on capital investment and depreciation of assets, as well as the costs of maintenance, operation, management and administration. Determined costs shall be the costs determined by the Member State at national level or at the level of functional airspace blocks either at the beginning of the reference period for each calendar year of the reference period referred to in Article 11 of the framework Regulation, or during the reference period, following appropriate adjustments applying the alert mechanisms set out in Article 11 of the framework Regulation.~~

~~(b) the costs to be taken into account in this context shall be those assessed in relation to the facilities and services provided for and implemented under the ICAO Regional Air Navigation Plan, European Region. They may also include costs incurred by national supervisory authorities and/or qualified entities, as well as other costs incurred by the relevant Member State and service provider in relation to the provision of air navigation services. They shall not include the costs of penalties imposed by Member States according to Article 9 of the framework Regulation nor the costs of any corrective measures imposed by Member States according to Article 11 of the framework Regulation.~~

~~(c) in respect of the functional airspace blocks and as part of their respective framework agreements, Member States shall make reasonable efforts to agree on common principles for charging policy.~~

~~(d) the cost of different air navigation services shall be identified separately, as provided for in Article 12(3).~~

~~(e) cross-subsidy shall not be allowed between en-route services and terminal services. Costs that pertain to both terminal services and en-route services shall be allocated in a proportional way between en-route services and terminal services on the basis of a transparent methodology. Cross-subsidy shall be allowed between different air navigation services in either one of those two categories only when justified for objective reasons, subject to clear identification.~~

~~(f) transparency of the cost base for charges shall be guaranteed. Implementing rules for the provision of information by the service providers shall be adopted in order to permit reviews of the provider's forecasts, actual costs and revenues. Information shall be regularly exchanged between the national supervisory authorities, service providers, airspace users, the Commission and Eurocontrol.~~

~~3. Member States shall comply with the following principles when setting charges in accordance with paragraph 2:~~

~~(a) charges shall be set for the availability of air navigation services under non-discriminatory conditions. When imposing charges on different airspace users for the use of the same service, no distinction shall be made in relation to the nationality or category of the user;~~

~~(b) exemption of certain users, especially light aircraft and State aircraft, may be permitted, provided that the cost of such exemption is not passed on to other users;~~

~~(c) charges shall be set per calendar year on the basis of the determined costs, or may be set under conditions established by Member States for determining the maximum level of the unit rate or of the revenue for each year over a period not exceeding five years;~~

~~(d) air navigation services may produce sufficient revenues to provide for a reasonable return on assets to contribute towards necessary capital improvements;~~

~~(e) charges shall reflect the cost of air navigation services and facilities made available to airspace users, taking into account the relative productive capacities of the different aircraft types concerned;~~

~~(f) charges shall encourage the safe, efficient, effective and sustainable provision of air navigation services with a view to achieving a high level of safety and cost efficiency and meeting the performance targets and they shall stimulate integrated service provision, whilst reducing the environmental impact of aviation. To that end, and in relation to the national or functional airspace block performance plans, national supervisory authorities may set up mechanisms, including incentives consisting of financial advantages and disadvantages, to encourage air navigation service providers and/or airspace users to support improvements in the provision of air navigation services such as increased capacity, reduced delays and sustainable development, while maintaining an optimum safety level.~~

~~4. 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. 2.11

~~Article 15~~

Review of compliance

~~1. The Commission shall provide for the ongoing review of compliance with the principles and rules referred to in Articles 14 and 15, acting in cooperation with the Member States. The~~

~~Commission shall endeavour to establish the necessary mechanisms for making use of Eurocontrol expertise and shall share the results of the review with the Member States, Eurocontrol and the airspace users' representatives.~~

~~2. At the request of one or more Member States that consider that the principles and rules referred to in Articles 14 and 15 have not been properly applied, or on its own initiative, the Commission shall carry out an investigation into any allegation of non-compliance or non-application of the principles and/or rules concerned. Without prejudice to Article 18(1), the Commission shall share the results of the investigation with the Member States, Eurocontrol and the airspace users' representatives. Within two months of receipt of a request, after having heard the Member State concerned, and after consulting the Single Sky Committee in accordance with the advisory procedure referred to in Article 5(2) of the framework Regulation, the Commission shall take a decision on the application of Articles 14 and 15 of this Regulation and as to whether the practice concerned may continue.~~

~~3. The Commission shall address its decision to the Member States and inform the service provider thereof, in so far as it is legally concerned. Any Member State may refer the Commission's decision to the Council within one month. The Council, acting by a qualified majority, may take a different decision within a period of one month.~~

↓ new

→ Council

Article 24

Review of compliance with the performance and charging schemes

1. **Without prejudice to the tasks of the national competent authorities, the Commission** shall regularly review the compliance with Articles 10 to 17 and 19 to 22 and the implementing acts referred to in Articles 18 and 23, by the air traffic service providers and the Member States, as the case may be. The Commission shall act in consultation with the **PRB where a PRB has been designated in accordance with Article 9b,** and with national **competent** authorities.
2. At the request of one or more Member States, of a national **competent** authority or **on its own initiative, the Commission** shall carry out an investigation into any allegation of non-compliance as referred to in paragraph 1. It shall conclude the investigation within four months of receipt of a request **if any**, after having heard the Member State, the national **competent** authority and the designated air traffic service provider concerned.
3. Without prejudice to Article 41(1), the **Commission** shall share the results of the investigation with the Member States **and** the air traffic service providers concerned **and** may issue an opinion on whether Articles 10 to 17 and 19 to 22 and the implementing acts referred to in Articles 18 and 23 have been complied with by **that** Member State **or that** air traffic service provider **. It** shall notify this opinion to the Member State **and** the air traffic service provider concerned.¹⁸

¹⁸ **A corresponding recital will be added to clarify that this Article applies without prejudice to the procedure laid down in Article 258 TFEU.**

↓ 550/2004 (adapted)

⇒ new

Article ~~254~~

Transparency of accounts ☒ of air navigation service providers ☒

1. Air navigation service providers, ~~whatever~~ ☒ independently of ☒ their system of ownership or legal ~~form~~ ☒ structures ☒, shall ⇒ annually ⇐ draw up, ~~submit to audit~~ and publish their financial accounts. These accounts shall comply with the international accounting standards adopted by the ~~Community~~ ☒ Union ☒. Where, owing to the legal status of the ☒ air navigation ☒ service provider, full compliance with the international accounting standards is not possible, the provider shall ~~endeavour to~~ achieve such compliance to the maximum possible extent. ~~2. In all cases, Air~~ navigation service providers shall publish an annual report and regularly undergo an independent audit ☒ for the accounts referred to in this paragraph ☒.

↓ new

➡ Council

2. National ➡[...]Ⓢ➡**competent**Ⓢ authorities ➡[...]Ⓢ shall have the right to access the accounts of the air navigation service providers under their supervision. Member States may decide to grant access to these accounts to ➡[...]Ⓢ ➡**national competent**Ⓢ authorities ➡**of other Member States**Ⓢ.

↓ 1070/2009 Art. 2.7 (adapted)

⇒ new

3. ~~When providing a bundle of services, Air navigation service providers shall~~ ⇒ , in their internal accounting, keep separate accounts for each air navigation service ⇐ ~~identify and disclose the costs and income deriving from air navigation services, broken down in accordance with the charging scheme for air navigation services referred to in Article 14 and, where appropriate, shall keep consolidated accounts for other, non-air navigation services, as they would be required to do if the~~ ⊗ these ⊗ services ~~in question were provided~~ ⊗ carried out ⊗ by separate undertakings ⇒ with a view to avoiding discrimination, cross-subsidisation and distortion of competition. An air navigation service provider shall also keep separate accounts for each activity where: ⇐

↓ new

⦿ Council

(a) it provides air navigation services procured in accordance with Article 8(1) and air navigation services not covered by that provision;

(b) it provides air navigation services and carries out other activities, of whatever kind, including ⦿[...]⦿⦿CISE⦿;

(c) it provides air navigation services in the Union and in third countries.

The determined ⦿[...]⦿⦿and⦿ actual costs ⦿[...]⦿ deriving from air navigation services shall be broken down into ⦿costs categories in accordance with article 20(6)⦿ ⦿[...]⦿ and they shall be made publicly available, subject to the protection of confidential information.

4. The financial data on costs ⦿[...]⦿ reported in accordance with Article 19(6) and other information relevant for the calculation of unit rates shall be audited or verified by the national ⦿[...]⦿⦿competent⦿ authority or an entity independent of the air navigation service provider concerned and approved by the national ⦿[...]⦿⦿competent⦿ authority. ⦿Without prejudice to confidentiality of sensitive information, the ⦿⦿[...]⦿ conclusions of the audit shall be made publicly available.

↓ 550/2004

~~4. Member States shall designate the competent authorities that shall have a right of access to the accounts of service providers that provide services within the airspace under their responsibility.~~

~~5. Member States may apply the transitional provisions of Article 9 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards¹⁹ to air navigation service providers that fall within the scope of that regulation.~~

↓ 1070/2009 Art. 2.5

~~Article 9a~~

~~Functional airspace blocks~~

~~1. By 4 December 2012, Member States shall take all necessary measures in order to ensure the implementation of functional airspace blocks with a view to achieving the required capacity and efficiency of the air traffic management network within the Single European Sky and maintaining a high level of safety and contributing to the overall performance of the air transport system and reduced environmental impact.~~

~~3. Member States shall cooperate to the fullest extent possible with each other, in particular Member States establishing neighbouring functional airspace blocks, in order to ensure compliance with this provision. Where relevant, cooperation may also include third countries taking part in functional airspace blocks.~~

~~2. Functional airspace blocks shall, in particular:~~

~~(a) be supported by a safety case;~~

~~(b) enable optimum use of airspace, taking into account air traffic flows;~~

¹⁹ ~~OJ L 243, 11.9.2002, p. 1.~~

~~(c) ensure consistency with the European route network established in accordance with Article 6 of the airspace Regulation;~~

~~(d) be justified by their overall added value, including optimal use of technical and human resources, on the basis of cost-benefit analyses;~~

~~(e) ensure a smooth and flexible transfer of responsibility for air traffic control between air traffic service units;~~

~~(f) ensure compatibility between the different airspace configurations, optimising, inter alia, the current flight information regions;~~

~~(g) comply with conditions stemming from regional agreements concluded within the ICAO;~~

~~(h) respect regional agreements in existence on the date of entry into force of this Regulation, in particular those involving European third countries; and~~

~~(i) facilitate consistency with Community wide performance targets.~~

~~3. A functional airspace block shall only be established by mutual agreement between all the Member States and, where appropriate, third countries who have responsibility for any part of the airspace included in the functional airspace block.~~

~~Before notifying the Commission of the establishment of a functional airspace block, the Member State(s) concerned shall provide the Commission, the other Member States and other interested parties with adequate information and give them an opportunity to submit their observations.~~

~~4. Where a functional airspace block relates to airspace that is wholly or partly under the responsibility of two or more Member States, the agreement by which the functional airspace block is established shall contain the necessary provisions concerning the way in which the block can be modified and the way in which a Member State can withdraw from the block, including transitional arrangements.~~

~~5. Where difficulties arise between two or more Member States with regard to a cross-border functional airspace block that concerns airspace under their responsibility, the Member States concerned may jointly bring the matter to the Single Sky Committee for an opinion. The opinion shall be addressed to the Member States concerned. Without prejudice to paragraph 63, the Member States shall take that opinion into account in order to find a solution.~~

~~6. After having received the notifications by Member States of the agreements and declarations referred to in paragraphs 3 and 4 the Commission shall assess the fulfilment by each functional airspace block of the requirements set out in paragraph 2 and present the results to the Single Sky Committee for discussion. If the Commission finds that one or more functional airspace blocks do not fulfil the requirements it shall engage in a dialogue with the Member States concerned with the aim of reaching a consensus on the measures necessary to rectify the situation.~~

~~7. Without prejudice to paragraph 6, the agreements and declarations referred to in paragraphs 3 and 4 shall be notified to the Commission for publication in the *Official Journal of the European Union*. Such publication shall specify the date of entry into force of the relevant decision.~~

~~8. Guidance material for the establishment and modification of functional airspace blocks shall be developed by 4 December 2010 in accordance with the advisory procedure referred to in Article 5(2) of the framework Regulation.~~

~~9. 1 The Commission shall, by 4 December 2011 and in accordance with the examination regulatory procedure referred to in Article 5(3) of the framework Regulation, adopt implementing rules regarding the information to be provided by the Member State(s) concerned before establishing and modifying a functional airspace block in accordance with paragraph 3 of this Article.~~

~~Article 9b~~

~~Functional airspace blocks system coordinator~~

~~1. In order to facilitate the establishment of the functional airspace blocks, the Commission may designate a natural person as functional airspace blocks system coordinator (the Coordinator). The Commission shall act in accordance with the regulatory procedure referred to in Article 5(3) of the framework Regulation.~~

~~2. Without prejudice to Article 9a(5) the Coordinator shall facilitate at the request of all Member States concerned and, where appropriate, third countries taking part in the same functional airspace block, overcoming of difficulties in their negotiation process in order to speed up the establishment of functional airspace blocks. The Coordinator shall act on the basis of a mandate from all Member States concerned and, where appropriate, third countries taking part in the same functional airspace block.~~

~~3. The Coordinator shall act impartially in particular with regard to Member States, third countries, the Commission and the stakeholders.~~

~~4. The Coordinator shall not disclose any information obtained whilst performing his function except where authorised to do so by the Member State(s) and, where appropriate, third countries concerned.~~

~~5. The Coordinator shall report to the Commission, to the Single Sky Committee and to the European Parliament every three months after his designation. The report shall include a summary of negotiations and their results.~~

~~6. The remit of the Coordinator shall expire when the last functional airspace block agreement is signed but no later than 4 December 2012.~~

CHAPTER IV

⊗ NETWORK MANAGEMENT ⊗

Article 266

Network ⊗ functions ⊗ ~~management and design~~

1. The air traffic management (~~ATM~~) network functions shall ~~allow optimum~~ **contribute to** the sustainable and efficient use of the airspace and of scarce resources. ~~and~~ They shall also ensure that airspace users can operate ~~preferred~~ environmentally ~~optimised~~ trajectories, while allowing **fair and reasonable** access to airspace and air navigation services ~~and minimizing congestion~~. Those network functions enumerated in paragraphs 2 and 3, shall support **seamless access to air navigation services by airspace users as well as** the achievement of the Union-wide performance targets **including at regional or local level** and shall be based on operational requirements, without prejudice to Member States' sovereignty over their airspace and to their responsibilities relating to public order, public security and defence matters ~~be aimed at supporting initiatives at national level and at the level of functional airspace blocks and shall be executed in a manner which respects the separation of regulatory and operational tasks.~~

2. ~~In order to achieve the objectives referred to in paragraph 1 and without prejudice to the responsibilities of the Member States with regard to national routes and airspace structures, the Commission shall ensure that~~ **The following** ⊗ network ⊗ functions ⊗ referred to in paragraph 1 ~~include the following~~ **carried out:**

(a) **development of an airspace structure offering the required level of safety, capacity, flexibility, responsiveness, environmental performance and seamless provision of expeditious air navigation services, with due regard to security and defence needs**;

⇒ (b) **ATFM**;

(~~cb~~) the coordination of scarce resources within aviation frequency bands used by general air traffic, in particular radio frequencies as well as coordination of radar transponder codes.

☞(d) delivery of air traffic control capacity in the network in accordance with commitments set out in the NOP;

(e) management of network crisis;

(f) ATFM delay attribution;

(g) planning and implementation activities of the deployment of infrastructure in the European ATM network, in accordance with the European ATM Master Plan. ☞

↓ new

☞ Council

3. ☞[...]☞☞Member States and all relevant operational stakeholders shall execute network functions with the support of the Network Manager. All decisions related to the execution of those functions, including measures adopted by the Network Manager, shall be taken through cooperative decision making process which shall involve relevant stakeholders in particular air traffic service providers, air navigation services providers, the Network Manager and, where appropriate, airport operators and airspace users. Member States shall be fully involved in strategic matters concerning the network and the tasks of the Network Manager and the Network Manager shall, for the purpose of the adopting of strategic decisions, ensure the involvement of all Member States -and consensus among them. ☞

↓ 1070/2009 Art. 3.6

☞ Council

4. The ☞network☞ functions listed in ~~the first this subparagraph~~ paragraph ☞[...]☞ 2 ☞[...]☞ shall not involve the adoption of binding measures ☞[...]☞ or the exercise of political discretion. ☞They shall take into account the specificities of the Member States and proposals established at local level. ☞~~They shall take into account proposals established at national level and at the level of functional airspace blocks.~~ They shall be performed in coordination with ☞civil and☞ military authorities☞, in particular ☞ in accordance with agreed procedures concerning the flexible use of airspace.

↓ new

↻ Council

5. ↻[...]↻

↓ 1070/2009 Art. 3.6 (adapted)

Article 27

⊗ The Network Manager ⊗

↓ new

↻ Council

1. In order to achieve the objectives referred to in Article 26 ↻(1) ↻, the Commission, supported by the Agency ↻in accordance with Regulation (EU) 2018/1139↻↻[...]↻, shall ensure that the Network Manager ↻ **contributes to the execution of** ↻↻[...]↻ the network functions set out in Article 26 ↻(2), in accordance with **this Article, and supervise the proper execution of its tasks by the Network Manager** ↻↻[...]↻.

↓ 1070/2009 Art. 3.6 (adapted)

⇒ new

⇒ Council

2. The Commission ~~shall~~ ~~after consultation of the Single Sky Committee and in conformity with the implementing rules referred to in paragraph 4, entrust to~~ ~~✕~~ appoint ~~✕~~ ~~Eurocontrol or another~~ ~~Eurocontrol, or~~ ~~other~~ impartial and competent body, ~~to carry out~~ ~~the tasks necessary for the execution of the functions listed in the first subparagraph~~ of the Network Manager. To this end, the Commission shall adopt an implementing act in accordance with the examination procedure referred to in Article 37(3). This appointment Decision shall include the terms and conditions of the appointment, including the financing of the Network Manager **and, and detailed the specific functions and tasks of the Network Manager in line with, and within the limits of, this Article and Articles 16 and 26 and the implementing acts adopted on the basis thereof. The list of tasks of the Network Manager shall be accompanied by clear specification of the required services and performance, against which the performance of the Network Manager shall be measured, and, where appropriate, by appropriate agreements to be concluded between the Commission and the Network Manager, such as service level agreements**.

3. ⇒ The ~~Network Manager~~ ~~Those tasks~~ shall ~~execute~~ **its tasks** in an impartial and cost ~~effective~~ ⇒ efficient manner ~~and performed on behalf on Member States and stakeholders~~ **and** shall be subject to appropriate governance **and** independence. **If the competent body appointed as the Network Manager has also regulatory functions, organisational separation with such functions shall be ensured.** ⇒ In the execution of its tasks, the Network Manager shall take ~~taking~~ into consideration the needs of the whole ATM network **while safeguarding defence capabilities** and ~~with the full~~ ⇒ shall **take decisions and adopt measures, through a cooperative decision-making process in accordance with paragraph 7**

↓ new

→ Council

4. The Network Manager shall **execute the following tasks in support of** [...] **the network functions referred to in Article 26(2):**

(a) facilitation of the development of an airspace structure, offering the required level of safety, capacity, flexibility, responsiveness, environmental performance and seamless provision of expeditious air navigation services, with due regard to security and defence needs;

(b) coordination of ATFM;

(c) coordination of scarce resources within aviation frequency bands used by general air traffic, in particular radio frequencies as well as coordination of radar transponder codes;

(d) facilitation of delegation of air traffic services provision where decided by the concerned Member State taking into account the necessary agreements for the coordination of general and operational air traffic and the need to maintain adequate coordination in the relevant airspace structures;

(e) coordination and support in the delivery of air traffic control capacity in the network in accordance with commitments by operational stakeholders as set out in the NOP;

(f) coordination and support in the management of network crisis;

(g) support to ATFM delay attribution including the post operations adjustment process involving air navigation service providers, airports and national competent authorities to address issues that relate to ATFM delay measurement, classification and attribution;

(h) coordination and support in the planning and implementation activities of the deployment of infrastructure in the European ATM network, in accordance with the European ATM Master Plan, through active participation of operational stakeholders in management and governance, and taking into account military and operational needs and associated operational procedures, where appropriate;

(i) the monitoring of the functioning of the European ATM network infrastructure;

(j) the provision of Union-wide aeronautical information infrastructure in accordance with Article 32, [...]

➤The Network Manager shall propose ☐ support measures **➤on operational matters** ☐ aimed at safe and efficient planning and operations of the network under normal and **➤network** ☐ crisis conditions and **➤[...]** ☐ measures aimed at the continuous improvement of network operations in the Single European Sky and the overall performance of the network, especially regarding the implementation of the performance scheme. The action taken by the Network Manager shall **➤[...]** ☐ fully integrate the airports in the network.

5. The Network Manager shall **➤[...]** ☐ **➤propose measures in case** ☐ the performance targets referred to in Article 10 are **➤not** ☐ adequately reflected in the capacity to be delivered by individual air **➤[...]** ☐ **➤traffic** ☐ service providers and agreed between the Network Manager and those air **➤[...]** ☐ **➤traffic** ☐ service providers in the Network Operations Plan.

6. The Network Manager shall **➤in coordination with relevant parties,** ☐ **➤[...]** ☐ advise the Commission **➤[...]** ☐ on the deployment of the ATM network infrastructure in accordance with the European ATM Master Plan, in particular to identify investments necessary for the network.

7. **➤[...]** ☐ **➤When executing its tasks and functions under this Article, the Network Manager shall follow a cooperative decision-making process in accordance with Article 26(3).** ☐

Parties to the cooperative decision-making process shall act to the maximum extent possible with a view to improving the functioning and performance of the network **➤, in particular as regards the achievement of the Union wide targets in the key performance area of environment, taking into account essential security interests and regional and local circumstances** ☐. **➤[...]** ☐.

↓ 1070/2009 Art. 3.6

~~3. The Commission may add to the list of the functions in paragraph 2 after proper consultation of industry stakeholders. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 5(4) of the framework Regulation.~~

↓ new

8. By way of implementing acts adopted in accordance with the examination procedure referred to in Article 37(3), the Commission shall establish detailed rules for the execution of the network functions, the tasks of the Network Manager, governance mechanisms including decision-making processes and crisis management.

↓ 1070/2009 Art. 3.6

~~4. Detailed rules for the implementation of the measures referred to in this Article, except for those referred to in paragraphs 6 to 9, shall be adopted in accordance with the regulatory procedure referred to in Article 5(3) of the framework Regulation. Those implementing rules shall address in particular:~~

~~(a) the coordination and harmonisation of processes and procedures to enhance the efficiency of aeronautical frequency management including the development of principles and criteria;~~

~~(b) the central function to coordinate the early identification and resolution of frequency needs in the bands allocated to European general air traffic to support the design and operation of European aviation network;~~

~~(c) additional network functions as defined in the ATM Master Plan;~~

~~(d) detailed arrangements for cooperative decision-making between the Member States, the air navigation service providers and the network management function for the tasks referred to in paragraph 2;~~

~~(e) arrangements for consultation of the relevant stakeholders in the decision-making process both at national and European levels; and~~

~~(f) within the radio spectrum allocated to general air traffic by the International Telecommunication Union, a division of tasks and responsibilities between the network management function and national frequency managers, ensuring that the national frequency management functions continue to perform those frequency assignments that have no impact on the network. For those cases which do have an impact on the network, the national frequency managers shall cooperate with those responsible for the network management function to optimise the use of frequencies.~~

↓ new

☞ Council

9. ☞ Member States shall retain the complete and exclusive competence for the design and management of their airspace structures and of their route network. ☞☞[...]☞ In this regard, Member States ☞shall☞☞[...]☞ take into account ☞environmental aspects,☞ air traffic demands, seasonality and complexity of air traffic and of performance plans. Before deciding on those aspects, they shall consult airspace users concerned or groups representing such airspace users and military authorities as appropriate.

↓ 1070/2009 Art. 3.6

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

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

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

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

~~(a) flight planning;~~

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

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

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

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

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

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

↓ new

☞ Council

Article 28

Transparency of accounts of the Network Manager and Annual Report

1. The **financial accounts of the** Network Manager shall **be** drawn up [...] and publish **ed annually** [...]. Those accounts shall comply with the international accounting standards adopted by the Union. Where, due to the legal status of the Network Manager, full compliance with the international accounting standards is not possible, the Network Manager shall achieve such compliance to the maximum possible extent.

2. The Network Manager shall publish an annual report **on its activities** [...].

↓ 550/2004

Article 10

~~Relations between service providers~~

~~1. Air navigation service providers may avail themselves of the services of other service providers that have been certified in the Community.~~

~~2. Air navigation service providers shall formalise their working relationships by means of written agreements or equivalent legal arrangements, setting out the specific duties and functions assumed by each provider and allowing for the exchange of operational data between all service providers in so far as general air traffic is concerned. Those arrangements shall be notified to the national supervisory authority or authorities concerned.~~

~~3. In cases involving the provision of air traffic services, the approval of the Member States concerned shall be required. In cases involving the provision of meteorological services, the approval of the Member States concerned shall be required if they have designated a provider on an exclusive basis in accordance with Article 9(1).~~

↓ new

⇒ Council

Article 29²⁰

⇒ [...] ⇐

↓ 1070/2009 Art. 2.6 (adapted)

⇒ new

⇒ Council

Article ~~30~~⁴⁴

Relations with military authorities

Member States shall, within the context of the common transport policy, ~~take the necessary steps to~~ ensure that written agreements between the competent civil and military authorities or equivalent legal arrangements are established or renewed in respect of the management of specific airspace blocks ⇒ ⇒ [...] ⇐ ⇐.

↓ 550/2004

Article ~~13~~

~~Access to and protection of data~~

~~1. In so far as general air traffic is concerned, relevant operational data shall be exchanged in real time between all air navigation service providers, airspace users and airports, to facilitate their operational needs. The data shall be used only for operational purposes.~~

²⁰ Moved to Chapter VI

~~2. Access to relevant operational data shall be granted to appropriate authorities, certified air navigation service providers, airspace users and airports on a non-discriminatory basis. 3. Certified service providers, airspace users and airports shall establish standard conditions of access to their relevant operational data other than those referred to in paragraph 1. National supervisory authorities shall approve such standard conditions. Detailed rules relating to such conditions shall be established, where appropriate, in accordance with the procedure referred to in Article 5(3) of the framework Regulation.~~

↴ new

➡ Council

*Article 31*²¹

➡ [...] ➡

²¹ Moved to Chapter III

↓ 551/2004 (adapted)

CHAPTER ~~H~~ 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

⇒ Council

~~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~~ ⇒ ☒ [...] ☒ **☒Eurocontrol in case Eurocontrol is not appointed as the Network Manager☒** ⇐ , 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

⇒ new

➡ Council


Article ~~337~~²²

Flexible use of airspace

1. Taking into account ~~the~~ 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 ~~[...]~~.

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 ~~the~~ in the light of the reports submitted by Member States, ~~uniform conditions for~~ uniform conditions for the application of the concept of the flexible use of airspace within the Single European sky ~~are needed~~, ~~the~~ the Commission shall, ~~implementing rules~~ within the ~~limits~~ limits of the common transport policy ~~and without prejudice to Member States' responsibilities over their airspace, adopt~~ and without prejudice to Member States' responsibilities over their airspace, adopt ~~implementing acts~~ implementing acts ~~in accordance with the~~ in accordance with the ~~examination~~ examination ~~procedure under~~ procedure under ~~referred to in~~ referred to in ~~Article 8 37(3) of the framework Regulation.~~

➤4. In cases where the application of this Article 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. Following the introduction of a temporary suspension, adjustments to the rules adopted under paragraph 3 may be worked out for the airspace under the responsibility of the Member State(s) concerned. 

²² 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 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 **☞based on the needs for synchronisation amongst stakeholders,** ☞for implementing the essential operational changes identified in the European ATM Master Plan having **☞reached sufficient maturity in order to enable interoperable capabilities in all Member States☞ ☞[...]**☞☞ 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. ☞

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).

~~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.~~

↓ 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 ☉competent☹ authorities, ☉[...]☹ ☉the PRB, where a PRB has been designated in accordance with Article 9b, ☹ 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 **national military authorities** ~~⇒[...]~~ ~~⇒~~.

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

(a) air navigation service providers ~~⇒~~ or ~~⇒[...]~~ ~~⇒~~ groups representing them ~~⇒~~ ~~⇒~~

↓ new

(b) the Network Manager;

↓ 1070/2009 Art. 1.5 (adapted)

⇒ new

⇒ Council

(c) airport operators ~~⇒~~ or ~~⇒[...]~~ ~~⇒~~ groups representing them ~~⇒~~ ~~⇒~~

(d) ~~relevant~~ airspace users or ~~⇒[...]~~ ~~⇒~~ groups representing ~~⇒~~ them; ~~⇒~~ ~~airspace users~~;

(e) ~~⇒[...]~~ ~~⇒~~

(f) ~~⇒~~ the ~~⇒~~ manufacturing industry; ~~and~~;

(g) professional staff representative bodies;

↓ new

→ Council

(h) → [...] ↔ national authorities, including competent national military authorities;

(i) airport **slot** coordinators;

(i) non-governmental organisations with an interest in aviation or ATM.

Article 38a

Relations with stakeholders

The air traffic service providers shall establish consultation mechanisms to consult the relevant airspace users, aerodrome operators, and military authorities, **where appropriate**, on all major issues related to services provided, including relevant changes to airspace configurations, or major investments which have a relevant impact on air traffic management and air navigation service provision and/or charges. ↻

↓ 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 ☉ **in the Eurocontrol area or in the ICAO EUR region** ☉ ~~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.

☉ **This Article shall be without prejudice to the decision of Member States on whether the Single European Sky should be extended to their overseas countries and territories or autonomous territories in other ICAO regions.** ☉ ↩

↓ 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 Regulation², including from Eurocontrol in the framework of the Agreement between the Union and Eurocontrol providing a general framework for enhanced cooperation³.

↓ 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

⇒ new

➔ Council

Article 41~~18~~

Confidentiality

1. Neither the national ~~⊃[...]~~~~⊂~~ competent ~~⊂~~ authorities, acting in accordance with their national legislation, nor the Commission ~~⇒~~ nor the PRB,~~⊂~~~~⊃[...]~~~~⊂~~ 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 and revenues ~~⊂~~ components.

2. Paragraph 1 shall be without prejudice to the right of disclosure by national ~~competent~~ 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 ~~shall be~~ **made accessible pursuant to Articles 13(3b), 13a(4), 13b(2), 25(3) and 25(4) or reported** pursuant to ~~Article 19(6)~~, in particular as regards determined costs, **and** actual costs 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~~9~~

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 legal, social, economic and environmental impacts of this Regulation and its added value both at national and European level** → [...] → **5 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. 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 Agency²³, 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.~~



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~~¹⁹

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*.

²³ ~~OJ L 79, 19.3.2008, p. 1~~

~~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

→ Council

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, as adopted on 6 May 2019, shall continue to apply until the end of the fourth reference period.] ←

Article → [...] ← → 27(4) ← 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