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P7_TA(2014)0220

Implementation of the Single European Sky ***I

European Parliament legislative resolution of 12 March 2014 on the proposal for a regulation of the European Parliament and of the Council on the implementation of the Single European Sky (recast) (COM(2013)0410 — C7-0171/2013 — 2013/0186(COD))

(Ordinary legislative procedure — recast)

(2017/C 378/60)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0410),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0171/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Maltese House of Representatives, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of 11 December 2013 ⁽¹⁾,
 - after consulting the Committee of the Regions,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ⁽²⁾,
 - having regard to the letter of 28 November 2013 from the Committee on Legal Affairs to the Committee on Transport and Tourism in accordance with Rule 87(3) of its Rules of Procedure,
 - having regard to Rules 87 and 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A7-0095/2014),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;
1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

⁽¹⁾ Not yet published in the Official Journal.

⁽²⁾ OJ C 77, 28.3.2002, p. 1.

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P7_TC1-COD(2013)0186**Position of the European Parliament adopted at first reading on 12 March 2014 with a view to the adoption of Regulation (EU) No .../2014 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, 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 ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Regulation (EC) No 549/2004 of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) ⁽³⁾, 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) ⁽⁴⁾, 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) ⁽⁵⁾ and Regulation (EC) No 552/2004 of 10 March 2004 on the interoperability of the European air traffic management network (the interoperability Regulation) ⁽⁶⁾ have been substantially amended. Since further amendments are to be made, they should be recast in the interests of clarity.
- (2) ~~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. [Am. 1]~~
- (3) 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, Regulation (EC) No 550/2004, Regulation (EC) No 551/2004, and Regulation (EC) No 552/2004, 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, 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 Air Traffic Management system
- (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 Union, subject to applicable international conventions, exercise the powers of a public authority when controlling air traffic.

⁽¹⁾ Not yet published in the Official Journal.

⁽²⁾ Position of the European Parliament of 12 March 2014.

⁽³⁾ OJ L 96, 31.3.2004, p. 1.

⁽⁴⁾ OJ L 96, 31.3.2004, p. 10.

⁽⁵⁾ OJ L 96, 31.3.2004, p. 20.

⁽⁶⁾ OJ L 96, 31.3.2004, p. 26.

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- (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 capacity and facilitating the free movement of goods, persons and services.
- (5a) *In order to ensure that the expected increase in air traffic does not cause or exacerbate congestion in European airspace, with all the economic, environmental and security costs that that would entail, fragmentation of that airspace should be remedied and this Regulation should be implemented as swiftly as possible.* [Am. 2]
- (5b) *The implementation of the Single European Sky should have a positive impact in terms of growth, employment and competitiveness in Europe, in particular by increasing demand for jobs requiring advanced qualifications.* [Am. 3]
- (6) The simultaneous pursuit of the goals of augmentation of air traffic safety standards and improvement of the overall performance of ATM and ANS for general air traffic in Europe require that the human factor be taken into account. Therefore ~~the Member States should consider~~, *in addition to* the introduction of 'just culture' principles, *relevant performance indicators should be built into the performance scheme of the Single European Sky.* [Am. 4]
- (7) The Member States have adopted a general statement on military issues related to the Single European Sky⁽¹⁾. According to this 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 *in order to facilitate flexible use of airspace.* [Am. 5]
- (8) Decisions relating to the content, scope or carrying out of military operations and training do not fall within the sphere of competence of the Union under Article 100(2) of the Treaty on the Functioning of the European Union.
- (9) 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 necessary to ensure that a well-functioning common market exists for those services that can be provided under market conditions and minimum public-interest requirements are satisfied for those services that are considered natural monopolies under current technological conditions.
- (10) To ensure the consistent ~~and~~, sound *and independent* oversight of service provision across Europe, the national ~~supervisory aviation~~ authorities should be guaranteed sufficient ~~independence~~ *financial* and *human* resources. This independence should not prevent those authorities from exercising their tasks within an administrative framework. [Am. 6]
- (11) National ~~supervisory aviation~~ authorities have a key role to play in the implementation of the Single European Sky. *The Commission and the European Agency for Aviation (EAA) should therefore facilitate cooperation among them in order to enable the exchange of best practices and to develop a common approach, including through enhanced cooperation at regional level, by providing a platform for such exchanges.* This cooperation should take place on a regular basis. [Am. 7]
- (12) *For the implementation of the Single European Sky*, the social partners should be ~~better~~ informed and consulted on all measures having significant social implications. At Union level, the Sectoral Dialogue Committee set up under Commission Decision 98/500/EC⁽²⁾ should also be consulted. [Am. 8]
- (13) The provision of communication, navigation and surveillance services, as well as meteorological, *airspace design and aeronautical information services, should together with services formatting and delivering data to general air traffic, could* be organised under market conditions whilst taking into account the special features of such services ~~and maintaining~~, *ensuring* a high level of safety *and reducing climate impact.* [Am. 9]

⁽¹⁾ OJ L 96, 31.3.2004, p. 9.

⁽²⁾ OJ L 225, 12.8.1998, p. 27.

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- (14) There should be no discrimination between airspace users as to the provision of equivalent air navigation services.
- (15) The concept of common projects, aimed at assisting airspace users and/or air navigation service providers to improve collective air navigation infrastructure, the provision of air navigation services and the use of airspace, in particular those that may be required for the implementation of the ATM Master Plan as endorsed by Council Decision 2009/320/EC⁽¹⁾, in accordance with Article 1(2) of Council Regulation (EC) No 219/2007, should not prejudice pre-existing projects decided by one or several Member States with similar objectives. The provisions on financing of the deployment of common projects should not prejudice the manner in which these common projects are set up. The Commission may propose that funding, such as ~~Trans-European Network~~ **Connecting Europe Facility, Horizon 2020** or European Investment Bank funding, may be used in support of common projects, in particular to speed up the deployment of the SESAR programme, within the multiannual financial framework. Without prejudice to access to that funding, Member States should be free to decide how revenues generated by the auctioning of aviation sector allowances under the Emissions Trading Scheme are to be used and to consider in this context whether a share of such revenues might be used to finance common projects at the level of functional airspace blocks. **Where applicable, common projects should aim to enable a set of basic interoperable capabilities to exist in all Member States.** [Am. 10]
- (15a) **Unless specific mechanisms are put in place, air-based and ground-based investment projects relating to the ATM Master Plan may take place in an uncoordinated manner, which could delay the effective deployment of SESAR technologies.** [Am. 11]
- (16) The concept of a Network Manager entity is central to improving the performance of Air Traffic Management at network level, by centralising the provision of certain services, which are best performed at network level. In order to facilitate dealing with an aviation crisis, a coordination of **the measures to be adopted to prevent and respond to** such a crisis should be ensured by the Network Manager. **In this context, the Commission should be responsible for ensuring that no conflict of interest arises between the provision of centralised services and the role of the performance review body.** [Am. 12]
- (17) **The** Commission is convinced that the safe and efficient use of airspace can only be achieved through close cooperation between civil and military users of airspace, mainly based on the concept of flexible use of airspace and effective civil-military coordination as established by ICAO, it stresses the importance of enhancing civil military cooperation between civil and military users of airspace **with a view to facilitating flexible use of airspace.** [Am. 13]
- (18) Accuracy of information 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 **and should improve their predictability.** 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. [Am. 14]
- (19) The provision of modern, complete, high-quality and timely aeronautical information has a significant impact on safety and on facilitating access to Union airspace and freedom of movement within it. Taking account of the ATM Master Plan, the Union should take the initiative to modernise this sector in cooperation with the Network Manager 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.

⁽¹⁾ OJ L 95, 9.4.2009, p. 41.

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- (20) In order to take into account the changes introduced in Regulations (EC) No 1108/2009 and (EC) No 1070/2009, it is necessary, in accordance with Article 65a of 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 ⁽¹⁾, to align the content of this Regulation with that of Regulation (EC) No 216/2008.
- (21) Furthermore, the technical details of Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004 and (EC) No 552/2004, agreed in 2004 and 2009, should be brought up-to date as well as technical corrections made to take account of progress.
- (22) ~~The geographical scope of this Regulation over the ICAO NAT region should be amended to take account of the existing and planned service provision arrangements and the need to ensure consistency in application of rules to the air navigation service providers and airspace users operating in that area. [Am. 15]~~
- (23) In line with its roles as an operational organisation and the continuing reform of Eurocontrol, the function of the Network Manager should be further developed towards an industry-led partnership.
- (24) The concept of functional airspace blocks designed to improve the cooperation between air traffic service providers, is an important tool for improving the performance of the European ATM system. To ~~further enhance~~ **complement** this tool, ~~the functional airspace blocks should be made more performance focused, based on~~ **air navigation service providers should be freely able to enter into performance-based** industrial partnerships ~~and industry should be given more freedom to modify them in order to reach and, where possible exceed, the performance targets that may overlap with the established functional airspace blocks. [Am. 16]~~
- (25) The functional airspace blocks should operate in a flexible manner, bringing together service providers across Europe to capitalise on each other's strengths. This flexibility should allow for seeking synergies between providers regardless of their geographical location or nationality and allow for variable formats of service provision to emerge in the search for performance improvements.
- (26) To enhance the customer-focus of air navigation service providers and to increase the possibility of airspace users to influence decisions, which affect them, the consultation ~~and participation~~ of stakeholders in major operational decisions of the air navigation service providers should be made more effective. [Am. 17]
- (27) The performance scheme is a central tool for economic regulation of ATM and the quality and independence of its decisions should be maintained and where possible improved.
- (28) In order to take into account technical or operational developments, in particular by amending annexes, or by supplementing the provisions on network management ~~and performance scheme,~~ **performance scheme, selecting the entity responsible for implementation of the ATM Master Plan (deployment manager) and defining the responsibilities thereof,** the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. The content and scope of each delegation is set out in detail in the relevant Articles. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council. [Am. 18]
- (29) When adding to the list of network management services, the Commission should conduct a proper consultation of industry stakeholders **and social partners.** [Am. 19]
- (30) In order to ensure uniform conditions for the implementation of this Regulation, in particular with regard to the exercise of their powers by national ~~supervisory~~ **aviation** authorities, provision of support services on an exclusive basis by a service provider or groupings thereof, corrective measures to ensure compliance with the Union-wide and

⁽¹⁾ OJ L 79, 19.3.2008, p. 1.

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associated local performance targets, review of compliance in relation to the charging scheme, governance and adoption of common projects for network related functions, functional airspace blocks, modalities of participation of stakeholders in major operational decisions of the air navigation service providers, access to and protection of data, electronic aeronautical information and technological development and interoperability of air traffic management, 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 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 ⁽¹⁾. [Am. 20]

- (31) In accordance with Regulation (EU) No 182/2011, for the implementing acts adopted under this Regulation, the examination procedure should be used for the adoption of implementing acts of general.
- (32) The advisory procedure should be used for the adoption of implementing acts of individual scope.
- (33) The penalties provided for with respect to infringements of this Regulation should be effective, proportional and dissuasive, without reducing safety.
- (34) **Where relevant**, the procurement of support services should be carried out, as applicable, in accordance with Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts ⁽²⁾ and Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors ⁽³⁾. Account should also be taken of the guidelines set out in the Commission interpretative communication on the Community law applicable to contract awards not or not fully subject to the provisions of the Public Procurement Directives ⁽⁴⁾, as appropriate. [Am. 21]
- (35) ~~The Ministerial Statement on Gibraltar Airport, agreed in Córdoba on 18 September 2006 (the Ministerial Statement), during the first Ministerial meeting of the Forum of Dialogue on Gibraltar, will replace the Arrangements for closer 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 on the Airport made in London on 2 December 1987, and the full compliance with that Statement will be deemed to constitute compliance with the 1987 Declaration by the Ministers of Foreign Affairs of those two countries. The arrangements have not yet been applied.~~ [Am. 22]
- (36) ~~This Regulation applies in full to Gibraltar Airport in the context and by virtue of the Ministerial Statement. Without prejudice to the Ministerial Statement, the application to Gibraltar Airport and all the measures related to its implementation shall conform fully with that Statement and all the arrangements contained therein.~~ [Am. 23]
- (37) Since the objective of this Regulation, namely the implementation 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 Union level, the 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 objective,

⁽¹⁾ OJ L 55, 28.2.2011, p. 13.

⁽²⁾ OJ L 134, 30.4.2004, p. 114.

⁽³⁾ OJ L 134, 30.4.2004, p. 1

⁽⁴⁾ OJ C 179, 1.8.2006, p. 2.

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HAVE ADOPTED THIS REGULATION:

CHAPTER I GENERAL PROVISIONS

Article 1 Subject matter and scope

1. This Regulation lays down rules for the creation and proper functioning of the Single European Sky in order to ensure current air traffic safety standards, to contribute to the sustainable development of the air transport system, **such as reducing climate impact**, 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. The Single European Sky shall comprise a coherent pan-European **and, subject to specific arrangements with the neighbouring countries, third-country** network of routes, an integrated operating airspace, network management and air traffic management ~~systems~~ based only on safety, efficiency and interoperability, for the benefit of all airspace users. [Am. 24]
2. The application of this Regulation 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 38. This Regulation does not cover military operations and training.
3. The application of this Regulation 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, this Regulation seeks to assist, in the fields it covers, 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.
4. This Regulation shall apply to the airspace within the ICAO EUR and AFI ~~and NAT~~ regions where Member States are responsible for the provision of air traffic services in accordance with ~~the~~ this Regulation. Member States may also apply this Regulation to airspace under their responsibility within other ICAO regions, on condition that they inform the Commission and the other Member States thereof. [Am. 25]
5. 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~~ **controversy** over sovereignty over the territory in which the airport is situated. [Am. 26]

5a. The application of this Regulation to Gibraltar airport shall be suspended until the arrangements set out in the Joint Declaration made by the Foreign Ministers of the Kingdom of Spain and the United Kingdom on 2 December 1987 are applied. The Governments of Spain and the United Kingdom shall inform the Council of the date from which they will apply. [Am. 27]

Article 2 Definitions

For the purpose of this Regulation, the following definitions shall apply:

1. 'air traffic control (ATC) service' means a service provided for the purpose of:
 - (a) preventing collisions;
 - between aircraft, and

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— in the manoeuvring area between aircraft and obstructions; and

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

2. 'aerodrome control service' means an ATC service for aerodrome traffic;
3. 'aeronautical information service' means a service established within the defined area of coverage responsible for the provision of aeronautical information and data necessary for the safety, regularity, and efficiency of air navigation;
4. 'air navigation services' means air traffic services; communication, navigation and surveillance services; meteorological services for air navigation; and aeronautical information services;
5. 'air navigation service providers' means any public or private entity providing air navigation services for general air traffic;
6. 'airspace block' means an airspace of defined dimensions, in space and time, within which air navigation services are provided;
7. 'airspace management' means a planning service with the primary objective of maximising the utilisation of available airspace by dynamic time-sharing and, at times, the segregation of airspace among various categories of airspace users on the basis of short-term needs *and a strategic function associated with airspace design*; [Am. 28]
8. 'airspace users' means operators of aircraft operated as general air traffic;
9. 'air traffic flow management' means a service established with the objective of contributing to a safe, orderly and expeditious flow of air traffic 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;
10. 'air traffic management (ATM)' means the aggregation of the airborne and ground-based services (air traffic services, airspace management and air traffic flow management) required to ensure the safe and efficient movement of aircraft during all phases of operations;
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);
12. 'area control service' means an ATC service for controlled flights in a ~~block of airspace~~ **control area**; [Am. 29]
13. 'approach control service' means an ATC service for arriving or departing controlled flights;
14. 'ATM Master Plan' means the plan endorsed by Council Decision 2009/320/EC ⁽¹⁾, in accordance with Article 1(2) of Council Regulation (EC) No 219/2007 of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR) ⁽²⁾;

⁽¹⁾ OJ L 95, 9.4.2009, p. 41.

⁽²⁾ OJ L 64, 2.3.2007, p. 1.

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15. 'aviation crisis' means circumstances under which airspace capacity is abnormally reduced as a result of major adverse weather circumstances or the unavailability of large airspace parts ~~either through~~ **on account of** natural, **medical, security, military** or political reasons; [Am. 30]

16. 'bundle of services' means two or more ~~air navigation~~ services **provided by the same entity**; [Am. 31]

17. 'certificate' means a document issued by **the European Agency for Aviation (EAA) or by** a national ~~supervisory~~ **aviation** authority in any form complying with ~~national~~ **relevant** law, which confirms that an air navigation service provider meets the requirements for providing a specific ~~service~~ **activity**; [Am. 32]

18. 'communication services' means aeronautical fixed and mobile services to enable ground-to-ground, air-to-ground and air-to-air communications for ATC purposes;

- 18a. **'European air traffic management network' (EATMN) means a pan-European network of systems and constituents, as well as the roadmaps for the essential operational and technological changes described in the ATM Master Plan, making it possible to provide fully interoperable air navigation services in the Union, including the interfaces at the borders with third countries, with a view to attaining the performance objectives set by this Regulation; [Am. 33]**

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; [Am. 34]

- 19a. **'Deployment Manager' means a group of operational stakeholders selected by the Commission, through a call for proposals responsible for the management level of ATM Master Plan deployment governance; [Am. 35]**

20. 'declaration' means for purposes of ATM/ANS, any written statement:
 - on the conformity or suitability for use of systems and constituents issued by an organisation engaged in the design, manufacture and maintenance of ATM/ANS systems and constituents,

 - on the compliance with applicable requirements of a service or a system to be put into operation issued by a service provider,

 - on the capability and means of discharging the responsibilities associated with certain flight information services;

21. 'flexible use of airspace' means an airspace management concept 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 the European Organisation for the Safety of Air Navigation (Eurocontrol) ⁽¹⁾;

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

23. '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;

⁽¹⁾ Eurocontrol has been set up by the International Convention of 13 December 1960 relating to Cooperation for the Safety of Air Navigation, as modified by the protocol of 12 February 1981 and revised by the protocol of 27 June 1997.

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24. '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,~~ **through** enhanced cooperation among air navigation service providers or, where appropriate, an integrated provider; [Am. 36]
25. '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 movements are carried out in conformity with the procedures of the International Civil Aviation Organisation (ICAO), as established by the 1944 Chicago Convention on International Civil Aviation;
- 25a. 'human factor' means the social, cultural and staffing conditions in the ATM sector; [Am. 37]**
26. '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;
27. 'meteorological services' means those facilities and services that provide aircraft with meteorological forecasts, briefs and observations as well as any other meteorological information and data provided by States for aeronautical use;
28. 'navigation services' means those facilities and services that provide aircraft with positioning and timing information;
29. 'operational data' means information concerning all phases of flight that are required to take operational decisions by air navigation service providers, airspace users, airport operators and other actors involved;
30. 'putting into service' means the first operational use after the initial installation or an upgrade of a system;
31. 'route network' means a network of specified routes for channelling the flow of general air traffic as necessary for the **most efficient** provision of ATC services; [Am. 38]
32. 'surveillance services' means those facilities and services used to determine the respective positions of aircraft to allow safe separation;
33. 'system' means the aggregation of airborne and/or ground-based constituents, ~~as well as~~ **and/or** space-based equipment, that provides support for air navigation services for all phases of flight; [Am. 39]
34. 'upgrade' means any modification that changes the operational characteristics of a system;
35. 'cross-border services' means any situation where air navigation services are provided in one Member State by a service provider certified in another Member State;
36. "national ~~supervisory~~ **aviation** authority" means ~~the a national body or bodies entrusted by a Member State with the tasks of supervision in accordance with this Regulation and the national competent authorities entrusted and~~ **accredited by the EAA** with the tasks provided for in Article 8b of **this Regulation and in** Regulation (EC) No 216/2008; [Am. 40]

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37. "support services" means ~~air~~ **CNS (communication, navigation services other than air traffic and surveillance), MET (meteorological) and AIS (aeronautical information)** services as well as other services and activities, which are linked to, and support the provision of air navigation services; [Am. 41]
38. 'local performance targets' means performance targets set by the Member States at local level, namely functional airspace block, national, charging zone or airport level;
- 38a. **'industrial partnership' means cooperative arrangements under a contract set up for the purpose of improving air traffic management between various air navigation service providers, including the Network Manager, airspace users, airports or other comparable economic actors; [Am. 42]**
- 38b. **'integrated operational airspace' means the controlled airspace with defined dimensions encompassing the European and, subject to appropriate arrangements, neighbouring third countries' airspace where dynamic allocation structure and time-sharing, performance-enhanced controller resources, fully interoperable air navigation services and combined solutions are employed in order to address the optimal, predictable and safe use of the airspace for the accomplishment of the Single European Sky; [Am. 43]**
- 38c. **'local performance plans' means plans set by one or more national aviation authorities at local level, namely at the functional airspace block, regional or national level; [Am. 44]**
- 38d. **'qualified entity' means a body which may be assigned specific certification or oversight tasks by, and under the control and responsibility of, the Agency or a national aviation authority. [Am. 45]**

CHAPTER II NATIONAL AUTHORITIES

Article 3

National ~~supervisory~~ **aviation** authorities [Am. 46]

1. Member States shall, jointly or individually, either nominate or establish a body ~~or bodies~~ as their national ~~supervisory~~ **aviation** authority in order to assume the tasks assigned to such authority under this Regulation **and Regulation (EC) No 216/2008**. [Am. 47]
2. The national ~~supervisory~~ **aviation** authorities shall be legally distinct and independent in particular in organisational, hierarchical and decision-making terms, **including separate annual budget allocation**, from any ~~air navigation service providers or any private or public entity~~ **company, organisation, public or private entity or personnel falling within the scope of authority activity as provided for in this Regulation and in Article 1 of Regulation (EC) No 216/2008** or having an interest in the activities of such ~~providers~~ **entites**. [Am. 48]
3. Without prejudice to paragraph 2, the national ~~supervisory~~ **aviation** authorities may be joined in organisational terms with other regulatory bodies and/or safety authorities. [Am. 49]
4. The national ~~supervisory~~ **aviation** authorities ~~that are not legally distinct from any air navigation service providers or any private or public entity having an interest in the activities of such providers, as provided for in paragraph 2, shall ensure compliance with the provisions laid down in this Article on the date of entry into force of this Regulation shall meet this requirement by 1 January 2020 or at the latest by 1 January 2017.~~ [Am. 50]

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5. The national ~~supervisory~~ **aviation** authorities shall exercise their powers impartially, independently and transparently. In particular, they shall be organised, staffed, managed and financed so as to allow them to exercise their powers in that manner. [Am. 51]

6. Staff of the national ~~supervisory~~ **aviation** authorities shall: [Am. 52]

(a) be recruited under clear and transparent rules **and criteria** which guarantee their independence ~~and as regards persons in charge of strategic decisions, be appointed by the national cabinet or council of ministers or another public authority which does not directly control, or benefit from the air navigation service providers;~~ [Am. 53]

(b) be selected in a transparent procedure on the basis of their specific qualifications, including appropriate ~~competence~~ **competencies** and relevant experience ~~inter alia in the field of auditing, air navigation services and systems;~~ [Am. 54]

(ba) not be seconded from air navigation service providers (ANSPs) or companies under the control of ANSPs; [Am. 55]

(c) act independently ~~in particular from any interest related to air navigation service providers and shall not seek or take instructions from any government or other public or private entity when carrying out the functions of the national~~ ~~supervisory~~ **aviation** authority, **without prejudice to close cooperation with other relevant national authorities;** [Am. 56]

(d) as regards persons in charge of strategic decisions, make an annual declaration of commitment and declaration of interests indicating any direct or indirect interests that may be considered prejudicial to their independence and which may influence the performance of their functions; and

(e) as regards persons **who have been** in charge of strategic decisions, audits or other functions directly linked to oversight or performance targets of air navigation service providers **for more than six months**, have no professional position or responsibility with any of the air navigation service providers after their term in the national ~~supervisory~~ **aviation** authority, for a period of ~~at least one year~~. [Am. 57]

(i) at least 12 months for staff in managerial positions; [Am. 58]

(ii) at least six months for staff in non-managerial positions. [Am. 59]

(ea) the authority's top management shall be appointed for a fixed term of between three and seven years, renewable once, and may be relieved from office during their term only if they no longer fulfil the conditions set out in this Article or have been guilty of misconduct under national law. [Am. 60]

7. Member States shall ensure that national ~~supervisory~~ **aviation** authorities have the necessary resources and capabilities to carry out the tasks assigned to them under this Regulation in an efficient and timely manner. The national ~~supervisory~~ **aviation** authorities shall have full authority over the recruitment and management of their staff based on their own appropriations stemming from inter alia route charges to be set in proportion to the tasks to be fulfilled by the authority in accordance with Article 4. [Am. 61]

8. Member States shall notify the Commission of the names and addresses of the national ~~supervisory~~ **aviation** authorities, as well as changes thereto, and of the measures taken to ensure compliance with this Article. [Am. 62]

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9. The Commission shall establish detailed rules laying down the modalities of the recruitment and selection procedures for the application of paragraphs 6(a) and (b). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3), **and shall specify:** [Am. 63]

(a) **the level of separation required by the appointing authority from any company, organisation, public or private entity or staff falling within the scope of authority activity as provided for in Article 1 of Regulation (EC) No 216/2008 or having an interest in the activities of such entities, with a view to maintaining a balance between avoiding conflicts of interest and administrative efficiency;** [Am. 64]

(b) **relevant technical qualifications required of staff involved in audits.** [Am. 65]

Article 4

Tasks of the national ~~supervisory~~ **aviation** authorities [Am. 66]

1. The national ~~supervisory~~ **aviation** authorities ~~referred to in Article 3~~ shall be entrusted in particular with the following tasks: [Am. 67]

(a) ensuring the supervision of the application of this Regulation **and of Regulation (EC) No 216/2008**, 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; [Am. 68]

(b) ~~granting of certificates to air navigation services providers in accordance with Article 8b~~ **the performance or delegation, wholly or in part, of the tasks listed in Articles 8b, 8c and 10** of Regulation (EC) No 216/2008 ~~and overseeing performance of the task of ensuring supervision of the application of the conditions under which they have been granted this Regulation, in particular with regard to the safe and efficient operation of providers of air navigation services relating to the airspace falling within the responsibility of the Member States;~~ [Am. 69]

(c) ~~issuing licenses, ratings, endorsements and certificates for air traffic controllers in accordance with Article 8c of Regulation (EC) No 216/2008 and overseeing the application of the conditions under which they have been issued;~~ [Am. 70]

(d) drawing up performance plans and monitoring their implementation in accordance with Article 11;

(e) monitoring the implementation of the charging scheme in accordance with Articles 12 and 13, **including the provisions on cross-subsidisation referred to in Article 13(7);** [Am. 71]

(f) approving the conditions of access to operational data in accordance with Article 22; and

(g) supervising declarations and the putting into service of systems;

(ga) **reporting annually on its activity and the fulfilment of its tasks to the relevant authorities of the Member State, the EAA and the Commission. Such reports shall cover the steps taken and the results obtained as regards each of the tasks listed in this Article.** [Am. 72]

2. Each national ~~supervisory~~ **aviation** authority shall organise proper inspections and surveys to verify compliance with the requirements of this Regulation. The air navigation service provider concerned shall facilitate such work **and the relevant Member State shall offer all necessary assistance to ensure the effectiveness of compliance monitoring.** [Am. 73]

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Article 5

~~Co-operation~~ **Cooperation** between national ~~supervisory~~ **aviation** authorities [Am. 74]

1. The national ~~supervisory~~ **aviation** authorities shall exchange information about their work and decision-making principles, practices and procedures as well as implementation of Union law. They shall cooperate for the purpose of coordinating their decision-making across the Union. The national ~~supervisory~~ **aviation** authorities shall participate and work together in a network that convenes at regular intervals **and at least once a year**. ~~The Commission and the European Union Agency for Aviation (hereafter 'EAA') shall be members, coordinate and support the work of the network and make recommendations to the network, as appropriate. The Commission and the EAA shall facilitate active cooperation of the national supervisory aviation authorities and exchanges and use of staff between the national supervisory aviation authorities based on a pool of experts to be set up by EAA in accordance with Article 17(2)(f) of Regulation (EC) No 216/2008.~~

That network may, inter alia:

- (a) produce and disseminate streamlined methodologies and guidelines for implementation of the authority tasks listed in Article 4;*
- (b) provide assistance to individual national aviation authorities on regulatory issues;*
- (c) provide opinions to the Commission and the EAA on rule-making and certification;*
- (d) provide opinions, guidelines and recommendations designed to facilitate the provision of cross-border services;*
- (e) develop common solutions to be implemented across two or more States to meet the aims of the ATM Master Plan or the Chicago Convention. [Am. 75]*

Subject to the rules on data protection provided for in Article 22 of this Regulation and in Regulation (EC) No 45/2001, the Commission shall ~~support~~ **provide a platform for** the exchange of the information referred to in the first and second subparagraph of this paragraph among the members of the network, possibly through electronic tools, respecting the confidentiality of business secrets of ~~air navigation service providers~~ **companies, organisations or entities involved**. [Am. 76]

2. The national ~~supervisory~~ **aviation** authorities shall cooperate closely, including through working arrangements, for the purposes of mutual assistance in their monitoring tasks and handling of investigations and surveys. [Am. 77]

3. In respect of functional airspace blocks ~~that extend across the airspace falling under the responsibility of more than one Member State~~, the Member States concerned shall conclude an agreement on the supervision provided for in ~~this Article~~ **Article 4** with regard to the air navigation service providers providing services relating to those blocks. The national ~~supervisory~~ **aviation** authorities concerned shall establish a plan specifying the modalities of their ~~co-operation~~ **cooperation** with a view to giving effect to that agreement. [Am. 78]

4. National ~~supervisory~~ **aviation** 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 this Regulation and with the applicable common requirements adopted in accordance with Article 8b(1) of Regulation (EC) No 216/2008. [Am. 79]

5. In the case of provision of air navigation services in an airspace falling under the responsibility of another Member State, the arrangements referred to in paragraphs 2, ~~3~~ and 4 shall include an agreement on the mutual recognition of the supervisory tasks set out in Article 4(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. [Am. 80]

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6. If permitted by national law and with a view to regional cooperation, national ~~supervisory~~ **aviation** authorities may also conclude agreements regarding the division of responsibilities regarding supervisory tasks. **[Am. 81]**

Article 6

Qualified entities

1. ~~The EEA and~~ national **aviation** authorities may decide to delegate ~~in full, wholly~~ or in part, the inspections ~~and surveys referred to in Article 4 (2), surveys and other tasks provided for by this Regulation~~ to qualified entities that fulfil the requirements set out in Annex I. **[Am. 82]**

2. Such a delegation ~~granted by a national supervisory authority~~ shall be valid within the Union for a renewable period of three years. ~~The EEA and~~ national **supervisory aviation** authorities may instruct any of the qualified entities located in the Union to undertake these inspections and surveys. **[Am. 83]**

3. ~~Member States~~ **The EAA and the national aviation authorities** shall notify the Commission, ~~EAA and~~ the other Member States ~~and, if applicable, the EAA~~, of the qualified entities to which they have delegated tasks in accordance with paragraph 1 indicating each entity's area of responsibility and its identification number and of any changes in this respect. The Commission shall publish in the *Official Journal of the European Union* the list of qualified entities, their identification numbers and **their** areas of responsibility, and shall keep the list updated. **[Am. 84]**

4. ~~Member States~~ **The EAA and the national aviation authorities** shall withdraw the delegation of a qualified entity which no longer meets the requirements set out in Annex I. It shall forthwith inform the Commission, ~~EAA~~ and the other Member States thereof. **[Am. 85]**

5. Bodies nominated before the entry into force of this Regulation as notified bodies in accordance with Article 8 of Regulation (EC) No 552/2004, shall be considered to be qualified entities for the purposes of this Article.

Article 7

Consultation of stakeholders

1. National ~~supervisory~~ **aviation** authorities, acting in accordance with their national legislation, shall establish consultation mechanisms for appropriate involvement of stakeholders, including professional staff representative bodies for the exercise of their tasks, in the implementation of the Single European Sky. **[Am. 86]**

2. The stakeholders may include:

- air navigation service providers,
- airport operators,
- relevant airspace users or relevant groups representing airspace users,
- military authorities,
- manufacturing industry,
- professional staff representative bodies.

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CHAPTER III SERVICE PROVISION

Article 8

Certification of air navigation service providers

1. The provision of all air navigation services within the Union shall be subject to certification by or declaration to, national ~~supervisory~~ **aviation** authorities or ~~the~~ EAA in accordance with Article 8b of Regulation (EC) No 216/2008. **[Am. 87]**
2. The certification process shall also ensure that the applicants can demonstrate sufficient financial strength and have obtained liability and insurance cover, where this is not guaranteed by the Member State concerned.
3. The certificate shall provide for non-discriminatory access to services for airspace users, with particular regard to safety. Certification shall be subject to the conditions set out in Annex II.
4. The issue of certificates shall confer on air navigation service providers the possibility of offering their services to **any** Member States ~~State~~, other air navigation service providers, airspace users and airports within the Union. ~~With regard to support services this possibility shall be subject to the compliance with Article 10(2).~~ **and neighbouring third countries, if appropriate, within a functional airspace block, subject to mutual agreement between the relevant parties. [Am. 88]**

Article 9

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 or declaration in the Union.
2. For the provision of cross-border services, Member States shall ensure that compliance with this Article and Article 18 (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 fulfil one of the following conditions:
 - (a) be owned directly or through a majority holding by that Member State or its nationals;
 - (b) have their principal place of operation or registered office in the territory of that Member State;
 - (c) use only facilities in that Member State.
3. Member States shall define the rights and obligations to be met by the designated air traffic service providers. The obligations may include conditions for the timely supply of relevant information enabling all aircraft movements in the airspace under their responsibility to be identified.
4. Member States shall have discretionary powers in choosing an air traffic service provider, on condition that the latter is certified or declared in accordance with Regulation (EC) No 216/2008.
5. In respect of functional airspace blocks established in accordance with Article 16 ~~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. **[Am. 89]**
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.

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Article 10

Provision of support services

1. Member States shall take all necessary measures to ensure that, in accordance with this Article, ***there are no statutory impediments to*** providers of support services ~~can that would prevent their ability to~~ compete within the Union on the basis of equitable, non-discriminatory and transparent conditions for the purpose of providing these services.

~~The requirement set out in this Article shall be met at the latest by 1 January 2020.~~

2. Member States shall take all necessary measures to ensure that ~~the provision of air traffic services is separated from the provision of~~ ***air navigation service providers, when drawing up their business plans, call for offers from different support services providers. This separation shall include the requirement that air traffic services and support services are, with a view to choosing the financially and qualitatively most beneficial provider. The performance review body provided by separate undertakings for by Article 11(2) shall monitor compliance with the provisions of this paragraph when evaluating the performance plans.***

3. In ~~choosing~~ ***the choice of an external*** provider of support services, ***the provisions of Directive 2004/18/EC shall be complied with.*** In particular, cost ~~and energy~~ efficiency, overall service quality, ***interoperability*** and safety of services, ***as well as transparency of the procurement process,*** shall be ~~taken into account by~~ ***binding selection criteria*** for the entity procuring those services.

4. A provider of support services may only be chosen to provide services in the airspace of a Member State, when:

(a) it is certified in accordance with Article 8b of Regulation (EC) No 216/2008;

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

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

(d) the service provider fulfils national security and defence requirements.

5. Support services related to the operations of the EATMN may be provided in a centralised manner by the Network Manager by adding those services to the services referred to in Article 17(2), in accordance with Article 17(3). They may also be provided on an exclusive basis by an air navigation service provider or groupings thereof, in particular those related to the provision of the ATM infrastructures. The Commission shall specify the modalities for the selection of providers or groupings thereof, based on the professional capacity and ability to provide services in an impartial and cost-effective manner, and establish an overall assessment of the estimated costs and benefits of the provision of the support services in a centralised manner. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3). The Commission shall designate providers or groupings thereof in accordance with those implementing acts.

5a. The Commission shall establish detailed rules laying down the modalities for the selection of services covered by this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3).

5b. The Commission shall conduct a comprehensive study on the operational, economic, safety and social impacts of the introduction of market principles to the provision of support services, and shall submit that study to the European Parliament and the Council by 1 January 2016. The study shall take into account the implementation of the ATM Master Plan and the impact of SESAR technologies on the support services sector. [Am. 90]

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Article 11

Performance scheme

1. To improve the performance of air navigation services and network services in the Single European Sky, a performance scheme for air navigation services and network services shall be set up. It shall include:

- (a) Union -wide and associated local performance targets on the key performance areas of safety, the environment, capacity and cost-efficiency **in accordance with the high-level goals of the ATM Master Plan fixed for an entire reference period; [Am. 91]**
- (b) ~~national plans or~~ **local performance** plans ~~for functional airspace blocks~~, including performance targets, ensuring compliance with the Union -wide and associated local performance targets; and **[Am. 92]**
- (c) periodic review, monitoring and benchmarking of the performance of air navigation services and network services.

2. The Commission shall designate an independent, impartial and competent body to act as a 'performance review body' (**PRB**). **The PRB shall be established as a European economic regulator under the supervision of the Commission, with effect from 1 July 2015. The role of the** ~~performance review body~~ **PRB** shall be to assist the Commission, in coordination with the national ~~supervisory aviation~~ authorities, and to assist **and monitor** the national ~~supervisory aviation~~ authorities on request in the implementation of the performance scheme referred to in paragraph 1. **The PRB shall be functionally and legally separate from any service provider, whether at national or pan-European level.** Technical assistance to the ~~performance review body~~ **PRB** may be provided by ~~the EAA and, the Network Manager,~~ Eurocontrol or another competent entity. **[Am. 93]**

3. The ~~national or functional airspace block~~ **local performance** plans referred to in **point (b) of** paragraph 1 ~~(b)~~, shall be drawn up by ~~the~~ national ~~supervisory aviation~~ authorities and adopted by the Member State(s). These plans shall include binding local targets and an appropriate incentive scheme as adopted by the Member State(s). Drafting of the plans shall be subject to consultation with **the Commission, the PRB,** air navigation service providers, airspace users' representatives, and, where relevant, airport operators and airport coordinators. **[Am. 94]**

4. The compliance of the ~~national or functional airspace block~~ **local performance** plans and local targets with the Union -wide performance targets shall be assessed by the Commission in ~~co-operation~~ **cooperation** with the ~~performance review body~~ **PRB**. **[Am. 95]**

In the event that the Commission ~~identifies~~ **determines** that the ~~national or functional airspace block~~ **local performance** plans or the local targets do not comply with the Union-wide targets, it may require the Member States concerned to take the necessary corrective measures. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 27(2). **[Am. 96]**

5. 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 local targets are not met, the Member States concerned shall define and apply measures designed to rectify the situation. Where the Commission finds that these measures are not sufficient to rectify the situation, it may decide, that the Member States concerned shall take necessary corrective measures or sanctions. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 27 (2).

6. The Commission **and the EAA, together with the PRB,** shall carry out regular assessments of the achievement of the Union-wide and associated local performance targets. **[Am. 97]**

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7. The performance scheme referred to in paragraph 1 shall be based on:
- (a) collection, validation, examination, evaluation and dissemination of relevant data related to the performance of air navigation services and network services from all relevant parties, including air navigation service providers, airspace users, airport operators, ~~the EEA~~, national ~~supervisory aviation~~ authorities, Member States and Eurocontrol; [Am. 98]
 - (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, **cost-effectiveness and human factor** and cost-efficiency areas, adapted where necessary in order to take into account the specific needs of the Single European Sky and relevant objectives for these areas and definition of a limited set of key performance indicators for measuring performance. **Special attention shall be paid to the safety performance indicators;** [Am. 99]
 - (c) establishment and revision of Union-wide and associated local performance targets that shall be defined taking into consideration inputs identified at national level or at the level of functional airspace blocks. **Union-wide performance targets shall be set with a view to ensuring that each functional airspace block retains sufficient flexibility to achieve the best results;** [Am. 100]
 - (d) criteria for the setting up by the national ~~supervisory aviation~~ authorities of the ~~national or functional airspace block~~ **local** performance plans, containing the local performance targets and the incentive scheme. The performance plans shall: [Am. 101]
 - (i) be based on the business plans of the air navigation service providers, **which should in turn take into account the implementation of the ATM Master Plan;** [Am. 102]
 - (ii) address all cost components of the national or functional airspace block cost base;
 - (iii) include binding local performance targets compliant with the Union -wide performance targets;
 - (e) assessment of the local performance targets on the basis of the ~~national or functional airspace block~~ **local performance** plan; [Am. 103]
 - (f) monitoring of the ~~national or functional airspace block~~ **local** performance plans, including appropriate alert mechanisms; [Am. 104]
 - (g) criteria to impose sanctions **and compensation mechanisms** for non-compliance with the Union -wide and associated local performance targets during the reference period and to support alert mechanisms; [Am. 105]
 - (h) general principles for the setting up by Member States of the incentive scheme;
 - (i) 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 delegated act referred to in this paragraph;
 - (j) appropriate reference periods and intervals for the assessment of the achievement of performance targets and the setting of new targets;
 - (k) the necessary related timetables;

The Commission shall be empowered to adopt delegated acts in accordance with Article 26 in order to **adopt the Union-wide performance targets and** lay down detailed rules for the proper functioning of the performance scheme in accordance with the points listed in this paragraph. [Am. 106]

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

8a. The Commission shall conduct a study into the impact which the behaviour of non-ANSP actors within the ATM system, for instance airport operators, airport coordinators and air transport operators, may have on the efficient functioning of the European ATM network.

The scope of the study shall cover but shall not be limited in scope to:

- (a) identification of non-ANSP actors in the ATM system who are able to influence network performance;**
- (b) the effect that such actors' behaviour has on ANS performance in relation to the key performance areas (KPAs) of safety, environment and capacity;**
- (c) the feasibility of developing performance indicators and key performance indicators for those actors;**
- (d) any benefits to the European ATM network that might accrue from the implementation of additional performance indicators and key performance indicators; and any barriers to achieving optimum performance.**

The study should be commenced not later than 12 months following the publication of this Regulation and completed not later than 12 months thereafter; its results shall then be considered by the Commission and the Member States with a view to expanding the scope of the performance scheme to include any additional performance indicators and key performance indicators for future reference periods, in accordance with the provisions of this Article. [Am. 107]

Article 12

General provisions for the charging scheme

In accordance with the requirements of Articles 13 and 14, 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. The 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.

Article 13

Principles for the charging scheme

1. The charging scheme shall be based on the account of costs for air navigation services incurred by service providers for the benefit of airspace users. The scheme shall allocate these costs among categories of users.
2. The principles set out in paragraphs 3 to 8 shall be applied when establishing the cost-base for charges.
3. 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, including the costs incurred by EAA for relevant authority tasks. 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(5), or during the reference period, following appropriate adjustments applying the alert mechanisms set out in Article 11.

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4. 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 shall also include costs incurred by national ~~supervisory~~ **aviation** 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 referred to Article 33 ~~nor or~~ the costs of any corrective measures or sanctions referred to in Article 11 (5). **[Am. 108]**

5. 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, **with a view to arriving at a single charge, in accordance with their respective performance plans.** **[Am. 109]**

6. The cost of different air navigation services shall be identified separately, as provided for in Article 21(3).

7. 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 traffic services in either one of those two categories only when justified for objective reasons, subject to clear identification. Cross-subsidy shall not be allowed between air traffic services and support services.

8. 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.

9. Member States shall comply with the following principles when setting charges in accordance with paragraphs 3 to 8:

- (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;
- (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, including costs incurred by EAA for relevant authority tasks, 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. For the purposes of **this point (f)** and in relation to ~~the national or functional airspace block~~ **local** performance plans, ~~the national supervisory authorities~~ **aviation authority** 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. **[Am. 110]**

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10. The Commission shall adopt measures setting out the details of the procedure to be followed for the application of paragraphs 1 to 9. ***The Commission may propose financial mechanisms to improve the synchronisation of air-based and ground-based capital expenditure related to the deployment of SESAR technologies.*** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27 (3). [Am. 111]

Article 14

Review of compliance with Articles 12 and 13

1. The Commission shall provide for the ongoing review of compliance with the principles and rules referred to in Articles 12 and 13, acting in cooperation with the Member States. The Commission shall endeavour to establish the necessary mechanisms for making use of Eurocontrol expertise and shall share the results of the review with the Member States, Eurocontrol and the airspace users' representatives.

2. At the request of one or more Member States or on its own initiative, the Commission shall examine specific measures adopted by national authorities in relation to the application of Articles 12 and 13, concerning the determination of costs and charges. Without prejudice to Article 32(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, the Commission shall decide whether Articles 12 and 13 have been complied with and the measure may thus continue to be applied. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 27(2).

Article 14a

Implementation of the ATM Master Plan

Implementation of the ATM Master Plan shall be coordinated by the Commission. The Network Manager, the PRB and the Deployment Manager shall contribute to the implementation of the ATM Master Plan in accordance with the provisions of this Regulation. [Am. 112]

Article 14b

The Commission shall adopt measures establishing the governance of implementation of the ATM Master Plan, including defining and selecting the body responsible at management level (Deployment Manager). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3). [Am. 113]

Article 14c

The Deployment Manager shall recommend to the Commission binding deadlines for deployment and appropriate corrective actions concerning delayed implementation. [Am. 114]

Article 15

Common projects

1. ***The*** implementation of the ATM Master Plan may be supported by common projects. These 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. The common projects shall aim to deploy ***ATM functionalities*** in a timely, coordinated and synchronised manner ~~ATM functionalities~~, ***with a view to achieve bringing about*** the essential operational changes identified in the ATM Master Plan, ***including identification of the most appropriate geographical dimension, performance-driven project architecture and service delivery approach to be applied by the Deployment Manager. Where applicable, the design and execution of common projects shall aim to enable a set of basic interoperable capabilities to exist in all Member States.*** [Am. 115]

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2. The Commission may adopt measures establishing the governance of common projects and identifying incentives for their deployment. ***The body governing the deployment of the common projects shall be the same body as that which is in charge of the implementation of the ATM Master Plan baseline.*** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3). These measures shall ***complement the*** mechanisms for the deployment of the projects concerning functional airspace blocks as agreed upon by the parties of those blocks. [Am. 116]

3. The Commission may adopt 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 identifying ATM functionalities that are mature for deployment, together with the timetable and geographical scope of the deployment. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3). The common projects may be considered 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 28, 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.

3a. Common projects shall be the means of implementing the operational improvements developed by the SESAR project in a coordinated and timely manner. They shall thus make a decisive contribution to attainment of the Union-wide targets. [Am. 117]

Article 16

Functional airspace blocks

1. Member States shall take all necessary measures in order to ensure the establishment and implementation of ***operational*** functional airspace blocks based on integrated provision of air ~~traffic~~ ***navigation*** services 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. [Am. 118]

~~2. The functional airspace blocks shall, wherever possible, be set up based on co-operative industrial partnerships between air navigation service providers, in particular relating to the provision of support services in accordance with Article 10. The industrial partnerships may support one or more functional airspace block, or part thereof to maximise performance.~~ [Am. 119]

3. Member States, ~~as well as~~ ***national aviation authorities and*** air ~~traffic~~ ***navigation*** service providers shall cooperate to the fullest extent possible with each other in order to ensure compliance with this Article. Where relevant, cooperation may also include ***national aviation authorities and*** air ~~traffic~~ ***navigation*** service providers from third countries taking part in functional airspace blocks. [Am. 120]

4. Functional airspace blocks shall, in particular:

- (a) be supported by a safety case;
- (b) be designed to seek maximum synergies from industrial partnerships in order to meet ~~and where possible exceed~~ the performance targets set in accordance with Article 11; [Am. 121]
- (c) enable optimum ***and flexible*** use of airspace, taking into account air traffic flows; [Am. 122]
- (d) ensure consistency with the European route network established in accordance with Article 17;
- (e) be justified by their overall added value, including optimal use of technical and human resources, on the basis of cost-benefit analyses;
- (f) where applicable, ensure a smooth and flexible transfer of responsibility for air traffic control between air traffic service units;
- (g) ensure compatibility between the different airspace configurations;

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- (h) comply with conditions stemming from regional agreements concluded within the ICAO;
- (i) respect regional agreements in existence on the date of entry into force of this Regulation, in particular those involving European third countries;
- (ia) consolidate the procurement of ATM infrastructure and aim at increasing the interoperability of existing equipment; [Am. 123]**
- (ib) facilitate consistency with the Union-wide performance targets. [Am. 124]**

The requirements of paragraphs 4(c), (d) and (g) shall be met in accordance with the optimisation of airspace design carried out by the Network Manager as specified in Article 17.

5. The requirements set out in this Article may be met through participation of air navigation service providers in one or more functional airspace ~~block~~ **blocks**. **[Am. not concerning all languages]**

6. **An operational** functional airspace block ~~that extend across the airspace under the responsibility of more than one Member State~~ shall be established by joint designation between all the Member States, as well as, where appropriate, third countries that have responsibility for any part of the airspace included in the functional airspace block. **[Am. 126]**

The joint designation by which the functional airspace block is established shall contain the necessary provisions concerning the manner in which the block can be modified and the manner in which a Member State or, where appropriate, a third country, can withdraw from the block, including transitional arrangements.

7. Member States shall notify the establishment of functional airspace blocks to the Commission. 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.

8. 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 6, the Member States shall take that opinion into account in order to find a solution.

9. After having received the notifications by Member States referred to in paragraphs 6 and 7 the Commission shall assess the fulfilment by each functional airspace block of the requirements set out in paragraph 4 and present the results to the Member States 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.

10. The Commission may adopt detailed measures concerning the joint designation of the air traffic service provider(s) referred to in paragraph 6, specifying the modalities for the selection of the service provider(s), the period of designation, supervision arrangements, the availability of services to be provided and liability arrangements. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3).

11. The Commission may adopt measures regarding the information to be provided by the Member State(s) referred to in paragraph 6. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 27(3). **The provisions of this paragraph shall be without prejudice to any FAB arrangements existing on the date of entry into force of this Regulation, in so far as those arrangements meet and, where possible, exceed the performance targets set in accordance with Article 11. [Am. 127]**

Article 16a

Industrial partnerships

1. Air navigation service providers may cooperate to set up industrial partnerships, in particular relating to the provision of support services in accordance with Article 10. The industrial partnerships may support one or more functional airspace blocks, or any part thereof, in order to maximise performance.

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2. The Commission and Member States shall make every effort to ensure that any barriers to partnerships between ANSPs are eliminated, taking into account, in particular, liability issues, charging models and interoperability obstacles.
[Am. 128]

Article 17

Network management and design

1. The air traffic management (ATM) network services shall allow optimum **and flexible** use of airspace and ensure that airspace users can operate preferred trajectories, while allowing maximum access to airspace and air navigation services. These network services shall 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. [Am. 129]

2. In order to achieve the objectives referred to in paragraph 1 and without prejudice to the responsibilities of the Member States with regard to national routes and airspace structures, the Commission shall ensure that the following **functions and** services are ~~carried out under the responsibility of~~ **coordinated by** a Network Manager: [Am. 130]

- (a) design of the European route network;
- (b) 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;
- (c) central function for air traffic flow management;
- (d) provision of an aeronautical information portal in accordance with Article 23;
- (e) optimisation of airspace design, **including airspace sectors and airspace structures in the en-route and terminal areas**, in cooperation with the air navigation service providers and functional airspace blocks referred to in Article 16; [Am. 131]
- (f) central function for coordination of aviation crisis.

The **functions and** services listed in this paragraph shall not involve the adoption of binding measures of a general scope or the exercise of political discretion. 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 military authorities in accordance with agreed procedures concerning the flexible use of airspace. [Am. 132]

The Commission may, ~~and~~ in conformity with the implementing rules referred to in paragraph 4, appoint Eurocontrol, or another impartial and competent body, to carry out the tasks of the Network Manager. These tasks shall be executed in an impartial and cost-effective manner and **shall be** performed on behalf of **the Union**, Member States and stakeholders. They shall be subject to appropriate governance, which recognises the separate accountabilities for service provision and regulation, taking into consideration the needs of the whole ATM network and with the full involvement of the airspace users and air navigation service providers. By 1 January ~~2020~~ **2016**, the Commission shall designate the Network Manager as a self-standing service provider ~~where possible~~ set up as an industrial partnership. [Am. 133]

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 26 to add to the list of the services set out in paragraph 2 in order to adapt it to technical and operational progress with regard to the provision of support services in a centralised manner.

4. The Commission shall adopt detailed rules concerning:

- (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;

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- (c) additional network services 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) detailed arrangements for the governance of the Network Manager involving all operational stakeholders concerned;
- (f) arrangements for consultation of the relevant stakeholders in the decision-making process both at national and European levels; and
- (g) 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 services 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.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3).

5. Aspects of airspace design other than those referred to in ~~paragraphs~~ **paragraph 2 and 4** ~~(c) of paragraph 4~~ 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~~ **and local** performance plans and shall include full consultation of relevant airspace users or relevant groups representing airspace users and military authorities as appropriate. **[Am. 134]**

Article 18

Relations between service providers

1. Air navigation service providers may avail themselves of the services of other service providers that have been certified or declared in the Union.
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 concerned.
3. In cases involving the provision of air traffic services, the approval of the Member States concerned shall be required.

Article 19

Relations with stakeholders

The air navigation service providers shall establish consultation mechanisms to consult the relevant groups of airspace users and aerodrome operators on all major issues related to services provided, **and strategic investment plans, especially as regards aspects requiring synchronisation between air and ground equipment deployment** or relevant changes to airspace configurations. ~~The airspace users shall also be involved in the process of approving strategic investment plans.~~ The Commission shall adopt measures detailing the modalities of the consultation and of the involvement of airspace users in ~~approving the drafting of strategic investment plans with a view to ensuring their consistency with the ATM Master Plan and common projects as referred to in Article 15.~~ Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27 (3). **[Am. 135]**

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Without prejudice to the role of the Single Sky Committee, the Commission shall establish a consultative expert group on the human factor, to which European ATM social partners and other experts from professional staff representative bodies shall belong. The role of that group shall be to advise the Commission on the interplay between operations and the human factor in the ATM sector. [Am. 136]

Article 20

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.

Article 21

Transparency of accounts

1. Air navigation service providers, whatever their system of ownership or legal form, shall draw up, submit to audit and publish their financial accounts. These accounts shall comply with the international accounting standards adopted by the Union. ~~Where, owing to the legal status of the 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.~~

Member States shall take all necessary measures to ensure that ANSPs comply with this Article by 1 July 2017. [Am. 137]

2. In all cases, air navigation service providers shall publish an annual report and regularly undergo an independent audit.

3. When providing a bundle of services, air navigation service providers shall 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 12 and, where appropriate, shall keep consolidated accounts for other, non-air-navigation services, as they would be required to do if the services in question were provided by separate undertakings.

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⁽¹⁾ to air navigation service providers that fall within the scope of that regulation. [Am. 138]~~

Article 22

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 or declared air navigation service providers, airspace users and airports on a non-discriminatory basis.

3. Certified or declared 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. The Commission may lay down measures concerning the procedures to be followed for data exchange and the type of data concerned in relation to these conditions of access and their approval. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3).

⁽¹⁾ OJ L 243, 11.9.2002, p. 1.

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CHAPTER IV

AIRSPACE

Article 23

Electronic aeronautical information

1. Without prejudice to the publication by Member States of aeronautical information and in a manner consistent with that publication, the Commission, working in cooperation with the Network Manager, shall ensure the availability of electronic aeronautical information of high quality, presented in a harmonised way and serving the requirements of all relevant users in terms of data quality and timeliness.
2. For the purpose of paragraph 1, the Commission shall ensure the development of a Union -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.
3. The Commission shall adopt measures for the establishment and implementation of an electronic integrated briefing portal. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27 (3).

Article 24

Technological development and interoperability of air traffic management

1. The Commission shall adopt detailed rules concerning the promotion of the technological development and interoperability of air traffic management related to the development and deployment of the ATM Master Plan. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(3).
2. In respect of the rules referred to in paragraph 1, Article 17(2)(b) of Regulation (EC) No 216/2008 shall apply. Where appropriate, the Commission shall request EAA to include these rules in the annual work programme referred to in Article 56 of that Regulation.

CHAPTER V

FINAL PROVISIONS

Article 25

Adaptation of the Annexes

The Commission shall be empowered to adopt delegated acts in accordance with Article 26 in order to supplement or amend the requirements for qualified entities listed in Annex I and the conditions to be attached to certificates to be awarded to air navigation service providers listed in Annex II in order to take account of experience gained by national supervisory authorities in applying these requirements and conditions or of the evolution of air traffic management system in terms of interoperability and integrated provision of air navigation services.

Article 26

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

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2. The delegation of power referred to in Article 11(7), Article 17(3) and Article 25 shall be conferred on the Commission for ~~an indeterminate~~ **a period of ~~time~~ seven years.**

The Commission shall draw up a report in respect of the delegated power no later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
[Am. 139]

3. The delegation of power referred to in Article 11(7), Article 17(3) and Article 25 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 11(7), Article 17(3) and Article 25 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

Article 27

Committee procedure

1. The Commission shall be assisted by the Single Sky Committee, hereinafter referred to as 'the Committee'. The Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 28

Consultation of stakeholders by the Commission

1. The Commission shall establish a consultation mechanism at Union level to consult on matters related to the implementation of this Regulation where appropriate. The specific Sectoral Dialogue Committee set up under Commission Decision 98/500/EC shall be involved in the consultation.
2. The stakeholders may include:
 - air navigation service providers,
 - airport operators,
 - relevant airspace users or relevant groups representing airspace users,
 - military authorities,
 - manufacturing industry, and,
 - professional staff representative bodies.

Article 29

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.

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Article 30

Relations with third countries

The Union and its Member States shall aim at and support the extension of the Single European Sky to countries which are not members of the European Union. To that end, they shall endeavour, either in the framework of agreements concluded with neighbouring third countries or in the context of joint designations of functional airspace blocks or agreements on network functions, to further the objectives of this Regulation to those countries.

Article 31

Support by outside bodies

The Commission may request support from an outside body for the fulfilment of its tasks under this Regulation.

Article 32

Confidentiality

1. Neither the national ~~supervisory~~ **aviation** authorities, acting in accordance with their national legislation, nor the Commission shall disclose information of a confidential nature, in particular information about ~~air navigation service providers~~ **ANSPs**, their business relations or their cost components. **[Am. 140]**

2. Paragraph 1 shall be without prejudice to the right of disclosure by national ~~supervisory~~ **aviation** authorities or the Commission where this is essential for the fulfilment of their duties, in which case such disclosure shall be proportionate and shall have regard to the legitimate interests of ~~air navigation service providers~~ **ANSPs**, airspace users, airports or other relevant stakeholders in the protection of their business secrets. **[Am. 141]**

3. Information and data provided pursuant to the charging scheme referred to in Article 12 shall be publicly disclosed.

Article 33

Penalties

Member States shall lay down rules on penalties **and compensation mechanisms** applicable to infringements of this Regulation, in particular by airspace users and service providers, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. **[Am. 142]**

Article 34

Review and methods of impact assessment

1. The Commission shall periodically review the application of this Regulation shall report to the European Parliament and to the Council at the end of each reference period referred to in Article 11(5)(d). When justified for this purpose, the Commission may request from the Member States information relevant to the application of this Regulation.

2. 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.

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Article 35

Safeguards

This Regulation shall not prevent the application of measures by a Member State to the extent 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.

Article 36

European Union Agency for Aviation (EAA)

When implementing this Regulation Member States and the Commission, in accordance with their respective roles as provided for by this Regulation, shall coordinate as appropriate with EAA.

Article 37

Repeal

Regulations (EC) Nos 549/2004, 550/2004, 551/2004 and 552/2004 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.

Article 38

Entry into force

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 ...,

For the European Parliament
The President

For the Council
The President

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ANNEX I

REQUIREMENTS FOR QUALIFIED ENTITIES

1. 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,
- 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,
- 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.

The qualified entity, its Director and the staff responsible for carrying out the checks may not be involved, either directly or as authorised representatives, in the design, manufacture, marketing or maintenance of the constituents or systems or in their use. This does not exclude the possibility of an exchange of technical information between the manufacturer or constructor.

The qualified entity must carry out the checks with the greatest possible professional integrity and the greatest possible technical competence and must be free of any pressure and incentive, in particular of a financial type, which could affect its judgment or the results of its inspection, in particular from persons or groups of persons affected by the results of the checks.

2. The staff of the qualified entity must have:

- sound technical and vocational training,
 - satisfactory knowledge of the requirements of the inspections they carry out and adequate experience of such operations,
 - the ability required to draw up the declarations, records and reports to demonstrate that the inspections have been carried out,
 - guaranteed impartiality. The staff's remuneration must not depend on the number of inspections carried out or on the results of such inspections.
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ANNEX II

CONDITIONS TO BE ATTACHED TO CERTIFICATES

1. Certificates shall specify:

- (a) the national ~~supervisory~~ **aviation** authority issuing the certificate; **[Am. 143]**
- (b) the applicant (name and address);
- (c) the services which are certified;
- (d) a statement of the applicant's conformity with the common requirements, as defined in Article 8b of Regulation (EC) No 216/2008;
- (e) the date of issue and the period of validity of the certificate.

2. Additional conditions attached to certificates may, as appropriate, be related to:

- (a) non-discriminatory access to services for airspace users and the required level of performance of such services, including safety and interoperability levels;
 - (b) the operational specifications for the particular services;
 - (c) the time by which the services should be provided;
 - (d) the various operating equipment to be used within the particular services;
 - (e) ring-fencing or restriction of operations of services other than those related to the provision of air navigation services;
 - (f) contracts, agreements or other arrangements between the service provider and a third party and which concern the service(s);
 - (g) provision of information reasonably required for the verification of compliance of the services with the common requirements, including plans, financial and operational data, and major changes in the type and/or scope of air navigation services provided;
 - (h) any other legal conditions which are not specific to air navigation services, such as conditions relating to the suspension or revocation of the certificate.
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ANNEX III

CORRELATION TABLE

Regulation (EC) No 549/ 2004	Regulation (EC) No 550/ 2004	Regulation (EC) No 551/ 2004	Regulation (EC) No 552/ 2004	This Regulation
Article 1(1) to (3)				Article 1(1) to (3)
		Article 1(3)		Article 1(4)
Article 1(4)				Article 1(5)
	Article 1			—
		Article 1(1), (2) and (4)		—
			Article 1	—
Article 2 Nos (1) to (35)				Article 2 Nos (1) to (35)
				Article 2 Nos (36) to (38)
Article 2 Nos 17, 18, 23, 24, 32, 35, 36				—
Article 3				—
Article 4(1) and (2)				Article 3(1) and (2)
				Article 3(3) and (4)
Article 4(3)				Article 3(5)
				Article 3(6)
Article 3(4) to (5)				Article 3(7) and (8)
				Article 3(9)
	Article 2(1)			Article 4(1a)
				Article 4(1b) to (1 g)

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Regulation (EC) No 549/ 2004	Regulation (EC) No 550/ 2004	Regulation (EC) No 551/ 2004	Regulation (EC) No 552/ 2004	This Regulation
	Article 2(2)			Article 4(2)
				Article 5(1) and (2)
	Article 2(3) to (6)			Article 5(3) to (6)
	Article 3(1) and (2)			Article 6(1) and (2)
			Article 8(1) and (3)	Article 6(3) and (4)
				Article 6(5)
			Article 8(2) and (4)	—
	Article 6			—
Article 10(1)				Article 7(1)
				Article 7(2)
	Article 7(1)			Article 8(1)
				Article 8(2)
	Article 7(4) and (6)			Article 8(3) and (4)
	Article 7(2), (3), (5), (7) to (9)			—
	Article 8			Article 9
				Article 10
	Article 9			—
Article 11				Article 11
	Article 14			Article 12
	Article 15			Article 13
	Article 16			Article 14

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Regulation (EC) No 549/ 2004	Regulation (EC) No 550/ 2004	Regulation (EC) No 551/ 2004	Regulation (EC) No 552/ 2004	This Regulation
	Article 15a			Article 15
	Article 9a(1)			Article 16(1) and (3)
				Article 16(2)
	Article 9a(2) point (i)			—
	Article 9a(2)			Article 16(4)
				Article 16(5)
	Article 9a(3) to (9)			Article 16(6) to (12)
	Article 9b			—
		Article 6(1) to (2b)		Article 17(1) and (2b)
				Article 17(2c) to (2e)
		Article 6(3) –(4d)		Article 17(3) to (4d)
				Article 17(4e)
		Article 6(4e) to (4f)		Article 17(4f) and (4 g)
		Article 6(5) and (7)		Article 17(5) and (6)
		Article 6(8) and (9)		—
	Article 10			Article 18
				Article 19
	Article 11			Article 20
	Article 12			Article 21
	Article 13			Article 22

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Regulation (EC) No 549/ 2004	Regulation (EC) No 550/ 2004	Regulation (EC) No 551/ 2004	Regulation (EC) No 552/ 2004	This Regulation
		Article 3		—
		Article 3a		Article 23
		Article 4		—
		Article 7		—
		Article 8		—
				Article 24(1) and (2)
			Article 3(3)	—
			Article 2 to 3(2)	—
			Article 3(4) to 7	—
	Article 17(1)			Article 25
				Article 26
Article 5(1) to (3)				Article 27(1) to (3)
Article 5(4) and (5)				—
Article 10(2) and (3)				Article 28(1) and (2)
Article 6				Article 29
Article 7				Article 30
Article 8				Article 31
	Article 4			—
			Article 9	—
	Article 18			Article 32
Article 9				Article 33
Article 12(2) to (4)				Article 34(1) to (3)
Article 12(1)				—

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Regulation (EC) No 549/ 2004	Regulation (EC) No 550/ 2004	Regulation (EC) No 551/ 2004	Regulation (EC) No 552/ 2004	This Regulation
	Article 18a			—
		Article 10		—
Article 13				Article 35
Article 13a				Article 36
			Article 10	—
			Article 11	Article 37
	Article 19(1)			Article 38
	Article 19(2)			—
	Annex I		Annex V	Annex I
			Annex I	—
	Annex II			Annex II
			Annex II	—
				Annex III
			Annex III	—
			Annex IV	—