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WORKING DOCUMENT

From: General Secretariat of the Council
To: Working Party on Aviation

N° prev. doc.: 11105/20
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Subject: Amended proposal for a Regulation of the European Parliament and the Council on the implementation of the Single European Sky (recast)
Proposal for a Regulation of the European Parliament and the Council amending Regulation (EU) 2018/1139 as regards the capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky
- comments by the Member States on the State of play by the CZ Presidency

Delegations will find, attached, comments from FINLAND on the above mentioned subject.

Written Comments by Finland to the questions by the Czech Presidency on SES2+

As a general comment, Finland supports the approach chosen by the Presidency to deal with topics thematically through discussion papers, as opposed to the four-column tables. It does not make sense to focus on the minor details at this point.

- **On the independence of the national supervisory authorities**

Finland supports the independency of the national supervisory authority (NSA), and finds that the NSA and the air navigation service provider (ANSP) must be adequately separated. It is important to Finland that the NSA and the national competent authority (NCA) are allowed to exist in the same organization.

Finland does not support having too many details regarding the NSA staff and recruitment process in the SES regulation nor via an implementing regulation. However, requirements such as that persons in charge of strategic decisions shall not hold any professional position or responsibility with any ANSP after their term in NSA for a period of 12 months, are deemed reasonable.

- **On certification of air navigation service providers**

Finland could support having one certification that includes both safety and economic requirements, and the NSA having a role in this process. However, Finland finds the criteria proposed by the Parliament as redundant and unnecessary, but nonetheless acceptable, as long as they do not prevent NSA and NCA locating within the same organization.

- **On the performance scheme**

Finland would prefer two separate plans for en route and terminal services in order to harmonize the service provision as well as to increase transparency.

Finland could accept further defining the exceptions that allow for deviations from the general evaluation criteria. However, it needs to be taken into consideration that the possible mitigations (local circumstances) should not endanger the objectives of the regulation. Furthermore, Finland is concerned about the implications that the current war and sanctions might have for RP4, as some Member States are more effected by the situation than others are.

- **On the functional airspace blocks**

Finland is of the opinion that the performance plans are most clear when submitted individually by Member States. However, a compromise to not define FABs and allow a joint performance plan to be drawn up in adjacent airspaces, would be acceptable to Finland.

- **On the institutional set up for the performance review**

Finland is in support of a strong PRB with a potential regulatory role, and with Member States duly represented in its governance. Finland supports keeping the EU-wide targets, the criteria to assess if

local targets are consistent with the EU-wide performance targets, and the general principles and requirements for the incentive scheme.

Regarding the governance of the PRB, Finland sees both of the French Presidency's proposals as competent solutions with advantages and disadvantages. From an efficiency point of view, a smaller group of Member States in the Regulatory Board (option 2) would be preferable. The French Presidency's described rotation and representation models are acceptable to Finland. Furthermore, the participation of operational stakeholders and other actors need to be sufficiently guaranteed.

- **On the competences and powers of the network manager**

Finland deems the sovereign rights of Member States over their airspace of utmost importance, however supports strengthening the role of the Network Manager. Moreover, Finland can show flexibility on whether Eurocontrol should be mentioned in the regulation, as well as regarding the listing of the duties of the Network Manager. Finland can be flexible on whether the NOP's should be qualified as binding, and could accept the idea presented by the Slovenian Presidency.