Council of the
European Union

Brussels, 4 June 2021
(OR. en)

9490/21

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

AVIATION 148
CODEC 832
IA 110

OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	ST 9162/21 + ADD1-4 + AD1CO1
No. Cion doc.:	ST 10840/20 + ADD1, ST 10841/20 + COR1, ST 11020/20
Subject:	Amended proposal for a Regulation of the European Parliament and of the Council on the implementation of the Single European Sky (recast) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1139 as regards the capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky – General approach (3 June 2021)

Delegations will find in annex the Council's general approach on the above-mentioned proposals, adopted by the Council at its 3798th meeting on 3 June 2021.

↓ 549/2004 (adapted)

2013/0186 (COD)

Amended proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the implementation of the Single European Sky

(recast)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty ⌦ on the Functioning of the European Union ⌫ ~~establishing the European Community~~, and in particular Article ~~80(2)~~ ⌦ 100(2) ⌫ thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

---

1 ~~OJ C 241, 7.10.2002, p. 24.~~ OJ C […], […], p. […].

2 ~~OJ C 278, 14.11.2002, p. 13.~~ OJ C […], […], p. […].

⇩ new

(1) Regulation (EC) No 549/2004 of the European Parliament and of the Council[3], Regulation (EC) No 550/2004 of the European Parliament and of the Council[4] and Regulation (EC) No 551/2004 of the European Parliament and of the Council[5] have been substantially amended. Since further amendments are to be made, those Regulations should be recast in the interests of clarity.

🡻 549/2004 recital 1 (adapted)

~~Implementation of the common transport policy requires an efficient air transport system allowing safe and regular operation of air transport services, thus facilitating the free movement of goods, persons and services.~~

🡻 549/2004 recital 2 (adapted)

~~At its Extraordinary Meeting in Lisbon on 23 and 24 March 2000, the European Council called on the Commission to put forward proposals on airspace management, air traffic control and air traffic flow management, based on the work of the High Level Group on the single European sky set up by the Commission. This Group, made up largely of the civil and military air navigation authorities in the Member States, submitted its report in November 2000.~~

[3] Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) (OJ L 96, 31.3.2004, p. 1).

[4] 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) (OJ L 96, 31.3.2004, p. 10).

[5] 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) (OJ L 96, 31.3.2004, p. 20).

🡻 1070/2009 recital 2 (adapted)

⇨ new

(2) The adoption by the European Parliament and the Council of the first package of the single European sky legislation, namely, Regulation (EC) No 549/2004 ~~of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation)~~, Regulation (EC) No 550/2004 ~~of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation)~~, Regulation (EC) No 551/2004 ~~of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation)~~, and Regulation (EC) No 552/2004 of the European Parliament and of the Council[6] ~~of 10 March 2004 on the interoperability of the European air traffic management network (the interoperability Regulation)~~, laid down a firm legal basis for a seamless, interoperable and safe air traffic management (ATM) system. ⇨ The adoption of the second package, namely, Regulation (EC) No 1070/2009 of the European Parliament and of the Council[7], further strengthened the Single European Sky initiative by introducing the performance scheme and the Network Manager concepts to further improve the performance of the European ATM network. Regulation (EC) No 552/2004 has been repealed by Regulation (EU) 2018/1139 of the European Parliament and of the Council[8], as the rules necessary for interoperability of ATM systems, constituents and procedures have been incorporated in that Regulation. ⇦

[6] 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) (OJ L 96, 31.3.2004, p. 26).

[7] **Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 amending Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004 and (EC) No 552/2004 in order to improve the performance and sustainability of the European aviation system** (OJ L 300, 14.11.2009, p. 34).

[8] Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1).

⇩ new

➲ Council

(3) In order to take into account the changes introduced in Regulation (EU) 2018/1139, it is necessary to align the content of this Regulation with that of Regulation (EU) 2018/1139 ➲ and, in parallel, to amend that latter Regulation ➲ .

🡻 550/2004 recital 3 (adapted)

~~Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 (the framework Regulation)[9] lays down the framework for the creation of the single European sky.~~

🡻 551/2004 recital 4 (adapted)

~~Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 (the framework Regulation)[10] lays down the framework for the creation of the single European sky.~~

🡻 551/2004 recital 5 (adapted)

➲ Council

(4) In Article 1 of the 1944 Chicago Convention on Civil Aviation, the Contracting States recognise that 'every State has complete and exclusive sovereignty over the airspace above its territory'. It is within the framework of such sovereignty that the Member States of the ~~Community~~ ⌦ Union ⌫ , subject to applicable international conventions, exercise the powers of a public authority when controlling air traffic.

➲(4a) This Regulation should not affect Member States rights and responsibilities under the Chicago Convention. ➲

[9] ~~See page 1 of this Official Journal.~~

[10] ~~See page 1 of this Official Journal.~~

🡻 1070/2009 recital 1

➲ Council

(5) Implementation of the common transport policy requires an efficient air transport system allowing the safe, regular and sustainable operation of air transport services, optimising ➲ […] ➳ ➲ use of airspace and capacity, contributing to aviation sustainability ➳ and facilitating the free movement of goods, persons and services.

🡻 1070/2009 recital 37 (adapted)

⇨ new

(6) The simultaneous pursuit of the goals of augmentation of air traffic safety standards and improvement of the overall performance of ATM ⌦ and air navigation services ⌫ (ANS) for general air traffic in Europe ~~require~~ ⌦ requires ⌫ that the human factor be taken into account. Therefore, the Member States should ~~consider the introduction of~~ ⇨ uphold ⇦ 'just culture' principles. ⇨ The opinions and recommendations of the Expert Group on the Human Dimension[11] of the Single European Sky should be considered and taken into account. ⇦

⇩ new

➲ Council

(7) Improvements in the environmental performance of ATM also ➲ […] ➳ contribute to the achievement of the objectives contained in the Paris Agreement, ➲ […] ➳ in the ➲ […] ➳ ➲ Communication from the Commission on the ➳ European Green Deal, ➲ Council conclusions on the Commission's Sustainable and Smart Mobility Strategy and in the Digital Agenda for Europe ➳ in particular through the reduction of aviation emissions.

[11] C(2017) 7518 final

➲ (7a) Airspace is a common resource for all categories of users that needs to be used flexibly by all of them, ensuring fairness and transparency whilst taking into account security and defence needs of Member States and their commitments within international organisations. ➲

🡻 549/2004 recital 6 (adapted)

➲ Council

~~(8)~~ ➲ (8) ➲ ⌦ In 2004, ⌫ t~~T~~he Member States have adopted a general statement on military issues related to the Single European Sky ➲ [12] ➲ ➲ , which they have reiterated. ➲ ~~[13]~~. According to ➲ […] ➲ ➲ that ➲ statement, Member States should, in particular, enhance civil-military cooperation and, if and to the extent deemed necessary by all Member States concerned, facilitate cooperation between their armed forces in all matters of air traffic management.

🡻 549/2004 recital 3

~~Smooth operation of the air transport system requires a consistent, high level of safety in air navigation services allowing optimum use of Europe's airspace and a consistent, high level of safety in air travel, in keeping with the duty of general interest of air navigation services, including public service obligations. It should therefore be carried out to the highest standards of responsibility and competence.~~

🡻 549/2004 recital 4

~~The single European sky initiative should be developed in line with the obligations stemming from the membership of the Community and its Member States of Eurocontrol, and in line with the principles laid down by the 1944 Chicago Convention on International Civil Aviation.~~

---

[12] ➲ See OJ L 96, 31.03.2004, p. 9. ➲

[13] ~~See page 9 of this Official Journal.~~

↓ 549/2004 recital 5 (adapted)

➲ Council

(9) Decisions relating to the content, scope or carrying out of military operations and training do not fall within the sphere of competence of the ~~Community~~ ⌦ Union under Article 100(2) of the Treaty on the Functioning of the European Union ⌫.

➲(9a) Member States, together with third countries where relevant, may establish functional airspace blocks to develop better cooperation and coordination with a view to fostering performance of the air traffic management network within the Single European Sky and a reduced environmental impact. ➲

↓ 549/2004 recital 23 (adapted)

~~Arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers of Foreign Affairs of the two countries. Such arrangements have yet to enter into operation.~~

↓ 550/2004 recital 1

~~Member States have restructured, to varying degrees, their national air navigation service providers by increasing their level of autonomy and freedom to provide services. It is increasingly necessary to ensure that minimum public-interest requirements are satisfied under this new environment.~~

↓ 550/2004 recital 4

~~In order to create the single European sky, measures should be adopted to ensure the safe and efficient provision of air navigation services consistent with the organisation and use of airspace as provided for in 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)[14]. The establishment of a harmonised organisation for the provision of such services is important in order to respond adequately to the demand of airspace users and to regulate air traffic safely and efficiently.~~

↓ 551/2004 recital 1

~~The creation of the single European sky requires a harmonised approach for regulation of the organisation and the use of airspace.~~

↓ 551/2004 recital 2 (adapted)

~~In the report of the High Level Group on the single European sky in November 2000 it is considered that airspace should be designed, regulated and strategically managed on a European basis.~~

↓ 551/2004 recital 3 (adapted)

~~The Communication of the Commission on the creation of the single European sky of 30 November 2001 calls for structural reform to permit the creation of the single European sky by way of a progressively more integrated management of airspace and the development of new concepts and procedures of air traffic management.~~

[14] ~~See page 20 of this Official Journal.~~

↓ 551/2004 recital 6

~~Airspace is a common resource for all categories of users that needs to be used flexibly by all of them, ensuring fairness and transparency whilst taking into account security and defence needs of Member States and their commitments within international organisations.~~

↓ 551/2004 recital 7

~~Efficient airspace management is fundamental to increasing the capacity of the air traffic services system, to providing the optimum response to various user requirements and to achieving the most flexible use of airspace.~~

↓ 549/2004 recital 8

~~For all these reasons, and with a view to extending the single European sky to include a larger number of European States, the Community should, while taking into account the developments occurring within Eurocontrol, lay down common objectives and an action programme to mobilise the efforts by the Community, the Member States and the various economic stakeholders in order to create a more integrated operating airspace: the single European sky.~~

↓ 549/2004 recital 24

~~Since the objective of this Regulation, namely the creation of the single European sky, cannot be sufficiently achieved by the Member States, by reason of the transnational scale of the action, and can therefore be better achieved at Community Union level, while allowing for detailed implementing rules that take account of specific local conditions, the Community Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve this objective.~~

↓ 549/2004 recital 9

~~Where Member States take action to ensure compliance with Community requirements, the authorities performing verifications of compliance should be sufficiently independent of air navigation service providers.~~

↓ 549/2004 recital 10

~~Air navigation services, in particular air traffic services which are comparable to public authorities, require functional or structural separation and are organised according to very different legal forms in the various Member States.~~

↓ 549/2004 recital 11

~~Where independent audits are required relating to providers of air navigation services, inspections by the official auditing authorities of the Member States where those services are provided by the administration, or by a public body subject to the supervision of the abovementioned authorities, should be recognised as independent audits, whether the audit reports drawn up are made public or not.~~

🡻 1070/2009 recital 9 (adapted)
⇨ new
➲ Council

(10) ➲ Member States should nominate a national supervisory authority in order to assume the tasks assigned to such authority under this Regulation. ➳ To ensure the consistent and sound oversight of service provision across Europe, the national supervisory authorities should be guaranteed sufficient independence and resources. ➲ […] ➳ ⇨ ➲ In particular, the financing of those authorities should guarantee their independence and should allow them to operate in accordance with the principles of fairness, transparency, non-discrimination and proportionality. Staff of national supervisory authorities should act independently, in particular by avoiding conflicts of interest between air navigation service provision and the execution of their tasks. This should not prevent a national supervisory authority from ➳ being part of a regulatory authority competent for several regulated sectors if that regulatory authority fulfils the independence requirements, or from being joined in terms of its organisation ➲ in particular ➳ with the national ➲ […] ➳ ➲ competent authority designated pursuant to Regulation (EU) 2018/1139 or the national ➳ ➲ competition authority➳.⇦ ~~exercising their tasks within an administrative framework~~.

⇩ new
➲ Council

(11) ➲ […] ➳

↓ 1070/2009 recital 10

⇨ new

(12) National supervisory authorities have a key role to play in the implementation of the ~~s~~Single European ~~s~~Sky and ~~the Commission~~ ⇨ they ⇦ should therefore ~~facilitate cooperation among them~~ ⇨ cooperate with each other ⇦ in order to enable the exchange of ⇨ information on their work and decision-making principles, ⇦ best practices ⇨ and procedures as well as with regard to the application of this Regulation ⇦ and to develop a common approach, including through enhanced cooperation at regional level. This cooperation should take place on a regular basis.

↓ 550/2004 recital 6

~~Member States are responsible for monitoring the safe and efficient provision of air navigation services and for the control of compliance by air navigation service providers with the common requirements established at Community level.~~

↓ 550/2004 recital 7

~~Member States should be permitted to entrust to recognised organisations, which are technically experienced, the verification of compliance of air navigation service providers with the common requirements established at Community level.~~

🡻 549/2004 recital 17 (adapted)

~~The social partners should be informed and consulted in an appropriate way on all measures having significant social implications. The Sectoral Dialogue Committee set up under Commission Decision 1998/500/EC of 20 May 1998 on the establishment of Sectoral Dialogue Committees promoting the dialogue between the social partners at European level[15] should also be consulted.~~

⇩ new

➲ Council

(13) ➲ […] ➲

(14) ➲ […] ➲ ➲ An air navigation service provider should be able to offer services in the Union under non-discriminatory conditions where it holds a certificate or a declaration pursuant to Article 41 of Regulation (EU) 2018/1139.

[15] ~~OJ L 225, 12.8.1998, p. 27.~~

(14a) Pursuant to Article 2, paragraph 3, c), of Regulation (EU) 2018/1139, that Regulation, including the certification requirements laid down in its Article 41, does not apply to ATM/ANS that are provided or made available by the military. Accordingly, Member States should also be authorised to allow the provision of such air navigation services in all or part of the airspace under their responsibility without certification and/or application of all or part of this Regulation. In such cases, the Member State concerned may in particular be able to designate the military service providers concerned to provide air traffic services or meteorological services (MET) in accordance with this Regulation.

(14b) This Regulation does not require the certification of signals provided by Global Navigation Satellite Systems (GNSS).➲

(15) There should be no discrimination between airspace users as to the provision of equivalent air navigation services.

(16) Air traffic services ➲ should be ➲ provided on an exclusive basis. ➲ Providers of such services ➲ should be subject to designation and ➲ […] ➲ public interest requirements ➲ with respect in particular to national security and defence as well as the location of their principal place of business and their ownership. In this respect, it should be taken into account that 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 and therefore not subject to the application of the Treaty rules on competition.

(16a) Member States should ensure that the designation of an air traffic service provider is not prevented by their national law on the grounds in particular that the service provider concerned has its principal place of business in another Member State or is owned by nationals of that Member State in case the application of such national law entails an unjustified restriction of the freedom to provide services or the freedom of establishment, which should be assessed on a case-by-case basis in the light of all relevant circumstances.

(16b) On the basis of their analysis of safety considerations, Member States should be able to designate on an exclusive basis one or more MET providers in respect of all or part of the airspace under their responsibility, without the need to organise a call for tenders.

(16c) The cooperation between air navigation service providers is an important tool for improving the overall performance of the European ATM system and should be encouraged.➲ .

(17) ➲ […] ➲ ➲ On the basis of their analysis of safety considerations, Member States may allow air traffic service providers or, airport operators or a group of airport operators ➲ to procure communication, navigation and surveillance services (CNS), aeronautical information services (AIS), air traffic data services (ADS), ➲ […] ➲ MET ➲ […] ➲ ➲ , unless a single MET provider is designated by the Member State concerned, ➲ or terminal air traffic services ➲ for aerodrome and approach control ➲ ➲ […] ➲ . The possibility to resort to such procurement ➲ […] ➲ ➲ may ➲ allow for more flexibility and to promote innovation in services, without affecting ➲ safety and ➲ the specific needs ➲ , including ➲ of the military, regarding confidentiality, interoperability, system resilience, data access, and ATM security.

(18) Where ➲ […] ➲ ➲ MET or ➲ air traffic services ➲ for aerodrome control and approach control ➲ are procured, they should not be subject to the ➲ […] ➲ ➲ performance ➲ scheme set out in this Regulation ➲ […] ➲ .

(19) ➲ […] ➲

(20) Where applicable, the procurement of air navigation services should be carried out in accordance with Directive 2014/24/EU of the European Parliament and of the Council[16] ➲ […] ➲ Directive 2014/25/EU of the European Parliament and of the Council[17]. ➲ […] ➲ ➲ unless otherwise provided under this Regulation, and with the principles of equal treatment, non-discrimination and transparency as well as with the applicable provisions of the Treaty, in particular the Treaty rules on the freedom to provide➲services ➲ […] ➲ ➲and the freedom of establishment➲.

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

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

(21) The traffic management of unmanned aircraft requires the availability of common information services ➲ CIS ➲ . In order to contain the costs of such traffic management, prices for ➲ […] ➲ ➲ CIS provided on an exclusive basis➲ should be based on cost and a reasonable mark-up for profit, and should be subject to approval by national supervisory authorities. To enable the provision of the service, ➲ […] ➲ ➲ access to relevant operational ➲ data should be ➲ granted to CIS ➲ ➲ […] ➲ providers ➲ on fair, reasonable and non-discriminatory terms ➲ .

➲ (21a) Availability of relevant operational data with respect to general air traffic is essential for enabling the flexible provision of air traffic data services, on cross-border and on Union-wide bases. Therefore, such data should be made available to relevant stakeholders on fair, reasonable, and non-discriminatory terms. Accuracy of information including on airspace status and on specific air traffic situations and timely distribution of this information to civil and military controllers has a direct impact on the safety and efficiency of operations, including the environmental efficiency of flights. Timely access to up-to-date information on airspace status is essential for all parties wishing to take advantage of airspace structures made available when filing or re-filing their flight plans . ➲

(22) The performance and charging schemes ➲ […] ➲ ➲ should ensure the efficient, sustainable and continuous operation of the European ATM system and are also ➲ intended to make air navigation services provided under conditions other than market conditions more cost-efficient and to promote better service quality ➲ […] ➲. ➲ To ➲ ➲ […] ➲ this end, ➲ they should ➲ include relevant and appropriate incentives. In view of this objective, the performance ➲ […] ➲ scheme ➲ […] ➲ should not cover services ➲ […] ➲ ➲ procured in accordance with this Regulation. The performance scheme should cover all air navigation services which a designated air traffic service provider provides or procures from other service providers, including when that service provider provides air navigation services and air traffic services ➲ .

➲ (22a) A Performance Review Body (PRB) may be designated to advise and assist the Commission as well as the national supervisory authorities in the implementation of the performance and charging schemes. ➲

(23) ➲ […] ➲

(24) ➲ […] ➲

(25) Given the cross border and network elements inherent in the provision of ➲ […] ➲ air navigation services ➲ […] ➲ ➲ *en-route* ➲ performance ➲ […] ➲ ➲ should ➲ be assessed against Union-wide performance targets ➲ […] ➲ .

➲ (25a) ➲ Given their knowledge of the local circumstances, ➲ […] ➲ ➲ Member States and their national supervisory authorities should be in charge of preparing and adopting the draft performance plans and performance targets. Those plans should be based in particular on the input of the designated air traffic service provider(s) in respect of all the air navigation services which those service providers provide or procure. The Commission should be in charge of assessing those plans. The ➲ national supervisory authorities should ➲ also ➲ be in charge of ➲ monitoring performance by air traffic service providers and of imposing corrective measures, where appropriate ➲ ➲ […] ➲ .

(26) Draft performance plans ➲ […] ➲ ➲ should contain ➲ *en route* ➲ […] ➲ ➲ performance targets ➲ consistent with ➲ […] ➲ Union-wide performance targets ➲ as well as terminal performance targets in the key performance areas of the environment, capacity and cost-efficiency, while taking into account local circumstances and interdependencies between key performance areas and safety, ➲ and conform to certain qualitative criteria, so as to ensure as much as possible that the targets set are effectively met. ➲ […] ➲

(27) The performance of the network ➲ […] ➲ should be subject to criteria specific to them, having regard to the peculiar nature of these functions. The network ➲ […] ➲ should be subject to performance targets in the key performance areas of the environment, capacity and cost-efficiency.

(28) The charging scheme should be based on the principle that airspace users should pay for the cost incurred for the provision of the services ➲ […] ➲ ➲ made available ➲ to ➲ […] ➲ ➲ them or for their benefit which are ➲ not covered otherwise ➲ […] ➲ . The costs ➲ […] ➲ ➲ incurred in relation ➲ to the ➲ provision of air navigation services by Member States national authorities, including the national competent authorities and the national supervisory authorities as well as EUROCONTROL and the ➲ Network Manager ➲ […] ➲ ➲ may ➲ be included in the determined costs eligible to be charged to airspace users. Charges should 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 should ➲ […] ➲ ➲ support the reduction of ➲ the environmental impact of aviation.

(29) ➲ […] ➲ ➲ Member States should be allowed to provide ➲ for ➲ the ➲ modulation of charges to improve environmental performance and service quality, notably through increased use of sustainable alternative fuels, increased capacity and reduced delays, while maintaining an optimum safety level ➲ […] ➲ . ➲ The Commission should carry out a feasibility study on the impact of the modulation of charges on air traffic and on stakeholders, as well as on the contribution of that modulation to achievement of the Single European Sky objectives. ➲

(30) ➲ […] ➲

➲ (30a) Mechanisms such as the extension, the suspension of an on-going reference period or the adaptation of performance targets over a reference period, should be established to address unforeseeable and significant events having a material impact on the implementation of the performance and charging schemes, where a significant deviation from traffic forecasts can be observed. ➲

➲ (30b) Without prejudice to the procedure laid down in Article 258 TFEU, the Commission should review the compliance by the Member States with the requirements set out under the performance and charging schemes and, where appropriate, may issue an opinion on whether those requirements have been complied with. ➲

(31) Provision should be made for the transparency of the accounts of air navigation service providers, as one means to prevent cross-subsidisation and ensuing distortions.

(32) ➲ […] ➲ Network functions should contribute to the sustainable development of the air transport system and support the achievement of Union-wide performance targets. They should ➲ […] ➲ ➲ facilitate ➲ the sustainable, efficient and environmentally optimal use of airspace and of scarce resources, reflect operational needs in the deployment of the European ATM network infrastructure and should provide support in case of network crises.

➲ (32a) ➲ A number of ➲ of network functions, such as air traffic flow management, need to be coordinated centrally by a single body in support of actions taken by Member States and the relevant operational stakeholders. Therefore, a number of ➲ tasks contributing to the execution of these functions should be carried out by a Network Manager, whose action should involve all operational stakeholders concerned. ➲ The specific tasks of the Network Manager should be laid down in this Regulation. The Network Manager should be appointed by the Commission. The Commission should appoint Eurocontrol, given the extensive expertise of that organisation in the aviation domain, or another impartial and competent body, to carry out those tasks. ➲

(33) ➲ […] ➲ ➲ Operational stakeholders, which have to implement network functions at local and operational levels, as well as Member States should be fully involved in the implementation of those functions and in the decision-making process. Accordingly, the Network Manager should take measures through cooperative decision-making based in particular on the consultation of operational stakeholders and Member States and detailed working arrangements and processes for operation. In such cooperative decision-making process, the interest of the network should prevail to the extent possible, without prejudice to security and defence needs, and be such so that issues are resolved and consensus found wherever possible. Moreover, to ensure the appropriate governance relating to the execution of the network functions, a Network Management Board, ensuring an appropriate representation of the interests of all the actors involved in the implementation of those functions, should be set up. Without prejudice to the consultation of the Network Management Board on regulatory or strategic decisions such as the endorsement of the Network Strategy Plan, the measures adopted through cooperative decision-making and by the Network Management Board should be operational or technical in nature, ensuring the day to day operation of the network in accordance with the objectives of this regulation. Decision-making powers of the Network Manager and the Network Management Board as well as the scope of the cooperative decision-making process should be clearly defined. Acts adopted in the framework of network functions should be subject to judicial review as appropriate in accordance with the conditions laid down in the Treaty. ➲

(34) ➲ […] ➲

🡻 1070/2009 recital 11 (adapted)

~~Conditions attached to certificates should be objectively justified and should be non-discriminatory, proportionate and transparent, and compatible with relevant international standards.~~

🡻 550/2004 recital 2 (adapted)

~~The report of the High Level Group on the single European sky of November 2000 has confirmed the need for rules at Community level to distinguish between regulation and service provision and to introduce a system of certification aimed at preserving public interest requirements, most notably in terms of safety, and to improve charging mechanisms.~~

↓ 550/2004 recital 10

~~Whilst guaranteeing the continuity of service provision, a common system should be established for certifying air navigation service providers, which constitutes a means for defining the rights and obligations of those providers and for regular monitoring of compliance with such requirements.~~

↓ 550/2004 recital 12

~~The certificates should be mutually recognised by all Member States in order to allow air navigation service providers to provide services in a Member State other than the country in which they obtained their certificates, within the limits of the safety requirements.~~

↓ 550/2004 recital 14

~~In the interest of facilitating the safe handling of air traffic across the boundaries of the Member States for the benefit of the airspace users and their passengers, the system of certification should provide for a framework to enable Member States to designate providers of air traffic services, regardless of where they have been certified.~~

↓ 550/2004 recital 5

~~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 the application of the Treaty rules of competition.~~

↓ 550/2004 recital 13

~~The provision of communication, navigation and surveillance services, as well as~~ ~~aeronautical information services, should be organised under market conditions whilst taking into account the special features of such services and maintaining a high level of safety.~~

↓ 550/2004 recital 15

~~On the basis of their analysis of safety considerations, Member States should be able to designate one or more providers of meteorological services in respect of all or part of the airspace under their responsibility, without the need to organise a call for tenders.~~

↓ 550/2004 recital 19

~~Charging conditions applying to airspace users should be fair and transparent.~~

↓ 550/2004 recital 20

~~User charges should provide remuneration for the facilities and services provided by air navigation service providers and Member States. The level of user charges should be proportionate to the cost, taking into consideration the objectives of safety and economic efficiency.~~

↓ 550/2004 recital 21

~~There should be no discrimination between airspace users as to the provision of equivalent air navigation services.~~

↓ 550/2004 recital 22

~~Air navigation service providers offer certain facilities and services directly related to the operation of aircraft, the costs of which they should be able to recover according to the 'user pays' principle, which is to say that airspace users should pay for the costs they generate at, or as close as possible to, the point of use.~~

↓ 550/2004 recital 23

~~It is important to ensure the transparency of the costs to which such facilities or services give rise. Accordingly, any changes made to the system or level of charges should be explained to airspace users; such changes or investment proposed by air navigation service providers should be explained as part of an exchange of information between their management bodies and airspace users.~~

↓ 550/2004 recital 24

~~There should be scope for modulating charges that contribute to maximising system-wide capacity. Financial incentives may be a useful way of accelerating the introduction of ground-based or airborne equipment that increases capacity, of rewarding high performance or of offsetting the inconvenience of choosing less desirable routings.~~

↓ 550/2004 recital 25

~~In the context of those revenues raised to provide a reasonable return on assets, and in direct correlation with the savings made from efficiency improvements, the Commission should study the possibility of establishing a reserve aimed at reducing the impact of a sudden increase in charges to airspace users at times of reduced levels of traffic.~~

↓ 550/2004 recital 26

~~The Commission should examine the feasibility of organising temporary financial aid for measures to increase the capacity of Europe's air traffic control system as a whole.~~

↓ 550/2004 recital 27

~~The establishment and imposition of charges on airspace users should be reviewed by the Commission on a regular basis, in cooperation with Eurocontrol, and with national supervisory authorities and airspace users.~~

🡻 551/2004 recital 8

~~The activities of Eurocontrol confirm that the route network and airspace structure cannot realistically be developed in isolation, as each individual Member State is an integral element of the European air traffic management network (EATMN), both inside and outside the Community.~~

🡻 551/2004 recital 13

~~It is essential to achieve a common, harmonised airspace structure in terms of routes and sectors, to base the present and future organisation of airspace on common principles, and to design and manage airspace in accordance with harmonised rules.~~

⇩ new

➲ Council

(35) ➲ […] ➲

🡻 550/2004 recital 16

~~Air navigation service providers should establish and maintain close cooperation with military authorities responsible for activities that may affect general air traffic, through appropriate arrangements.~~

🡻 550/2004 recital 17

~~The accounts of all air navigation service providers should provide for maximum transparency.~~

🡻 550/2004 recital 18

~~The introduction of harmonised principles and conditions for access to operational data should facilitate the provision of air navigation services and the operation of airspace users and airports under a new environment.~~

↓ 551/2004 recital 9

~~A progressively more integrated operating airspace should be established for en-route general air traffic in the upper airspace; the interface between upper and lower airspace should be identified accordingly.~~

↓ 551/2004 recital 10

~~A European upper flight information region (EUIR) encompassing the upper airspace under the responsibility of the Member States within the scope of this Regulation should facilitate common planning and aeronautical information publication in order to overcome regional bottlenecks.~~

↓ 1070/2009 recital 30 (adapted)
⇨ new

(36) The provision of ~~modern,~~ complete, high-quality and timely aeronautical information has a significant impact on safety and on facilitating access to ~~Community~~ ⌦ Union ⌫ airspace and ⇨ the possibilities of moving ⇦ ~~freedom of movement~~ within it. ~~Taking account of the ATM Master Plan, the Community should take the initiative to modernise this sector in cooperation with Eurocontrol and ensure that users are able to access those data through a single public point of access, providing a modern, user-friendly and validated integrated briefing~~ ⇨ Access to those data should be facilitated through an appropriate information infrastructure ⇦.

⇩ new

➲ Council

(37) The safe and efficient use of airspace can only be achieved through close cooperation between civil and military airspace users, which in practice is mainly based on the concept of flexible use of airspace and effective civil-military coordination as established by ICAO. ➲ […] ➳ With a view to ensuring the ➲ uniform ➳ application of this concept, ➲ […] ➳ the Commission should be empowered to ➲ […] ➳ ➲ adopt implementing acts, within the limits of the common transport policy and without prejudice to Member States' responsibilities over their airspace. ➳ .

(38) The SESAR project is aimed at enabling the safe, efficient and environmentally sustainable development of air transport by modernising the European and global ATM system. In order to contribute to its full effectiveness, proper coordination between the phases of the project should be ensured. The European ATM Master Plan should result from the SESAR definition phase, and should contribute to achieving the Union-wide performance targets.

(39) The concept of common projects should aim at implementing, in a timely, coordinated and synchronised manner, the essential operational changes identified in the European ATM Master Plan which have a network-wide impact.The Commission should be charged with carrying out a cost-benefit analysis in respect of the funding with a view to speeding up the deployment of the SESAR project.

(40) Compliance with the requirements for ATM systems and constituents established by Regulation (EU) 2018/1139 should ensure the interoperability of those systems and constituents, to the benefit of the Single European Sky.

↓ 551/2004 recital 11

~~Airspace users face disparate conditions of access to, and freedom of movement within, the Community airspace. This is due to the lack of harmonisation in the classification of airspace.~~

↓ 551/2004 recital 12

~~The reconfiguration of airspace should be based on operational requirements regardless of existing boundaries. Common general principles for creating uniform functional airspace blocks should be developed in consultation with and on the basis of technical advice from Eurocontrol.~~

↓ 551/2004 recital 14

~~The concept of the flexible use of airspace should be applied effectively; it is necessary to optimise the use of sectors of airspace, especially during peak periods for general air traffic and in high-traffic airspace, by cooperation between Member States in respect of the use of such sectors for military operations and training. To that end, it is necessary to allocate the appropriate resources for an effective implementation of the concept of the flexible use of airspace, taking into account both civil and military requirements.~~

↓ 551/2004 recital 15

~~Member States should endeavour to cooperate with neighbouring Member States to apply the concept of flexible use of airspace across national borders.~~

↓ 551/2004 recital 16

~~Differences in the organisation of civil-military cooperation in the Community restrict uniform and timely airspace management and the implementation of changes. The success of the single European sky is dependent upon effective cooperation between civil and military authorities, without prejudice to the prerogatives and responsibilities of the Member States in the field of defence.~~

↓ 551/2004 recital 17

~~Military operations and training should be safeguarded whenever the application of common principles and criteria is detrimental to their safe and efficient performance.~~

↓ 551/2004 recital 18

~~Adequate measures should be introduced to improve the effectiveness of air traffic flow management in order to assist existing operational units, including the Eurocontrol Central Flow Management Unit, to ensure efficient flight operations.~~

↓ 549/2004 recital 7

~~Airspace constitutes a limited resource, the optimum and efficient use of which will be possible only if the requirements of all users are taken into account and where relevant, represented in the whole development, decision-making process and implementation of the single European sky, including the Single Sky Committee.~~

↓ 549/2004 recital 25

~~The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[18].~~

[18] ~~OJ L 184, 17.7.1999, p. 23.~~

↓ 549/2004 recital 26 (adapted)

~~Article 8(2) of the Standard Rules of Procedure for committees[19] established in application of Article 7(1) of Decision 1999/468/EC provides a standard rule according to which the Chairman of a committee may decide to invite third parties to a meeting of that committee. If appropriate, the Chairman of the Single Sky Committee should invite representatives of Eurocontrol to take part in meetings as observers or experts,~~

↓ 549/2004 recital 18

~~Stakeholders such as air navigation service providers, airspace users, airports, manufacturing industry and professional staff representative bodies should have the possibility to advise the Commission on technical aspects of the implementation of the single European sky.~~

↓ 549/2004 recital 12

~~It is desirable to extend the single European sky to European third countries, either within the framework of participation by the Community in the work of Eurocontrol, after the accession by the Community to Eurocontrol, or by means of agreements concluded by the Community with these countries.~~

↓ 549/2004 recital 13

~~The accession of the Community to Eurocontrol is an important component in the creation of a pan-European airspace.~~

[19] ~~OJ C 38, 6.2.2001, p. 3.~~

↓ 549/2004 recital 14

~~In the process of creating the single European sky, the Community should, where appropriate, develop the highest level of cooperation with Eurocontrol in order to ensure regulatory synergies and consistent approaches, and to avoid any duplication between the two sides.~~

↓ 549/2004 recital 15 (adapted)

~~In accordance with the conclusions of the High Level Group, Eurocontrol is the body that has the appropriate expertise to support the Community in its role as regulator. Accordingly, implementing rules should be developed, for matters falling within the remit of Eurocontrol as a result of mandates to that organisation, subject to the conditions to be included in a framework of cooperation between the Commission and Eurocontrol.~~

↓ 549/2004 recital 16

~~The drafting of the measures necessary in order to create the single European sky requires broad-based consultations of economic and social stakeholders.~~

↓ 550/2004 recital 8

~~Smooth operation of the air transport system also requires uniform and high safety standards for air navigation service providers.~~

↓ 550/2004 recital 9

~~Arrangements should be made to harmonise the licensing systems for controllers, in order to improve the availability of controllers and to promote the mutual recognition of licences.~~

↓ 550/2004 recital 28

~~Owing to the particular sensitivity of information concerning air navigation service providers, national supervisory authorities should not disclose information covered by the obligation of professional secrecy, without prejudice to the organisation of a system for monitoring and publishing the performance of those providers,~~

↓ 549/2004 recital19

~~The performance of the air navigation services system as a whole at European level should be assessed on a regular basis, with due regard to the maintenance of a high level of safety, to check the effectiveness of the measures adopted and to propose further measures.~~

↓ 549/2004 recital 21

~~The impact of the measures taken to apply this Regulation should be evaluated in the light of reports to be submitted regularly by the Commission.~~

↓ 551/2004 recital 19

~~It is desirable to reflect upon the extension of upper airspace concepts to the lower airspace, in accordance with a timetable and appropriate studies,~~

↓ 549/2004 recital 22

~~This Regulation does not affect the power of Member States to adopt provisions in relation to the organisation of their armed forces. This power may lead Member States to adopt measures to ensure that their armed forces have sufficient airspace for adequate education and training purposes. Provision should therefore be made for a safeguards clause to enable this power to be exercised.~~

⇩ new

➲ Council

(41) ➲ […] ➲

(42) In order to ensure uniform conditions for the implementation of this Regulation, in particular with regard to the ➲ […] ➲ ➲ designation ➲ of ➲ […] ➲ ➲ the PRB, ➲ the implementation of the performance and charging schemes, ➲ […] ➲ ➲ including ➲ on the setting of Union-wide performance targets, ➲ […] ➲ the criteria and procedures for the assessment of the draft performance plans and performance targets of air traffic service providers and the Network Manager, ➲ the assessment and approval of the performance plans, ➲ the monitoring of performance, rules for the provision of information on costs and charges, the content and establishment of the cost base for charges and the setting of unit rates for air navigation services, incentive mechanisms and risk-sharing mechanisms, ➲ rules on the execution of the network functions, on ➲ the appointment of the Network Manager and the terms and conditions of such appointment, ➲ as well as ➲ the tasks of the Network Manager ➲ , on the Network Management Board, on cooperative decision-making process ➲ and the ➲ network ➲ governance mechanisms ➲ […] ➲ , requirements regarding the availability of operational data, ➲ […] ➲ application of the concept of flexible use of airspace, the establishment of common projects and the governance mechanisms applicable to them, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[20]. ➲ Where the committee delivers no opinion, the Commission should not adopt the draft implementing act. ➲

[20] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

🡻 1070/2009 recital 11 (adapted)

➲ Council

(43) The social ➲ and professional staff organisations➲ ➲ […] ➲ should ➲ respectively ➲ be ➲ […] ➲ consulted on all ➲ proposed ➲ measures having significant social ➲, technological and human dimension or performance related ➲ implications. At ~~Community~~ ⌦ Union ⌫ level, the Sectoral Dialogue Committee set up under Commission Decision 98/500/EC[21] ➲ and the Expert Group for Human Dimensions ➲ should also be consulted.

🡻 549/2004 recital 20 (adapted)

➲ Council

(44) The ~~sanctions~~ ⌦ penalties ⌫ provided for with respect to infringements of this Regulation ~~and of the measures referred to in Article 3~~ should be effective, proportional and dissuasive, without reducing safety.

➲(44b) This Regulation should not prevent the application by Member States of measures necessary to safeguard essential security or defence policy interests. Moreover, it does not affect the power of Member States to adopt provisions in relation to the organisation of their armed forces. This power may lead Member States to adopt measures to ensure that their armed forces have sufficient airspace for adequate education and training purposes. Provision should therefore be made for a safeguards clause to enable this power to be exercised.➲

⇩ new

➲ Council

(45) ➲ […] ➲

[21] OJ L 225, 12.8.1998, p. 27.

↓ 549/2004 recital 24 (adapted)

(46) Since the objective of this Regulation, namely the ~~creation~~ ⌦ implementation ⌫ of the Single European Sky, cannot be sufficiently achieved by the Member States~~, by reason of the transnational scale of the action, and~~ ⌦ but ⌫ can ~~therefore~~ ⌦ rather, by reason of the transnational scale of the action, ⌫ be better achieved at ~~Community~~ ⌦ Union ⌫ level, ~~while allowing for detailed implementing rules that take account of specific local conditions,~~ the ~~Community~~ ⌦ Union ⌫ may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve ~~this~~ ⌦ that ⌫ objective,

↓ 550/2004 (adapted)

HAVE ADOPTED THIS REGULATION:

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 ~~s~~Single European ~~s~~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 ⌫ ~~s~~Single European ~~s~~Sky shall comprise a coherent pan-European network ~~of routes~~, ⇨ a progressively more integrated airspace, ⇦ network management and air traffic management systems based ~~only~~ on safety, efficiency,~~technical considerations~~ ⇨ interoperability and technological modernisation ⇦ , for the benefit of all airspace users,~~.~~ ⇨ citizens and the environment. ⇦ ~~In pursuit of this objective, this Regulation establishes a harmonised regulatory framework for the creation of the single European sky.~~

🡻 1070/2009 Art. 1.2 (adapted)
➲ Council

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

🡻 1070/2009 Art. 1.3 (adapted)

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

↓ 550/2004

~~CHAPTER I~~

~~GENERAL~~

~~*Article 1*~~

~~**Scope and objective**~~

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

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

↓ 551/2004

~~CHAPTER I~~

~~GENERAL~~

~~*Article 1*~~

~~**Objective and scope**~~

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

~~2. The use of airspace shall support the operation of the air navigation services as a coherent and consistent whole in accordance with Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation)[22].~~

↓ 551/2004 (adapted)
⇨ new

4~~3~~. ~~Without prejudice to Article 10,~~ ~~t~~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.

[22] ~~See page 10 of this Official Journal.~~

↓ 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.~~

↓ 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

➲ […] ➲

➲ […] ➲

↓ 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:~~

1~~2~~. 'aerodrome control service' means an ⌦ air traffic control ⌫ (ATC) service for aerodrome traffic;

2~~3~~. '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; ➲

3~~5~~. 'air navigation service provider' means a public or private entity providing ⌦ one or more ⌫ air navigation services for general air traffic;

4~~4~~. 'air navigation services ⌦ (ANS) ⌫ ' means air traffic services; communication, navigation and surveillance services ⌦ (CNS ➲ […] ➲ ⌫ ➲ […] ➲ ➲) including services which augment signals emitted by satellites of core constellations of GNSS for the purpose of air navigation; meteorological services for air navigation ➲ ~~for air navigation~~ ⌦ (MET) ⌫ ; ~~and~~ aeronautical information services ⌦ (AIS) ⌫ ; ⇨ and air traffic data services (ADS); ⇦

5~~1~~. '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;

➲ […] ➲

🡻 549/2004 (adapted)
⇨ new
➲ Council

8~~9~~.‘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

9~~10~~.‘air traffic management (ATM)’ means the aggregation of the airborne and ground-based functions ⇨ ➲ […] ➲ ➲ and ➲ services ⇦ (air traffic services, airspace management and air traffic flow management ➲ , including flight procedures design; ➲) required to ensure the safe and efficient movement of aircraft during all phases of operations;

↓ 549/2004
➲ Council

10~~11~~.‘air traffic services’ means the various flight information services, alerting services, air traffic advisory services and ATC services (area, approach and aerodrome control services);

11~~6~~.‘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;

12~~7~~.‘airspace management’ means a planning ➲ and monitoring ➳ 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)

14~~8~~.‘airspace users’ means operators of aircraft operated ⌦ in accordance with ⌫ ~~as~~ general air traffic ⌦ rules ⌫ ;

↓ 1070/2009 Art. 1.2(g)

15~~23b~~.‘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

16~~13~~.‘approach control service’ means an ATC service for arriving or departing controlled flights;

17~~12~~.‘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 ➲ […] ➲ ➲ […] ➲ ➲ estimated by using 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)
➲ Council

➲ […] ➲

➲ 21.‘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 interaction and consultation with ➲ the relevant ➲ Member ➲ […] ➲ ➲ State authorities ➲ , operational stakeholders and other actors as appropriate ➲ and aiming at consensus ➲ ;

🡻 1070/2009 Art. 1.2(j)
⇨ new
➲ Council

27~~41~~.‘cross-border services’ means ~~any situation where~~ air navigation services ~~are~~ provided in one Member State by a service provider ⇨ having its principal place of business in another Member State ➲ […] ➲ ⇦ ~~certified in another Member 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;

➲ […] ➲

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

↓ 549/2004 (adapted)
➲ Council

31~~20~~.‘ ➲ […] ➲ ➲ 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 Navigation[23];

32~~17~~.‘European air traffic management network’ (EATMN) means the collection of systems, ➲ […] ➲ ➲ referred to ➲ in point 3.1 of Annex VIII~~I~~ 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)[24]~~, enabling air navigation services in the ~~Community~~ ⌦ Union ⌫ to be provided, including the interfaces at boundaries with third countries;

↓ 1070/2009 Art. 1.2(c) (adapted)
➲ Council

33~~13a~~.‘ ⌦ European ⌫ ATM Master Plan’ means the plan endorsed by Council Decision 2009/320/EC[25], ➲ […] ➲ ~~of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR)[26]~~ and as subsequently amended;

23 ~~Convention modified by the protocol of 12 February 1981 and revised by the protocol of 27 June 1997.~~
24 ~~See page 33 of this Official Journal.~~
25 OJ L 95, 9.4.2009, p. 41.
26 ➲ […] ➲

🡻 1070/2009 Art. 1.2(f)
⇨ new
➲ Council

34~~22~~.‘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

35~~23a~~.‘flight information service’ means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights;

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

➲ 35c. ’flight procedures design’ means all tasks relevant to the design of an instrument flight procedure; ➲

🡻 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 ➲ […] ➳ Chicago Convention ➲ […] ➳ ⌫ ~~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 for air navigation (MET)’ ➲ 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 the entities as defined in point (34) of Article 3 of Regulation (EU) 2018/1139;

40. ‘national supervisory authority’ means the national body or bodies entrusted by a Member State with the tasks under this Regulation ➲ […] ➲ ;

🡻 549/2004 (adapted)
➲ Council

41~~30~~.‘navigation services’ means ~~those~~ ⌦ the ⌫ facilities and services that provide aircraft with positioning and timing information;

⇩ new
➲ Council

42. ‘network crisis’ means a state of inability to provide air traffic management and ➲ 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 established through cooperative decision-making process to implement at operational level the objectives of the network functions, and to contribute to performance objectives;

43b. 'Network Strategy Plan (NSP)' means a plan established through cooperative decision-making process guiding the network's long-term development;

43c. 'Operational air traffic' means all flights, which do not comply with the provisions stated for general air traffic and for which rules and procedures have been specified by appropriate national authorities; ➲

🡻 549/2004 (adapted)
⇨ new
➲ Council

44~~31~~.'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 as well as airport operators; ➲

~~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

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

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

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

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

⇩ new

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

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

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

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

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

↓ 549/2004 (adapted)

53. ~~38.~~‘surveillance services’ means ~~those~~ ⌦ the ⌫ facilities and services used to determine the respective positions of aircraft to allow safe separation;

54~~39~~.‘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

➲ […] ➲

56. ‘terminal charging zone’ means an airport or a group of airports, located within the territories of a Member State ➲ or Member States ➲ , where terminal air navigation services are provided and for which a single cost base ➲ […] ➲ ➲ and a single unit rate are ➲ established;

↓ 549/2004
➲ Council

57~~40~~.‘upgrade’ means any modification that changes the operational characteristics of a system.

➲ *Article 2a*

Functional airspace blocks

1. Member States may establish a functional airspace block to develop better cooperation and coordination with a view to fostering the performance of the air traffic management network within the Single European Sky. Without prejudice to Article 5(3) to (5a) of this Regulation, Member States may jointly execute all or part of their obligations under Articles 3, 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.

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

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 and the list of obligations that Member States intend to implement jointly shall be notified to the Commission.➲

↓ 549/2004

~~*Article 3*~~

~~**Fields for action by the Community**~~

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

~~(a) Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the Single European Sky (the airspace Regulation)[27];~~

~~(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)[28]; 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)[29];~~

~~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.~~

🡻 1070/2009 Art. 1.3 (adapted)
⇨ new

CHAPTER II

⌦ NATIONAL SUPERVISORY AUTHORITIES ⌫

Article 34

⌦ Nomination, establishment and requirements regarding ⌫ ~~N~~national supervisory authorities

---

27 ~~See page 20 of this Official Journal.~~
28 ~~See page 10 of this Official Journal.~~
29 ~~See page 26 of this Official Journal.~~

1. Member States shall, jointly or individually, either nominate or establish a body or bodies as their national supervisory authority in order to assume the tasks assigned to such authority ~~under~~ ⌦ by ⌫ this Regulation ~~and under the measures referred to in Article 3~~.

~~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

~~3~~2. ⌦ The ⌫ ~~N~~national supervisory authority ➲ y ➳ ➲ […] ➳ 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 supervisory ➲ […] ➳ ➲ authority ➳ shall ➲ […] ➳ be independent ➲ […] ➳ from any air navigation service ➲ […] ➳➲providers, in organisational, hierarchical and decision-making terms, in particular by avoiding conflicts of interest with those service providers. That independence shall not prevent that authority and those service providers from being part of the same civil service, public entity or administration➳.

4. Member States may set up ➲ […] ➲ authorities which are competent ➲ either ➲ for several regulated sectors ➲ […] ➲ ➲ or for several areas of regulation within the transport sector provided that ➲ those integrated regulatory authorities fulfil the independence requirements set out in this Article. The national supervisory authority may ➲ […] ➲ be joined in respect of its organisational structure with ➲ other public authorities, in particular ➲ the national competition authority referred to in Article 11 of Council Regulation (EC) No 1/2003[30], ➲ […] ➲ ➲ the national competent authority, or, if applicable, with a national transport authority, provided that the joint body hereby set up ➲ fulfils the independence requirements set out in this Article.

➲ […] ➲

➲ […] ➲

➲ […] ➲

➲ […] ➲

➲ […] ➲

➲ […] ➲

➲ […] ➲

➔ 1070/2009 Art. 1.3

➲ […] ➲

⇩ new

➲ Council

➲ […] ➲

➲ […] ➲

[30] 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

⇨ new

9~~5~~. Member States shall notify the Commission of the names and addresses of the national supervisory authorities, as well as changes thereto, and of the measures taken to ensure compliance with ⇨ this Article⇦ ~~paragraphs 2,3 and 4~~.

⇩ new

➲ […] ➲

🡻 1070/2009 Art. 2.1 (adapted)

➲ Council

Article 4~~2~~

Tasks of the national supervisory authorities

1. The national supervisory ➲ authority ➲ ➲ […] ➲ ➲ shall carry out the tasks assigned ➲ to ➲ it under this Regulation and the implementing acts adopted on the basis thereof, ➲ in ➲ […] ➲ 4 ~~of the framework~~ ~~Regulation~~ ➲ […] ➲~~-~~➲ 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.~~:

⇩ 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) ➲ […] ➲ and Article 8(4)d); ➲ ➲ […] ➲;

➲ (c) assess and approve the price setting for the provision of the CIS, in accordance with Article 9; ➲

➲(d) preparation of the draft performance plan➲, including the ➲ […] ➲ ➲ setting ➲of ➲ criteria for allocation of costs and ➲ the ➲ setting of ➲ performance ➲ […] ➲ ➲ targets, the monitoring of performance and the ➲ charging schemes ➲ as ➲ set out ➲ , and within the limits of, ➲ in Articles 10 to ➲ 13b, ➲ 17 and 19 to 22 and the implementing acts referred to in Articles 18 and 23 ➲ […] ➲ ➲ ; ➲

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

➲ […] ➲

➔ 1070/2009 Art. 2.1 (adapted)
⇨ new
➲ Council

3~~2~~. ~~To this end,~~ ~~e~~Each national supervisory authority shall ~~organise proper~~ ⌧ ➲ […] ➲ ⌫ ➲ , in cooperation with the national competent authority where it is a different entity, conduct the necessary monitoring activities, including, as appropriate, ➲ inspections ~~and surveys~~ ⇨ ➲ […] ➲ ➲ and ➲ audits ➲ […] ➲ ➲ , ➲ ⇦ to ⇨ identify possible ➲ […] ➲ ➲ non-compliance ➲ by entities subject to their oversight under this Regulation of the requirements set out in this Regulation and the ➲ […] ➲ 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~~. ➲ In case of non-compliance, national supervisory authorities shall decide on and enforce corrective measures. ➲

➲ […] ➲

The air navigation service providers, airport operators and the ➲ […] ➲ ➲ CIS ➲ providers concerned shall comply with ➲ […] ➲ ➲ any enforcement ➲ measures taken by the national supervisory authorities ➲ […] ➲ ➲ in that context. In case of cross-border services, the Member State concerned, or its national supervisory authority, may request the Member State where the service provider is established or has its principal place of business, or the national supervisory authority of that Member State, to provide him with support to overcome any enforcement difficulties. Both Member States, or their national supervisory authorities, shall endeavour to cooperate to that end. ➲

⇩ new
➲ Council

Article 5

Co-operation between national supervisory authorities

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

2. The national supervisory authorities shall cooperate, ➲ […] ➲ ➲ in particular in the case of the provision of cross-border services and of provision of air navigation services in an airspace falling under the responsibility of another Member State, ➲ through working 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 respect of functional airspace blocks that extend across the~~ ⇨ ➲ […] ➳ In the case of provision of air navigation services in an ⇦ 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 of the ➲ Member States or their ➳ authorities, of the ➲ […] ➳ tasks set out in this Regulation and of the results of the discharge of these tasks. They shall also specify which national supervisory authority shall be in charge of the ➲ […] ➳ ➲ tasks ➳ set out in Article ➲ […] ➳ ➲ 4(1). ➳

🡻 1070/2009 Art. 2.1 (adapted)

⇨ new

➲ Council

~~6~~5. ~~If~~ ⌦ Where ⌫ permitted by national law and with a view to regional cooperation, national supervisory 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. ➳

🡻 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.~~

🡻 550/2004 (adapted)

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 6~~7~~

⌦ ➲ […] ➲ ⌫ ➲ Provision of services by ➲ ~~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

➲ […] ➲

➲ […] ➲ ➲ 2. Without prejudice to Articles 7, 7a and 8(4) of this Regulation, an entity that ➲ complies with the requirements ➲ […] ➲

➲ […] ➲

➲ […] ➲ ➲ set out in Articles 40 and ➲ 41 of Regulation (EU) No 2018/1139 ➲ […] ➲ ➲ and in the ➲ delegated acts ➲ […] ➲ ➲ and implementing acts adopted on the basis thereof shall be entitled to provide air navigation services for airspace users within the Union, under non-discriminatory conditions ➲ .

➲ 2a. In the case a Member States has granted to an air navigation service provider an exemption from the requirement to hold a certificate pursuant to Article 41(6) of Regulation (EU) 2018/1139, that Member State may, notwithstanding paragraph 2, allow that service provider to provide air navigation services in the part of the airspace under its responsibility for which this exemption was granted and in compliance with the conditions set out in that Article.

3. Notwithstanding paragraph 2, Member States may allow the provision of air navigation services referred to in Article 2(3)c) of Regulation 2018/1139 in all or part of the airspace under their responsibility by the military without certification and/or application of all or part of this Regulation. In such cases, the Member State concerned shall inform the Commission and the other Member States of its decision. The provision of those services shall be in accordance with the conditions laid down in Article 2(5) of Regulation 2018/1139. ➲

➲ […] ➲

➲ […] ➲

➲ […] ➲

➲ […] ➲

🡻 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~~8~~

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 air traffic service provider(s), on the condition that the air traffic service provider(s) fulfils the requirements laid down in this Article. ➳

➲ 1a. ➳ The air traffic service providers shall fulfil the following ➲ cumulative ➳ conditions: ⇦

⇩ new
➲ Council

(a) they ➲ […] ➳ hold a ➲ […] ➳ certificate ➲ […] ➳ ➲ pursuant to ➳ Article 41 of Regulation (EU) 2018/1139 ➲ […] ➳ ➲ or a valid declaration pursuant to Article 41(5) of Regulation (EU) 2018/1139, unless exempted from the certification requirement pursuant to Article 2(3)c) of Regulation (EU) 2018/1139; ➳

(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 and

(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 as provided for in an agreement with a third country to which the Union is a party. ➲

➲ […] ➲

➲By way of derogation from points c) and d), a Member State may designate an air traffic service provider having its principal place of business in a third country and/or not complying with the condition set out in point d) to provide air traffic services in a limited part of the airspace for which that Member State is responsible where that part of the airspace borders an airspace under the responsibility of that third country.➲

🡻 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

➲in case the application of such conditions entails an unjustified restriction of the freedom to provide services or the freedom of establishment.➲ .

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
➲ Council

~~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.~~

4~~6~~. 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.

➲ *Article 7a*

Designation of MET providers

1. Member States may designate, individually or collectively, a MET provider on an exclusive basis in all or part of the airspace under their responsibility, taking into account safety considerations.

2. Member States shall inform the Commission and other Member States without delay of any decision taken on the basis of this Article.

Article 7b

Relations between air navigation service providers

1. Air navigation service providers may avail themselves of the services of other service providers that hold a certificate pursuant to Article 41 of Regulation (EU) 2018/1139 or a valid declaration pursuant to Article 41(5) of Regulation (EU) 2018/1139, unless exempted from the certification requirement pursuant to Article 2(3)c) of Regulation (EU) 2018/1139. Such cooperation shall be made in accordance with Article 8 where applicable.

For air traffic service providers designated in accordance with Article 7 and MET providers designated in accordance with Article 7a, such cooperation shall be subject to the authorisation of the Member States concerned.

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

For air traffic service providers designated in accordance with Article 7 and MET providers designated in accordance with Article 7a, the terms of that agreement shall be subject to the approval of the Member States concerned.⊂

⇩ new
➲ Council

Article 8

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

1. ➲ […] ⊂ ➲ Without prejudice to the rights and obligations defined by their designating State under Article 7(3), designated ⊂ air traffic service providers may decide to procure CNS, AIS, ➲ or ⊂ ADS ➲ […] ⊂ services ➲ […] ⊂ .

➲ 1a. Except in cases where Member States have designated a MET provider in accordance with Article 7a, Member States may allow air traffic service providers to procure MET. ➲

➲ […] ➲Member States ➲ […] ➲ ➲ may ➲ allow airport operators ➲ or a group of airport operators ➲ to procure ➲ […] ➲ air traffic services for aerodrome control ➲ […] ➲ ➲ […] ➲ ➲ and/or ➲ air traffic services for approach control ➲ […] ➲ .

➲ […] ➲ ➲ In such case, ➲ the tender ➲ […] ➲ ➲ specifications, including requirements on service quality, shall be subject to Member States approval. Member States shall designate the service provider selected as a result of the ➲ procurement ➲ referred to in this paragraph. ➲ ➲ […] ➲

➲ […] ➲

4. A provider of CNS, AIS, ADS, MET or ➲ […] ➲ air traffic services ➲ for aerodrome control or for approach control ➲ may only be selected ➲ and, if appropriate, designated ➲ to provide services in a Member State ➲ […] ➲ ➲ as a result of a procurement pursuant to paragraphs 1, 1a or 1b, on the condition that it complies with the following cumulative conditions: ➲

(a) ➲ […] ➲ ➲ holds a certificate pursuant to Article 41 of Regulation (EU) 2018/1139 or a valid declaration pursuant to Article 41(5) of Regulation (EU) 2018/1139, unless exempted from the certification requirement pursuant to Article 2(3)c) of Regulation (EU) 2018/1139 ➲ ;

(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 ➲ […] ➲ ➲ complies with ➲ national security and defence requirements.

➲ By way of derogation from points b) and c), any provider of global satellite services that was granted a certificate pursuant to Article 41 of Regulation (EU) 2018/1139 to provide services within the Union prior to the adoption of this Regulation may be selected to provide such services in the Union even if it does not comply with the conditions set out in points b) and c). ➲

5. Articles ➲ […] ➲ ➲ 13, 13a, 13b and ➲ 17 and ➲ […] ➲ ➲ the implementing rules relating to those Articles adopted on the basis of Article 18 ➲ shall not apply to the ➲ […] ➲ ➲ MET services provided by MET providers selected or to the ➲ air traffic service providers designated as a result of a procurement procedure ➲ conducted ➲ in accordance with ➲ […] ➲ ➲ paragraphs 1a and 1b ➲ . ➲ […] ➲ ➲ The ➲ air traffic service providers ➲ concerned ➲ shall provide ➲ relevant ➲ data on the performance of air navigation services in the key performance areas ➲ […] ➲ ➲ referred to in Article 10(2)a) and in ➲ safety ➲ area ➲ ➲ […] ➲ to ➲ the ➲ national supervisory authority and the ➲ […] ➲ ➲ Commission ➲ for monitoring purposes.

➲ […] ➲

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 ➲ and secure ➲ provision of services for the management of traffic of unmanned aircraft.

2. The ➲ […] ➲ ➲ CIS provider ➲ shall➲ […] ➲ ➲ fulfil the following cumulative requirements:

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

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

(c) Member States or nationals 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.➲

➲ 3. ⊂ The costs ➲ […] ⊂ ➲ on the basis of which the price for CIS is based ⊂ shall be set out in an account separate from the accounts for any other activities of the operator concerned and shall be ➲ […] ⊂ ➲ accessible by the national supervisory authority concerned. ⊂ .

➲ […] ⊂ ➲ Where CIS are provided on an exclusive basis, Member States shall impose that the price for CIS is based on the fixed and variable costs of providing the service concerned and/or includes a mark-up reflecting an appropriate risk-return trade-off. ⊂

➲ 4. The price set by the CIS ⊂ ➲ […] ⊂ provider shall ➲ […] ⊂ ➲ be ⊂ subject to assessment and approval by the national supervisory authority concerned. ➲ The price of such services shall be made publicly available. ⊂

➲ […] ⊂ ➲5. Data necessary for the safe operation of ⊂ unmanned aircraft ➲ […] ⊂ ➲ in the U-Space airspace ⊂ shall be made available ➲ […] ⊂ ➲ , on a non-discriminatory basis, without prejudice to national security, public order and defence policy interests, ⊂ by air navigation service providers. ➲ […] ⊂ ➲ CIS ⊂ providers shall use those data only for operational purposes of the services they provide. ➲ […] ⊂

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

➲ *Article 9a*

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, public order and 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 entities in charge of security and defense activities, military air navigation service providers, airspace users and airports as well as the Network Manager. The data shall be used only for operational purposes.

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 supervisory authorities, to national competent authorities, to the Network Manager, and to the Agency in accordance with Regulation (EU) 2018/1139.

4. The Commission shall, 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.

Article 9b

Performance review body

1. In accordance with the examination procedure referred to in Article 37(3), the Commission may, by means of an implementing act, designate an independent and impartial Performance Review Body (PRB). The PRB shall have no regulatory function or other decision-making power. The role of the PRB shall be limited to providing advice and assistance to the Commission and the national supervisory authorities on request in particular as regard the collection, examination, validation and dissemination of relevant data as well as the implementation of the performance scheme set out in Articles 10 to 18 and of the charging scheme set out in Articles 19 to 23. The Commission and the national supervisory authorities shall remain responsible for the implementation of their tasks and obligations under this Regulation. The Commission shall supervise the proper execution of the PRB tasks.

2. In case the Commission decides to designate a PRB pursuant to paragraph 1, it shall, in accordance with the examination procedure referred to in Article 37(3), adopt detailed rules regarding in particular the period of designation of the PRB, the composition of the PRB, the selection and appointment procedure as well as term of office of the PRB members, including, where relevant, of the PRB chair, the allowances, expenses and remuneration of the PRB members, the tasks of the PRB in accordance and within the limits of this Regulation as well as the specific financing modalities of the PRB activities.

🡻 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.~~

🡻 1070/2009 Art. 1.5 (adapted)
⇨ new
➲ Council

Article *10~~11~~*

Performance scheme

1. To improve the performance of air navigation services and 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 en route air navigation services ➲ ~~on~~ ⌦ in ⌫ the key performance areas of ~~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 where applicable, 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) and in the light of relevant ➲ ➲ […] ➲ safety ➲ […] ➲ ➲ indicators defined in coordination with the Agency ➲ ⇦ ~~.~~

➲ […] ➲

~~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 supervisory authorities, ⇨ national competent authorities, ⇦ ➲ […] ➲ ➲ and other national authorities ➲ ⇨ , the Agency, the Network Manager ⇦ and ➲ […] ➲ ➲ EUROCONTROL ➲ ;

⇩ 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) and relevant ➲ safety ➲ […] ➲ ➲ indicators defined in coordination with the Agency ➲ ;

➲ (cc) a methodology to calculate breakdown values; ➲

(d) ➲ […] ➲ ➲ principles governing the establishment ➲ of performance plans and of performance targets for air navigation services, 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 ➲ […] ➲ ➲ 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;

➲ […] ➲

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

➲ 4. The setting of the performance targets included in the performance plans, the preparation and the assessment of draft performance plans, including the allocation of costs between services, as well as the monitoring and benchmarking of performance of the air navigation services and network management shall take into account the impact of local circumstances as well as factors that fall outside the air traffic service provider's and the Network Manager's control. ➲

Article 11

Establishment of the Union-wide performance targets

1. ➲ In accordance with the examination procedure referred to in Article 37(3) and with paragraphs 2 to 3 of this Article, the ➲ [...] ➲ Commission shall adopt the Union-wide performance targets for *en route* air navigation services ➲ [...] ➲ in the key performance areas ➲ referred to in Article 10(2)a) ➲ ➲ [...] ➲ for each reference period, ➲ [...] ➲ ➲ and define the duration of that period ➲ . In conjunction 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 ➲ [...] ➲ ➲ strive ➲ gradual ➲ [...] ➲ improvements in respect of the ➲ environmental, ➲ operational and economic performance of air navigation services;

(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 and operational data, as well as the interdependencies between the key performance areas referred to in Article 10(2)a) and the need to fulfil EU environmental objectives.

(d) they shall take into account the safety indicators referred to in article 10(2)c). ➲ .

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

➲ [...] ➲

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 prepared by the national supervisory authority, with inputs from other national authorities if relevant, based in particular on the input of the designated air traffic service provider(s) ➲ in respect of all the ➲ […] ➲ air navigation services which ➲ […] ➲ ➲ that service provider provides ➲ and, where applicable, ➲ […] ➲ ➲ procures ➲ from other providers.

The draft performance ➲ […] ➲ ➲ plan ➲ 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 supervisory authority shall lay down the criteria to allocate the costs common to en route and terminal air navigation services between the two categories of services taking into account the principle of cost-relatedness. It shall include this information in the draft performance plan. The national supervisory authority shall ensure that the cost bases for charges comply with those criteria and the requirements of Article 20.

1b. For each reference period, the national supervisory authority shall set and include in the draft performance plan, in the key performance areas referred to in Article 10(2)a), ➲ performance targets for *en route* air navigation services ➲ […] ➲ consistent with the Union-wide performance targets ➲ and performance targets for terminal air navigation services ➲ . Those draft performance plans shall take account of the European ATM Master Plan ➲ and the interdependencies between the key performance areas referred to in Article 10(2)a) and the need to fulfil the relevant EU safety requirements and EU environmental objectives ➲ . ➲ […] ➲

2. The draft performance ➲ plan ➲ ➲ […] ➲ referred to in paragraph 1 shall include relevant information ➲ , in particular traffic forecasts and operational data, ➲ provided by ➲ EUROCONTROL and ➲ the Network Manager ➲ or local sources as appropriate ➲ .

➲ […] ➲ ➲ In preparing the ➲ draft ➲ performance plan the national supervisory authority ➲ ➲ […] ➲ shall consult airspace users' representatives and, where relevant, military authorities, airport operators and airport coordinators ➲ as well as ➲ ➲ […] ➲ the national competent authority ➲ in case the national supervisory authority and the national competent authority are two different entities ➲ ➲ […] ➲ ➲ . The ➲ compliance with Regulation (EU) 2018/1139 and the delegated and implementing acts adopted on the basis thereof ➲ shall be verified ➲ .

3. ➲ […] ➲

Consistency of performance targets for *en route* air navigation ➲ […] ➲ ➲ services, to be included in the draft performance plan, ➲ with Union-wide performance targets shall be established ➲ taking into account local circumstances and interdependencies between the key performance areas referred to in Article 10(2)a) and safety and ➲ according to ➲ all or part of ➲ the following criteria:

(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 ➲ […] ➲ ➲ within the relevant ➲ benchmark group.

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

➲ 3a. ➲ 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 ➲ at the time of preparing the performance plan ➲ ;

(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.

➲ […] ➲

➲ 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 *en route* air navigation services and the ➲ adopted draft ➲ performance plans ➲ referred to in Article 13 ➲ according to the criteria and conditions set out in ➲ […] ➲ ➲ Article 13(3) and (3a) ➲ .

➲ […] ➲

➲ […] ➲ ➲ 2. Where consistency of ➲ performance targets for *en route* air navigation services ➲ […] ➲ with the Union-wide performance targets ➲ […] ➲ ➲ cannot be established on the basis of the criteria laid down in Article 13(3), the Commission shall assess whether the divergence from these criteria can be justified by local circumstances and/or interdependencies between key performance areas referred to in Article 10(2)a), in the light of the information provided in the draft performance plans and safety considerations. If that is the case, performance targets for en route air navigation services shall be considered consistent with Union-wide targets. ➲

Council

The Commission may allow a deviation of performance targets for en route air navigation services from Union-wide performance targets with respect to cost-efficiency, or capacity key performance areas where necessary to ensure consistency of performance targets for those services with the Union-wide performance targets with respect to environment key performance area. In addition, deviations shall be allowed to enable compliance with the relevant EU safety requirements set out in Regulation (EU) 2018/1139 and the implementing and delegated acts adopted on the basis thereof.

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 in accordance with the examination procedure referred to in Article 37(3).

4. Where the Commission finds that there are doubts about the compliance of the draft performance plan with the criteria and conditions set out in Article 13(3) and (3a) read in combination with paragraph 2 of this Article, it shall initiate a detailed examination of that draft performance plan, requesting additional information from the Member State concerned if necessary.

5. Where, having carried out the detailed examination, the Commission finds that the draft performance plan meets the criteria and conditions set out in Article 13(3) and (3a) read in combination with paragraph 2 of this Article, it shall approve it in accordance with the examination procedure referred to in Article 37(3).

Where however the Commission finds that the draft performance plan is not consistent with those criteria and conditions, the Commission shall adopt a decision setting out the corrective measures which the Member State(s) concerned is to take, in accordance with the examination procedure referred to in Article 37(3).

The Member State(s) concerned shall communicate to the Commission the measures that it has taken pursuant to that decision, as well as information demonstrating that those measures comply with that decision.

Where the Commission finds that those measures are sufficient to ensure compliance with its decision, it shall notify the Member State(s) concerned thereof and approve the draft performance plan in accordance with the examination procedure referred to in Article 37(3).

Where the Commission finds that those measures are not sufficient to ensure compliance with the decision, it shall notify the Member State concerned and take, where appropriate, action to address the non-compliance, including through actions provided for in Article 258 of the Treaty on the Functioning of the European Union.

⇩ new
➲ Council

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

➲ *Article 13b*

Performance monitoring

1. The national supervisory authority, in cooperation with the national competent authority where it is a different entity, shall assess whether the air navigation services provided in the airspace under their responsibility meet the performance targets contained in the performance plans approved in accordance with Article 13a, whether those plans are implemented correctly and whether it shall implement the positive or negative incentives following from the schemes referred to in Article 10(3)h). ➲

➲2. ➲ The national supervisory authority ➲ […] ➲ shall issue regular reports on the monitoring of performance of ➲ […] ➲ air navigation services ➲ […] ➲ ➲ provided by ➲ the ➲ […] ➲ ➲ designated ➲ air traffic service providers and ➲ […] ➲ ➲ make ➲ the results of those assessments publicly available ➲ without prejudice to confidentiality of sensitive information.➲

The designated air traffic service ➲ […] ➲ ➲ providers ➲ shall provide the information and data necessary for ➲ […] ➲ ➲ such ➲ monitoring ➲ […] ➲ . This shall include information and data related to actual costs ➲ […] ➲ ➲ of the services provided and, where applicable, without prejudice to confidentiality of sensitive information, and data related to actual costs of the services procured from other service providers.➲

➲2a. ➲ Where performance targets ➲ contained in the performance plans ➲ are not reached or the performance plan is not correctly implemented, the national supervisory authority shall ➲ […] ➲ ➲ assess whether this is due to safety considerations or external factors beyond the air traffic service provider's control. In particular, the national supervisory authority shall assess the impact of any detrimental effect of measures adopted in order to improve the overall functioning of the network on the actual performance of the air traffic service provider. In case the underperformance cannot be justified by safety considerations or external factors, the national supervisory authority shall require ➲ corrective measures to be implemented by the air traffic service ➲ […] ➲ ➲ provider. ➲

➲2b. Financial incentives and disincentives shall take into account the deterioration of service and be proportionate to the magnitude of the variation between the achieved performances and the performance targets set in the approved performance plans.

Financial incentives and disincentives may only be applied where the over or under performance is attributable to the air traffic service provider concerned. Such disincentives shall not be such as to affect the financial viability of that air traffic service provider 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 committee referred to in Article 37(1).➲

➲ […] ➲

➲ […] ➲

➲ […] ➲

➲ […] ➲

➲ […] ➲

Article 16

Network Performance Plan

1. The Network Manager shall, for each reference period, draw up ➲ , in accordance with the cooperative decision-making process referred to in Article 27(7), ⊂ a draft Network Performance Plan ➲ […] ⊂ .

The draft Network Performance Plan shall be drawn up after the setting of Union-wide performance targets and before the start of the reference period concerned. It shall contain performance targets in the key performance areas ➲ referred to in Article 10(2)a) ⊂ ➲ […] ⊂ .

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 Union 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 ➲ or safety considerations ➲ , and where the revision of ➲ one or several ➲ targets is necessary and proportionate, the Commission shall revise those Union-wide performance targets. Article 11 shall apply to such decision. ➲ […] ➲

➲ Where, following such revision, the performance targets contained in the performance plans adopted pursuant to Article 13a(6) are no longer consistent with the Union-wide performance targets, Member States shall revise those plans with 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.

Following the revision referred to in the first subparagraph, the Network Manager shall draw up a new draft Network Performance Plan. Article 16 shall apply to the adoption of that new plan. ➲

2. The decision on the revised Union-wide performance targets referred to in paragraph 1 shall include transitional provisions for the time period until the definitive ➲ revised ➲ performance plans ➲ […] ➲ become applicable. ➲ Revised Union-wide targets and transitional provisions shall not apply retroactively. ➲

➲ 2a. In case of a network crisis which prevents the issuing of reliable traffic forecasts, the transitional provisions mentioned in paragraph 2 may include the suspension of the performance system until new reliable forecasts are available. In such a case, the Commission shall define the relating conditions, including necessary adaptations to applicable charges, in the decision referred to in paragraph 1. ➲

3. ➲ […] ➲ ➲ Member States ➲ may ➲ […] ➲ revise one or several performance targets, during a reference period ➲ […] ➲ where alert thresholds are reached, or where ➲ […] ➲ ➲ it is demonstrated ➲ that the initial data, assumptions and rationales underpinning the performance targets are to a significant and lasting extent no longer accurate due to circumstances that were unforeseeable at the time of the adoption of the performance plan.

➲ […] ➲

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

Article 18

Implementation of the performance scheme

For the implementation of the performance scheme, the Commission shall ➲ , by means of implementing acts adopted in accordance with the examination procedure referred to in Article 37(3), ➲ adopt detailed requirements and procedures in respect of Articles 10(3), 11, ➲ […] ➲ 13, ➲ 13a, 13b, ➲ ➲ […] ➲ 16 ➲ […] ➲ ➲ and ➲ 17, in particular as regards the ➲ […] ➲ ➲ preparation, assessment, approval and revision ➲ of ➲ […] ➲ performance plans, the setting of performance targets, the ➲ […] ➲ monitoring of performance ➲ […] ➲ ➲ , methodology for benchmarking, the incentive schemes, the ➲ issuance of corrective measures, and the timetables for all procedures. ➲ […] ➲

🡻 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 Ssingle European Ssky 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:~~

~~(c) 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 19~~15~~

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 of Article 23. The charging scheme set up under this Article as well as Articles 20 to 22 shall be consistent with the charging system for en route charges established by EUROCONTROL, in particular EUROCONTROL Principles for Establishing the Cost-Base for En-Route Charges and the Calculation of the Unit Rates. ➲ .

2. Charges shall be based on the costs of air ➲ […] ➲ ➲ navigation ➲ service providers ➲ incurred ➲ in ➲ […] ➲ ➲ relation to the provision ➲ of services and functions ➲ […] ➲ ➲ made available 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.

➲ […] ➲

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 provides ➲ 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 supervisory 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 Article13a(6), ➲ 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, ➲ […] ➲ ➲ cost of ➲ capital ➲ […] ➲ and depreciation of assets, as well as the costs of maintenance, operation, management and administration ➲ and other staff costs ➲ .

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

➲ […] ➲

(b) costs ➲ […] ➲ ➲ related to the ➲ oversight ➲ […] ➲ ➲ of air navigation services incurred by ➲ national supervisory authorities, ➲ national competent authorities, and other national authorities, where the Member State so decides ➲ ➲ […] ➲ ;

(c) costs incurred by the air ➲ […] ➲ ➲ navigation ➲ service providers in relation to the provision of air navigation services ➲ […] ➲ ➲ , where the Member States so decides; ➲

➲ (d) costs incurred by the air navigation service providers in relation to ➲ network functions, ➲ […] ➲ ➲ in particular in relation to the cooperation with ➲ the Network Manager ➲ and other functions as described in Article 2(9) ➲ ➲ […] ;➲

➲ (e) costs stemming from the EUROCONTROL International Convention relating to cooperation for the safety of air navigation of 13 December 1960 as last amended, where the Member State so decides. ➲ .

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

5. ➲ […] ➲ Costs that pertain to both *en route* air navigation services and terminal air navigation services shall be allocated in ➲ […] ➲ ➲ compliance with the criteria laid down by the national supervisory authority in accordance with Article 13(1a). ➲ ➲ Cross-subsidy ➲ between *en route* air navigation services and terminal air navigation services ➲ […] ➲ ➲ shall not be allowed ➲ . Cross-subsidy shall be allowed between different air navigation services ➲ […] ➲ ➲ within ➲ 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 supervisory ➲ […] ➲ ➲ authority ➲ , 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, Member States 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. The Commission shall, by means of an implementing act adopted in accordance with the examination procedure referred to in Article 37(3) define the conditions under which Member States may modify or establish a new terminal charging zone during a reference period. ➲

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 fulfil those requirements, the unit rate shall be reviewed accordingly by the ➲ Member State concerned, and amended as appropriate. ➲ ➲ […] ➲

➲ […] ➲

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 ➲ en-route ➲ charge for ➲ […] ➲ air navigation services 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 ➲ terminal ➲ charge for ➲ […] ➲ air navigation services 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 ➲ […] ➲ terminal ➲ […] ➲ ➲ charge ➲ , the approach and departure of a flight shall count as a single flight. ➲ […] ➲

4. Exemption of certain airspace users ➲ or flights ➲ from air navigation charges, especially ➲ those using or operated with ➲ 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 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) and in the Commission's communication on the European Green Deal, taking into consideration competitiveness aspects, existing incentive schemes 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 ➲ , by means of implementing acts adopted in accordance with the examination procedure referred to in Article 37(3), ➲ adopt detailed requirements and procedures in respect of Articles 19, 20, 21 and 22 in particular regarding the cost bases and determined costs, the setting of unit rates, ➲ […] ➲ and risk sharing mechanisms and the modulation of charges. ➲ […] ➲

➓ 1070/2009 Art. 2.9

~~(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 theMember 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. 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 Member States, ➲ in particular the national supervisory authorities ➲ ➲ […] ➲ . The Commission shall act in consultation with the ➲ […] ➲ PRB ➲ , where a PRB has been designated in accordance with Article 9b, ➲ and with national supervisory authorities.

2. ➲ […] ➲ ➲ Where the ➲ Commission, ➲ […] ➲ ➲ has indications of ➲ non-compliance ➲ […] ➲ ➲ with the provisions ➲ referred to in paragraph 1 ➲ […] ➲ ➲ , ➲ it ➲ […] ➲ may initiate an investigation ➲ […] ➲ . It shall conclude the investigation within four months ➲ […] ➲ , after having heard the Member State, ➲ and ➲ the national supervisory authority concerned ➲ […] ➲ .

➲3. ➲ Without prejudice to Article 41(1), the ➲ […] ➲ ➲ Commission ➲ shall share the results of the investigation with the Member ➲ State ➲ ➲ […] ➲ ➲ and, where appropriate, ➲ the air traffic service ➲ […] ➲ ➲ provider ➲ 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 States ➲ […] ➲ ➲ . It ➲ shall notify this opinion to the Member State ➲ […] ➲ concerned.

🡻 550/2004 (adapted)
⇨ new

Article 25~~12~~

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,~~ A~~a~~ir 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 supervisory 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 ➳ supervisory authorities ➲ of other Member States ➳ .

🡻 1070/2009 Art. 2.7 (adapted)
⇨ new

3. ~~When providing a bundle of services,~~ A~~a~~ir 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 ➲ […] ➳ ➲ CIS ➳ ;

(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 supervisory authority or an entity independent of the air navigation service provider concerned and approved by the national supervisory 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 standards[31] 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;~~

[31] ~~OJ L 243, 11.9.2002, p. 1.~~

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

~~(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 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.~~

➔ 1070/2009 Art. 3.6 (adapted)
⇨ new
➲ Council

CHAPTER IV

⌦ NETWORK MANAGEMENT ⌫

Article 26~~6~~

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 ➲ and profiles ➲ , while allowing ➲ […] ➲ ➲ fair and reasonable ➲ access to airspace and air navigation services ➲ and minimizing congestion ➲ . Those network functions ⇨ , enumerated in paragraph ➲ […] ➲ 2 ➲ […] ➲ , ⇦ shall ⇨ support ➲ seamless access to air navigation services by airspace users as well as ➲ the achievement of the ➲ […] ➲ performance targets ➲ while supporting initiatives at regional and local level ➲ and shall be based on operational requirements ➲ . They shall be without prejudice to Member States' sovereignty over their airspace and to their responsibilities relating to public order, public security and defence matters.

1a. Without prejudice in particular to Articles 44 and 46 of Regulation (EU) 2018/1139 and the delegated and implementing acts adopted on the basis thereof, 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 ➲ ⇦ ~~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~~ T~~t~~he ~~following~~ ⌦ network ⌫ functions ⌦ referred to in paragraph 1 ⌫ ➲ […] ➲ ➲ are ➲ the following ~~carried out~~:

➲ […] ➲ ;

➲ (a) design 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 ➲ ; ⇦

(c~~b~~) 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.

⇩ new
➲ Council

➲ […] ➲

➲ […] ➲ ➲ (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 ➲ […] ➲ .

➲ […] ➲

➲ 3. Member States and all relevant operational stakeholders shall execute network functions with the support of the Network Manager which shall execute the tasks specified in Article 27(4). ➲

🡻 1070/2009 Art. 3.6

➲ Council

4. The ➲ measures taken for the implementation of the ➲ functions listed in ~~the first this subparagraph~~ paragraphs 2 ➲ […] ➲ shall ➲ be of purely operational or technical nature and shall ➲ not involve the ➲ […] ➲ exercise of political discretion. ➲They shall take into account of the specificities of the Member States and of 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

➲ […] ➲

🡻 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. The Commission shall 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~~ ➲ […] ➲ ~~other~~ ➲ EUROCONTROL or another ➲ 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 detailed the specific tasks of the Network Manager in line with, and within the limits of, this Article and Articles 16 and 26 and the relevant implementing acts adopted on the basis of Articles 18 and 27(8). 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. ➲

➲ 4. The Network Manager ➲ ~~with the full~~ ⇨ shall ➲ execute ➲ ➲ […] ➲ ➲ following tasks in support of the network functions referred to in Article 26(2) ➲

❍ Council ➲ Council

(a) support 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 approved 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;

(da) preparation of the NSP and establishment of the NOP;

(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 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. ➲ […] ➲

⇩ new

➲ Council

4 ➲a. ➲ 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 ➲ NOP ➲ ➲ […] ➲ .

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. ➲ All measures taken by the ➲ ➲ […] ➲ Network Manager ➲ in the execution of its tasks ➲ shall ➲ […] ➲ ➲ be taken ➲ through a cooperative decision-making process. 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.

7a. The cooperative decision-making process referred to in paragraph 7 shall be based on:

a) the appropriate and regular consultation of operational stakeholders, airport slot coordinators, Member States and, where relevant, the Agency and the Commission;

b) detailed working arrangements established by the Network Manager together with, in particular operational stakeholders and Member States, as well as processes for operations established by the Network Manager to address planning and operational aspects related to the execution of network functions.

The consultation referred to in point a) and the detailed working arrangements referred to in point b) shall take into account the specific features and requirements of each network function.

The cooperative decision-making process shall aim at consensus. Where Member States' sovereignty over their airspace is concerned, the consent of the Member State(s) concerned is required.

When measures related to the execution of the Network Manager's tasks are disputed by one or several operational stakeholder(s), the issue shall be referred for resolution to the Network Management Board.

7b. A Network Management Board shall be established by means of the implementing acts referred to in paragraph 8 in view of ensuring appropriate governance over the execution of the Network functions.

The Network Management Board shall be responsible for approving or endorsing measures taken or proposed by the Network Manager in the conditions set out in the implementing act referred to in paragraph 8, for approving the specifications for the consultation and the detailed working arrangements referred to in paragraph 7a, a) and b), for approving the NOP and endorsing the NSP before it is approved by the Commission together with Member States, for monitoring the implementation of network functions and for providing opinions or recommendations on specific issues.

The Network Management Board shall be composed of representatives of the operational stakeholders, of slot coordinators, of representatives of the Commission, of representatives of the Network Manager and of representatives of Eurocontrol.

7c. Member States shall be fully involved in decisions of strategic importance ➲.

➲ […] ➲

🡻 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

➲ Council

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 ➲ […] ➲ ➲ implementation of Article 26 and this Article, in particular for the execution of the network functions, including on crisis management; on the appointment of the Network Manager, the terms and conditions of such appointment and on the detailed tasks of the Network Manager in relation to the network functions; on the composition, the functioning, the decision-making and the detailed tasks of the Network Management Board including in relation with crisis management; on the cooperative decision-making process; the criteria and factors that the Network Manager and the Network Management Board must follow when exercising the tasks conferred on them and on the network ➲ governance mechanisms ➲ […] ➲.

🡻 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

➲ […] ➲

🡻 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

1. The ➲ financial accounts of the ➲ Network Manager shall ➲ […] ➲ ➲ be drawn ➲ up, ➲ […] ➲ ➲ and published 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 ➲ and regularly undergo an independent audit.

🡻 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

➲ […] ➲

🡻 1070/2009 Art. 2.6 (adapted)
➲ Council

Article 30~~11~~

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.~~

~~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

➲ [...] ➲

🡻 551/2004 (adapted)

CHAPTER ~~II~~ V

AIRSPACE ~~ARCHITECTURE~~ ⌦ , INTEROPERABILITY AND TECHNOLOGICAL INNOVATION ⌫

🡻 1070/2009 Art. 3.2

~~*Article 3*~~

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

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

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

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

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

🡻 1070/2009 Art. 3.3
⇨ new
➲ Council

Article 32~~3a~~

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 ➳ , 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. ⇦

➲ *Article 32a*

Rules of the air and airspace classification

The Commission shall, in accordance with the examination procedure referred to in Article 37(3):

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

b) adopt appropriate provisions to ensure uniform implementation of the ICAO airspace classification with appropriate adaptation, with a view to ensure the seamless provision of safe and efficient air traffic services within the Single European sky. ➲

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

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

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

🡻 1070/2009 Art. 3.4

~~*Article 4*~~

~~**Rules of the air and airspace classification**~~

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

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

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

↓ 551/2004 (adapted)

~~CHAPTER III~~

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

↓ 551/2004 (adapted)
⇨ new
➲ Council

Article 33~~7~~

Flexible use of airspace

1. Taking into account ➲ the characteristics and nature of military activity in each Member State as well as ➳ 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 ➲ […] ➳ ➲ in ➳ the ➲ light of the ➳ reports submitted by Member States, ➲ […] ➳ ➲ uniform conditions for ➳ the application of the concept of the flexible use of airspace within the single European sky ➲ are needed ➳ , ⌦ the Commission shall ➲ […] ➳ ⌫ ~~implementing rules~~ ➲ , ➳ within the ➲ […] ➳ ➲ limits ➳ of the common transport policy ➲ and without prejudice to Member States' responsibilities over their airspace, adopt ➳ ➲ […] ➳ ⌦ ➲ […] ➳ implementing acts ⌫ ➲ […] ➳ in accordance with the ⌦ examination ⌫ procedure ~~under~~ ⌦ 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. ➲

⇩ 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 a 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).

🡻 551/2004

~~*Article 8*~~

~~**Temporary suspension**~~

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

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

CHAPTER ~~IV~~ VI

FINAL PROVISIONS

🡻 1070/2009 Art. 2.11

~~*Article 17*~~

~~Revision of Annexes~~

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

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

⇩ new

➲ Council

➲ […] ➲

➲ […] ➲

➲ […] ➲

➲ […] ➲

➲ […] ➲

➲ […] ➲

➲ […] ➲

🡻 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. ⇦

➲ […] ➲

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

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

➲ 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. ➲

🡻 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~~10~~

⌦ **Consultation of stakeholders** ⌫

⇩ new

➲ Council

1. Member States, national supervisory 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 ➲ […] ➲ ⇦. 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 operational and non-operational 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,~~

➲ […] ➲

(f) ⌦ the ⌫ manufacturing industry; ~~and,~~

(g) professional staff representative bodies;

⇩ new

➲ Council

➲ […] ➲ ➲ (h) national authorities, including competent national military authorities;

(i) airport slot coordinators.

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

🡻 1070/2009 Art. 1.5 (adapted)
➲ Council

~~*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.~~

➲ *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 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. ➲

Article 39~~7~~

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 ~~s~~Single European ~~s~~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 particular 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 with third countries, 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 Regulation ➲ […] ➲ ➲ , including from EUROCONTROL in the framework of the Agreement between the Union and EUROCONTROL providing a general framework for enhanced cooperation. ➲

🡻 1070/2009 Art. 2.1

~~Article 4~~

~~**Safety requirements**~~

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

🡻 550/2004 (adapted)

~~CHAPTER IV~~

~~FINAL PROVISIONS~~

🡻 1070/2009 Art. 2.11 (adapted)
⇨ new
➲ Council

Article 41~~18~~

Confidentiality

1. Neither the national supervisory authorities, acting in accordance with their national legislation, ➲ nor the national competent authorities, ➲ 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 supervisory authorities ~~or~~ ➲ […] ➲ ➲ and ➲ the Commission ⇨ ➲ […] ➲ ⇦ where this is essential for the fulfilment of their duties ➲ […] ➲ ➲ . In that ➲ 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 ➲ […] ➲ ➲ made accessible ➲ pursuant to ➲ […] ➲ ⇨ ➲ […] ➲ ➲ Articles 13(3b), 13a(6), 13b(2), 25(3) and 25(4) or reported pursuant to ➲ Articles 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. ➲

➓ 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.

➓ 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 to 8 years after its entry into force. ➲ When justified for this purpose, the Commission may request from the Member States ➲ , including military authorities, ➲ 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)

Article 44~~*13*~~

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:

(a) 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;

(b) in the event of serious internal disturbances affecting the maintenance of law and order;

(c) in the event of war or serious international tension constituting a threat of war;

(d) for the fulfilment of a Member State's international obligations in relation to the maintenance of peace and international security;

(e) 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 Agency[32], 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.~~

[32] ~~OJ L 79, 19.3.2008, p. 1.~~

🡻
➲ Council

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)

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*.

~~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 ➲) 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) ➲ […] ➲ becomes applicable.

➲ Article 42 shall apply from *[OP please insert the date of entry into force of this Regulation]*. Measures adopted by Member States pursuant to that Article shall apply from:

- *[OP please insert the date - 72 months after the entry into force of this Regulation]* with respect to infringements of Article 3(3) and Article 25(3);

- from one year after the adoption of this Regulation with respect to infringements to Articles 10 to 24. ➲

➔ 550/2004

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

↓ 550/2004

→1 1070/2009 Art. 2.13(a)

→2 1070/2009 Art. 2.13(b)

~~ANNEX I~~

→1 ~~REQUIREMENTS FOR QUALIFIED ENTITIES~~ ←

→2 ~~The qualified entities must:~~ ←

- ~~be able to document extensive experience in assessing public and private entities in the air transport sectors, in particular air navigation service providers, and in other similar sectors in one or more of the fields covered by this Regulation,~~

- ~~have comprehensive rules and regulations for the periodic survey of the abovementioned entities, published and continually upgraded and improved through research and development programmes,~~

↓ 1070/2009 Art. 2.13(b)

- ~~not be controlled by air navigation service providers, by airport management authorities or by others engaged commercially in the provision of air navigation services or in air transport services,~~

- ~~be established with significant technical, managerial, support and research staff commensurate with the tasks to be carried out,~~

↓ 552/2004

~~6. The body must take out liability insurance unless its liability is assumed by the Member State in accordance with national law, or the Member State itself is directly responsible for the inspections.~~

~~7. The staff of the body must observe professional secrecy with regard to all information acquired in carrying out their tasks under this Regulation.~~

↓ 1070/2009 Art. 2.13(b)

- ~~be managed and administered in such a way as to ensure the confidentiality of information required by the administration,;~~

- ~~be prepared to provide relevant information to the national supervisory authority concerned,;~~

- ~~have defined and documented its policy and objectives for and commitment to quality and have ensured that this policy is understood, implemented and maintained at all levels in the organisation,;~~

- ~~have developed, implemented and maintained an effective internal quality system based on appropriate parts of internationally recognised quality standards and in compliance with EN 45004 (inspection bodies) and with EN 29001, as interpreted by the IACS Quality System Certification Scheme Requirements,;~~

- ~~be subject to certification of its quality system by an independent body of auditors recognised by the authorities of the Member State in which it is located.;~~

➔ 550/2004
➲ Council

ANNEX I~~II~~

➲ […] ➲

↑

ANNEX II

Repealed Regulations with the amendment thereto

Regulation (EC) No 549/2004 of the European Parliament and of the Council (OJ L 96, 31.3.2004, p. 1)	
Regulation (EC) No 550/2004 of the European Parliament and of the Council (OJ L 96, 31.3.2004, p. 10)	
Regulation (EC) No 551/2004 of the European Parliament and of the Council (OJ L 96, 31.3.2004, p. 20)	
Regulation (EC) No 1070/2009 of the European Parliament and of the Council (OJ L 300, 14.11.2009, p. 34)	Only Articles 1, 2 and 3

↑

ANNEX III

CORRELATION TABLE

Regulation 549/2004	Regulation 550/2004	Regulation 551/2004	This Regulation
Article 1(1) to (3)			Article 1(1) to (3)
Article 1(4)			-
-			Article 1(4)
Article 2, point 1(a) and (b)			Article 2, point 5(a) and (b)
Article 2, point 2			Article 2, point 1
Article 2, point 3			Article 2, point 2
-			Article 2, point 2a
Article 2, point 4			Article 2, point 4
-			Article 2, point 6
Article 2, point 5			Article 2, point 3
Article 2, point 6			Article 2, point 11
Article 2, point 7			Article 2, point 12
-			Article 2, point 13
Article 2, point 8			Article 2, point 14
Article 2, point 9			Article 2, point 8
Article 2, point 10			Article 2, point 9

Article 2, point 11			Article 2, point 10
Article 2, point 12			Article 2, point 17
-			Article 2, points 18 to 20
Article 2, point 13			Article 2, point 16
Article 2, point 13a			Article 2, point 33
Article 2, point 14			-
-			Article 2, point 21
-			Article 2, point 22
Article 2, point 16			Article 2, point 23
Article 2, point 17			Article 2, point 32
Article 2, point 18			-
Article 2, point 19			Article 2, point 24
-			Article 2, points 25 and 26
Article 2, point 20			Article 2, point 31
Article 2, point 22			Article 2, point 34
Article 2, point 23			-
Article 2, point 23a			Article 2, point 35
-			Article 2, points 35b and 35c
Article 2, point 23b			Article 2, point 15
Article 2, points 24 and 25			-

Article 2, point 26			Article 2, point 36
Article 2, point 27			-
Article 2, point 28			Article 2, point 37
Article 2, point 29			Article 2, point 38
-			Article 2, points 39 and 40
Article 2, point 30			Article 2, point 41
-			Article 2, points 42 and 43
-			Article 2, points 43a to 43c
Article 2, point 31			Article 2, point 44
-			Article 2, point 44a
-			Article 2, point 45
Article 2, point 32			-
Article 2, point 33			Article 2, point 46
Article 2, point 34			Article 2, point 47
-			Article 2, points 48 to 52
Article 2, points 35 and 36			-
Article 2, point 38			Article 2, point 53
Article 2, point 39			Article 2, point 54

-			Article 2, point 56
Article 2, point 40			Article 2, point 57
Article 2, point 41			Article 2, point 27
-			Article 2, points 28 to 30
			Article 2a
Article 3			-
Article 4(1)			Article 3(1)
Article 4(2)			Article 3(3)
-			Article 3(4)
Article 4(3)			Article 3(2)
Article 4(4)			
-			
Article 4(5)			Article 3(9)
-			Articles 4 to 9
Article 5(1)			Article 37(1)
Article 5(2)			
Article 5(3)			Article 37(3)
-			Article 37(4)
Article 5(4) and (5) and Article 6			-

Article 7			Article 39
Article 8(1)			Article 40
Article 8(2)			-
-			Article 41
Article 9			Article 42
Article 10(1)			Article 38(1)
Article 10(2)			Article 38(2)
Article 10(3)			Article 38(3)
-			Article 38a
Article 11(1) first sentence, and Article 11(3) point (d) first and third sentences			Article 10(1)
Article 11(1), points (a) to (c)			Article 10(2)
Article 11(2)			-
Article 11(3), point (a)			Article 11
Article 11(3), points (b) and (c)			Articles 13(1), (3), (3ª) and (3b)
-			13(1a) (1b)
11(3)b			13(2)

Article 11(3), point (c) first sub-paragraph			13(5)
Article 11(3), point (c) first sub-paragraph			Article 13a(1)
-			13a(2)
Article 11(3), point a			13a(3)
Article 11(3), point (c), sub-paragraphs 2-4			Article 13a(4) and (5)
-			13a(6)
Article 11(3), point (d) second sentence			Article 13b(2)
-			Article 13b(1) and (2a)
Article 11(3), point (e)			Articles 13b(3)
-			Articles 16 and 17
Article 11(4), point (a)			Article 10(3), point (a)
-			Article 10(3), points (b) to (d)
Article 11(4), point (b) and (c)			-
Article 11(4), point (d)			Article 10(3), point (e)

Article 11(4), point (e)			Article 10(3), point (f)
-			Article 10(3), points
			(g) to (k)
Article 11(4) second subparagraph			Article 18
Article 11(5)			-
Article 11(6)			Article 18
-			Articles 19 to 35
Article 12(1) and 12(2) up to “in Article 3,”			Article 43(1)
Article 12(2), part of the first sentence starting with “and shall firstly report to the European Parliament”			Article 43(2)
Article 12(3) and (4)			-
Article 13			Article 44
-			Article 45
Article 13a			-
Article 14			Article 46
	Article 1		Article 1(1)
	-		Article 1(2) to (4)
	-		Articles 2 and 3

	Article 2(1)		Article 4(1)
	-		
	Article 2(2)		Article 4(3)
	-		Article 5(1)
	Article 2(3)		Article 5(3)
	Article 2(4)		Article 5(2)
	Article 2(5)		Article 5(4)
	Article 2(6)		Article 5(5)
	-		Article 5(5a)
	Articles 3 to 6		-
	Article 7		Article 7 (1a), point (a)
	Article 7(2)		Article 7(1a), point (c)
	Article 7(3) first sentence		-
	Article 7(3) second and third sentences		-
	Article 7(4)		
			Article 6(2a) and (3)
	Article 7(5) and (6)		-
	Article 7(7)		Article 6(1) second subparagraph, and Article 6(4) and (5)

	Article 7(8) and (9)		-
	-		Article 6(6)
	Article 8(1)		Article 7(1))
	-		Article 7(1) point (b) and 7(1) second subparagraph, point (c) and (d)
	Article 8(2)		Article 7(2)
			Article 7(2), last sentence
	Article 8(3)		Article 7(3)
	Article 8(4) and (5)		-
	Article 8(6)		Article 7(4)
	Article 9		Article 7a
	Article 9a		Article 2a
	Articles 9b		-
	Article 10		Article 7b
	-		Articles 9b to 18
	Article 11		Article 30
	Article 12(1)		Article 25(1)
	Article 12(2)		Article 25(1)
	Article 12(3)		Article 25(3)
	-		Article 25(4)

	Article 12(4)		Article 25(2)
	-		Articles 26 to 28
	Article 12(5)		-
	Article 13(1)		Article 9a (1)
	-		
	Article 13(2)		Article 9a (3)
	Article 13(3)		Article 9a (4)
	-		Articles 32a to 34
	Article 14		Article 19(1)
	Article 15(1)		Article 19(2)
	Article 15(3) point f)		Article 19(3)
	-		Article 19(5)
	Article 15(2) point (a)		Article 20(1) and (2)
	Article 15(2) point (b) first sentence		Article 20(2)
	Article 15(2) point (b) second sentence		Article 20(3)
	Article 15(2) point (b) third sentence		Article 20(4)
	Article 15(2) point (c)		-

	Article 15(2) point (d)		Article 20(6)
	Article 15(2) point (e)		Article 20(5)
	Article 15(2) point (f)		Articles 19(6) and 23
	Article 15(3) point (a)		Article 22(1)
	-		Article 22(2), (3) and (5a)
	Article 15(3) point (b)		Article 22(4)
	Article 15(3) point (c)		Article 21(1)
	-		Article 21(1a) and (2)
	Article 15(3) point (d)		Article 19(2)
	Article 15(3) point (e)		Articles 20(2) and 22(1)
	Article 15(3) point (f)		Article 22(5)
	Article 15(4)		Article 23
	Article 15a(1) and (3) first sentence		Article 35(1) and (4)
	Article 15a(2)		Article 35(2) and (4)
	Article 15a(3) second to fourth sentences		Article 35(3)
	-		Articles 37 to 40

	Article 15a(3) fifth sentence		-
	Article 16(1)		Article 24(1)
	Article 16(2)		Article 24(2) and (3)
	Article 16(3)		Article 24(3)
	Article 17		-
	Article 18(1)		Article 41(1)
	Article 18(2)		Article 41(2)
	Article 18(3)		Article 41(3)
	-		Articles 42 to 45
	Article 19		Article 46
	Annex I		-
	Annex II		-
		Article 1(1)	Article 1(1)
		Article 1(2)	Article 1(1)
		-	Article 1(2) and (3)
		Article 1(3)	Article 1(4)
		-	Article 1(5) and (6), and Articles 2 to 25
		Articles 1(4) and 3	-
		Article 3a	Article 32
		Articles 4 and 5	-

		Article 6(1)	Article 26(1)
			Article 26 (1a)
		Article 6(2), first subparagraph	Article 26(2)
		-	Article 26(3)
		Article 6(2), second subparagraph	Article 26(4)
		-	Article 27(1)
		Article 6(2), third subparagraph, first sentence	Article 27(2)
		Article 6(2), third subparagraph, second and third sentences	Article 27(3)
		-	Article 27(4) to (7c)
		Article 6(3)	-
		Article 6(4)	Article 27(8)
		Article 6(5)	Article 26(1a)
		Article 6(6)	Article 26(2) point

			(b)
		Article 6(7) to (9)	Article 27(8)
		-	Articles 28 and 30
		Article 7(1)	Article 33(1)
		Article 7(2)	Article 33(2)
		Article 7(3)	Article 33(3)
			Article 33(4)
		-	Articles 34 to 45
		Articles 8 and 10	-
		Article 11	Article 46

ANNEX II

2020/0264 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) 2018/1139 as regards the requirements applicable to air traffic management and air navigation services

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) […]

(2) […]

(3) […]

(4) […]

(5) […]

(6) […]

(7) […]

(8) […]

(9) […]

(10) […]

(11) […]

(12) […]

(13) […]

(14) […]

(15) […]

(16) […]

(17) […]

(18) […]

(19) […]

(20) […]

(20a) In order to optimise the application of the rules regarding the Single European Sky, Regulations (EC) 549/2004[1], 550/2004[2] and 551/2004[3] have been replaced and repealed by [Amended SES2+]. It is therefore appropriate to update the references made in Regulation (EU) 2018/1139[4] to those three Regulations.

(20b) It is also appropriate to integrate in Regulation (EU) 2018/1139 the requirements linked to certification of air navigation service providers that were previously laid down in Regulation 550/2004 to allow for a simplified regulatory framework for certification and a single certification process. In particular, it is appropriate to provide that, in order to be certified, providers of air traffic management and air navigation services (ATM/ANS) should demonstrate sufficient financial robustness and obtain appropriate liability and insurance cover, comply with applicable requirements on ownership and organisational structure and manage security risks. The conditions that may be applied to the certificates issued should also be specified.

(20c) Moreover, essential requirements applicable to ATM/ANS and air traffic controllers should be supplemented with respect to requirements applicable to air traffic data services.

(21) Regulation (EU) 2018/1139 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

---

1 Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) (OJ L 96, 31.3.2004, p. 1).

2 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) (OJ L 96, 31.3.2004, p. 10).

3 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) (OJ L 96, 31.3.2004, p. 20).

4 Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1)

Article 1

Regulation (EU) 2018/1139 is amended as follows:

(a1) Article 2[5] is amended as follows:

(a) Subparagraph (h) of paragraph 1 is replaced by the following:

‘without prejudice to Regulation [Amended SES2+] of the European Parliament and of the Council and the responsibilities of Member States with regard to airspace under their jurisdiction, the design of airspace structures in the Single European Sky airspace.’

(b) paragraph 5 is replaced by the following:

‘5. Without prejudice to national security and defence requirements, and Article [1(2)] of [Amended SES2+], Member States shall ensure that:

(a) the facilities referred to in point (b) of the first subparagraph of paragraph 3 of this Article that are open to public use; and

(b) the ATM/ANS referred to in point (c) of the first subparagraph of paragraph 3 of this Article that are provided to air traffic to which Regulation [Amended SES2+] applies,

offer a level of safety and interoperability with civil systems that is as effective as that resulting from the application of the essential requirements set out in Annexes VII and VIII to this Regulation.'

[5] Changes to this Article are meant to update references contained in Regulation 2018/1139.

(1) In Article 3, point 5, 33 and 34 are replaced by the following:

'(5) 'ATM/ANS' means air traffic management as defined in point (9) of Article 2 of [Amended SES2+] and air navigation services as defined in point (4) of Article 2 of that Regulation, as well as the network functions referred to in Article 26 of that Regulation and services consisting in the origination and processing of data and in the formatting and delivering of data to general air traffic for the purpose of air navigation;'

(33) 'Single European Sky airspace' means airspace above the territory to which the Treaties apply, as well as any other airspace where Member States apply Regulation [Amended SES2+] in accordance with Article 1(4) of that Regulation[6];

(34)'national competent authority' means one or more entities designated by a Member State and having the necessary powers and allocated responsibilities for performing the tasks related to certification, oversight and enforcement in accordance with this Regulation and with the delegated and implementing acts adopted on the basis thereof;

(1a) Paragraph 1 of Article 40 is replaced by the following:

'1. The provision of ATM/ANS referred to in point (g) of Article 2(1) shall comply with the essential requirements set out in Annex VIII and, if applicable, Annex VII. Providers of ATM/ANS shall also:

a) In view of ensuring a safe and continuous service provision, demonstrate sufficient financial robustness and have obtained appropriate liability and insurance cover, taking into account their legal status and the level of commercial insurance cover available;
b) Comply with applicable requirements on ownership and organisational structure in view of preventing of conflicts of interest to ensure a non-discriminatory service provision; and
c) Manage security risks.'

[6] Changes to this provision are meant to update references contained in Regulation 2018/1139.

(1b) Article 41 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. The certificate referred to in paragraph 1 of this Article shall be issued upon application, when the applicant has demonstrated that it complies with the implementing acts referred to in Article 43 adopted to ensure compliance with the essential requirements referred to in Article 40(1), first subparagraph as well as the requirements referred to in Article 40(1), second subparagraph, a), b) and c).’

(b) The following paragraph 3a is added:

‘3a The certificate referred to in paragraph 1 of this Article may be subject to objectively justified, non-discriminatory, proportionate and transparent conditions. These conditions may, as appropriate, be related to:

(a) ring-fencing or restriction of operations of services other than those related to the provision of air navigations services;

(b) contracts, agreements or other arrangements between the service provider and a third party and which concern the service(s);

(c) the provision of information reasonably required for the verification of the requirements of the certificate in Article 41, and

(d) any other legal conditions which are not specific to air navigation services, such as conditions relating to the suspension or revocation of the certificate.’

(c) paragraph 4 is amended as follows:

‘4. The certificate referred to in paragraph 1 of this Article may be limited, suspended or revoked when the holder no longer complies with the essential requirements referred to in Article 40(1), first subparagraph or the requirements referred to in Article 40(1), second subparagraph, a), b) and c) and with the rules and procedures for issuing and maintaining such certificate, in accordance with implementing acts referred to in point (b) of the first subparagraph of Article 43(1).’

(d)paragraph 5 is amended as follows

‘5. By way of derogation from paragraph 1 of this Article, in accordance with the implementing acts referred to in Article 43, Member States may decide that providers of flight information services are to be allowed to declare their capability, and the availability to them of the means, to discharge the responsibilities associated with the services provided in compliance with the essential requirements referred to in Article 40(1), first subparagraph and the requirements referred to in Article 40(1), second subparagraph, a), b) and c). In that case, the Member State concerned shall inform the Commission, the Agency and the other Member States of its decision.’

(1c) Article 43 is replaced by the following:

1. In order to ensure the uniform implementation of and compliance with the essential requirements referred to in Article 40(1), first subparagraph and the requirements referred to in Article 40(1), second subparagraph, a), b) and c) for the provision of ATM/ANS referred to in point (g) of Article 2(1), the Commission shall, on the basis of the principles set out in Article 4 and with a view to achieving the objectives set out in Article 1, adopt implementing acts laying down detailed provisions concerning:

(a) the specific rules and procedures for the provision of ATM/ANS in compliance with the essential requirements referred to in Article 40(1), first subparagraph and the requirements referred to in Article 40(1), second subparagraph, a), b) and c), including the establishment and implementation of the contingency plan in accordance with point 5.1(f) of Annex VIII;

(b) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in Article 41(1);

(bb) the conditions referred to in Article 41(3a);

(c) the rules and procedures for the declaration by providers of flight information services referred to in Article 41(5), and for the situations in which such declarations are to be permitted;

(d) the rules and procedures for issuing, maintaining, amending, limiting, suspending or revoking the certificates referred to in point (b) of Article 42(1), and for the situations in which such certificates are to be required;

(e) the rules and procedures for the declaration by organisations referred to in point (a) of Article 42(1), and for the situations in which such declarations are to be required;

(f) the privileges and responsibilities of the holders of certificates referred to in Article 41(1) and point (b) of 42(1) and of organisations making declarations in accordance with Article 41(5) and point (a) of Article 42(1).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 127(3).

2. The rules referred to in paragraph 1 shall take due account of the ATM Master Plan.

3. When adopting those implementing acts, the Commission shall ensure compliance with the essential requirements referred to in Article 40(1), first subparagraph and the requirements referred to in Article 40(1), second subparagraph, a), b) and c) of this Regulation and shall take due account of the international standards and recommended practices, in particular those set out in Annexes 2 to 4, 10, 11 and 15 to the Chicago Convention.

(2) Article 93 is replaced by the following[7]:

'*Article 93*

Implementation of Single European Sky

The Agency shall, where it has the relevant expertise and upon request, provide technical assistance to the Commission, in the implementation of the Single European Sky,-in particular by:

(a) conducting technical inspections, technical investigations, and studies;

(b) contributing in matters covered by this Regulation, in cooperation with the Performance Review Body (PRB) referred to in Article [9b] of [Amended SES2+], to the implementation of a performance scheme for air navigation services and network functions;

(c) contributing to the implementation of the ATM Master Plan, including the development and deployment of the SESAR programme.';

[7] Changes to this Article are meant to update references contained in Regulation 2018/1139.

(3) […]

(4) […]

(5) […]

(6) […]

(7) […]

(8) […]

(9) […]

(10) […]

(11) […]

(12) […]

(13) […]

(14) […]

(15) […]

(16) […]

(17) […]

(18) […]

(19) […]

(20) […]

(21) Annex VIII is amended as follows,

(a) the following point 2.3a is inserted:

‘2.3a. Air traffic data services

2.3a.1. The air traffic data collected shall be of sufficient quality, complete, current, from a legitimate source and provided in a timely manner.

2.3a.2. The air traffic data services shall achieve and maintain sufficient performance with regard to their availability, integrity, continuity and timeliness to meet the user’s needs.

2.3a.3 The systems and tools providing air traffic data services shall be properly designed, produced and maintained to ensure that they are fit for their intended purpose.

2.3a.4. The dissemination of such data shall be timely and use sufficiently reliable and expeditious means of communication protected from intentional and unintentional interference and corruption.’

(b) point 2.8 is replaced by the following[8]:

‘2.8. Airspace management

The designation of specific volumes of airspace for a certain use shall be monitored, coordinated and promulgated in a timely manner in order to reduce the risk of loss of separation between aircraft in all circumstances. Taking into account the organisation of military activities and related aspects under the responsibility of the Member States, airspace management shall also support the uniform application of the concept of the flexible use of airspace as described by the ICAO and as implemented under Regulation [Amended SES2+], in order to facilitate airspace management and air traffic management in the context of the common transport policy.’.

[8] Changes to this point in the Annex are meant to update references contained in Regulation 2018/1139.

Article 2

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

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*