Proposal for a Regulation of the European Parliament and of the Council on the organisation and use of the airspace in the Single European Sky

(2002/C 25 E/10)

(Text with EEA relevance)

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(Submitted by the Commission on 12 October 2001)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

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

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

(1) The creation of the Single European Sky requires a harmonised approach for regulation of the organisation and the use of airspace;

(2) The report of the High Level Group on the Single European Sky has confirmed the need for rules at Community level to design, regulate and strategically manage airspace on a European basis and enhance air traffic flow management;

(3) The Communication of the Commission on the creation of the Single European Sky, calls for structural reform to permit the creation of the Single Sky by way of integrated management of airspace and the development of new concepts and procedures of air traffic management;

(4) Regulation (EEC) .../... of the European Parliament and of the Council lays down the framework for the creation of the Single European Sky;

(5) Airspace is a common resource and needs to be used flexibly ensuring fairness and transparency for all users, whilst taking into account security and defence needs of Member States and their commitments in international organisations;

(6) Efficient airspace management is fundamental to increasing the capacity of the air traffic services system, to providing the optimum response to various user requirements and to achieving the most Flexible Use of Airspace;

(7) Eurocontrol’s activities confirm that the route network and airspace structure cannot realistically be developed in isolation, as each individual Member State is an integral element of the European air traffic management network;

(8) A single airspace should be established for en-route air traffic in the upper airspace; the interface between such airspace and regional and local airspace should be identified accordingly;

(9) The delineation of airspace wherein air traffic services are to be provided, should be related to the need for efficient services, rather than to national boundaries;

(10) Airspace users face disparate conditions of access to, and freedom of movement within, the Community airspace; this depends on the lack of harmonisation of classification of airspace;

(11) Constraints in the definition of the route network cause concentration of air traffic flows at fixed crossing points or junctions of airways whilst the principle of direct routenings is the preferred, economical and ecological way to use Community airspace;

(12) It is essential to achieve a common, harmonised airspace structure, to base the present and future allocation of airspace on common principles and to design and manage airspace in accordance with harmonised rules;

(13) Adequate interfaces should be established between the upper and lower airspace and the extension of a harmonised approach to the latter is desirable;

(14) Variations in the organisation of civil military co-operation in the Community prevent uniform and timely airspace management and the implementation of changes; the success of the Single Sky is dependent upon an effective co-operation between civil and military authorities;
There should be an effective functioning of the Flexible Use of Airspace concept and collaborative management to smoothly adapt military training with civil air traffic; it is necessary to optimise the location, size and time periods of usage of sectors of airspace allocated to military needs, especially during peak periods for civil air traffic and in high-density airspace;

Military operations should be safeguarded whenever the application of common principles and criteria, as provided for in this Regulation, is detrimental to their safe and efficient performance;

Adequate measures should be introduced to improve the effectiveness of air traffic flow management;

In accordance with the conclusions of the High Level Group on the Single European Sky, Eurocontrol is the body that has the appropriate expertise to support the Community in its role as regulator; therefore development of draft measures may be done by Eurocontrol under appropriate arrangements subject to the observance by Eurocontrol of the conditions to be included in a framework of co-operation between the Commission and Eurocontrol;

In line with the subsidiarity and proportionality principles laid down in Article 5 of the Treaty, the objectives of this Regulation, i.e. to establish a European airspace as a single operating airspace, cannot be sufficiently achieved by the Member States individually and can therefore, by reason of the transnational scale of this action, be better achieved by the Community, while ensuring that the implementing procedures take account of the specific local conditions;

Since the measures necessary for the implementation of this Regulation are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (1), they should be adopted by use of the regulatory procedure provided for in Article 5 of that Decision,


HAVE ADOPTED THIS REGULATION:

PART I

GENERAL ASPECTS

Article 1

Scope

1. This Regulation concerns the organisation and the use of airspace in accordance with and within the scope of Regulation (EEC) . . ./. . . [framework regulation] laying down the framework for the creation of the Single Sky.

2. This Regulation shall apply to the airspace where Member States designate air navigation service providers as provided for in Article 8 of Regulation (EEC) . . ./. . . [service provision].

Article 2

Objective

The objective of this Regulation is to establish a Community airspace as a single operating airspace where common procedures for design, planning and management ensure the efficient and safe performance of air traffic management. The use of Community airspace shall support the operation of the air navigation services as a coherent and consistent whole in accordance with the provisions of Regulation (EEC) . . ./. . . [service provision].

Article 3

Definitions

For the purposes of this Regulation and in addition to the definitions set out in Article 2 of Regulation (EEC) . . ./. . . [framework regulation]:

(a) ‘single operating airspace’ means uniform airspace management procedures and safety standards in the provision of Air Traffic Control;

(b) ‘airspace design’ means an appropriate, efficient and effective process for structuring, division and categorisation of airspace together with the planning of routes and airspace;

(c) ‘flight information region’ means an airspace of defined dimensions within which flight information services and alerting services are provided;

(d) ‘division level’ means the boundary between upper and lower airspace;

(e) ‘upper airspace’ means the airspace above a certain flight level;

(f) ‘lower airspace’ means the airspace below a certain flight level;

(g) ‘flight level’ means a surface of constant atmospheric pressure which is related to specific pressure datum 1 013.2 hectopascals and is separated from other such surfaces by specific pressure intervals;
(h) ‘functional airspace block’ means an airspace of optimal defined dimensions, above land or waters, within which air navigation services are provided;

(i) ‘area control centre’ means an operational unit established to provide air traffic control services to air traffic in a block of airspace under its jurisdiction;

(j) ‘airspace classification’ means the ICAO classification of airspaces alphabetically designated as classes A to G, as specified in Appendix 4 to the twelfth edition of July 1998 of Annex 11 to the 1944 Chicago Convention on International Civil Aviation, also defined as airspaces of defined dimensions, alphabetically designated, within which specific types of flight may operate and for which air traffic services and rules of operation are specified;

(k) ‘direct routeing’ means an aircraft operation allowing an aircraft in flight to proceed directly between two points outside the scheme of routes;

(l) ‘route network’ means a network of specified routes for channelling the flow of air traffic as necessary for the provision of air traffic services;

(m) ‘sector’ means a subdivision of the totality of control tasks into manageable airspace portions at which throughput and capacity can be measured;


(o) ‘airspace management’ means a planning function with the primary objective of maximum utilisation of available airspace by dynamic time-sharing and, at times, the segregation of airspace among various categories of airspace users based on short-term needs;

(p) ‘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 air traffic control capacity is utilised to the maximum extent possible, and that traffic volume is compatible with the capacities declared by the appropriate air traffic services providers;

(q) ‘Collaborative Decision Making’ means a process for exchanging information between air traffic service providers, airport operators, air traffic flow management providers and airspace users to instil more flexibility in slot/route allocation and flight co-ordination processes in order to optimise utilisation of scarce capacity.

PART II

AIRSPACE ARCHITECTURE

Article 4

Creation of a European Upper Flight Information Region

1. Taking due account of ICAO requirements, as specified in the twelfth edition of July 1998 of Annex 11 to the 1944 Chicago Convention on International Civil Aviation, a single European Flight Information Region, hereinafter referred to as European Upper Flight Information Region (EUIR), shall be established in the upper airspace.

2. The division level between upper and lower airspace shall be set at flight level 285.

3. Within three years after the establishment of the EUIR, the European Parliament and the Council shall extend, on the basis of a proposal from the Commission, the concept referred to in paragraph 1 of this Article to include the creation of a European Flight Information Region in the lower airspace.

4. The Commission shall take the necessary measures in order to have the EUIR recognised by ICAO as required by the tenth edition of July 1997 of Annex 15 to the 1944 Chicago Convention on International Civil Aviation. The Commission, involving Eurocontrol, shall also organise the publication of a single aeronautical information relating to the EUIR through the consolidation of existing national aeronautical information. This publication shall incorporate all changes to requirements and procedures introduced by the implementation of the Single Sky.

Article 5

Reconfiguration of the upper airspace

1. The EUIR shall be reconfigured into functional airspace blocks of minimum size on the basis of safety and efficiency. The borders of such functional airspace blocks do not need to coincide with national boundaries. Functional airspace blocks shall be created to support the provision of air traffic services within area control centres responsible for an optimal size of airspace in the EUIR.
2. Functional airspace blocks shall be defined in accordance with the procedure laid down in Article 16(2) of this Regulation. The definition of such functional airspace blocks shall:

(i) Support efficiently the existing and future pattern of air traffic;

(ii) Ensure that each airspace block is designed to maximise the efficiency of European airspace as a whole;

(iii) Take into account the human and capital resources of various air navigation service providers;

(iv) Minimise the transaction costs between various area control centres;

(v) Ensure coherence between the existing and future configurations of upper and lower airspace.

Article 6

Airspace classification

1. The EUIR shall be designated in accordance with a harmonised airspace classification to ensure the seamless provision of air navigation services throughout the Community and to establish a single category of environment within which all air traffic is known to providers of air traffic services, both with position and with flight intentions.

2. The classification referred to in paragraph 1, shall be established on a common and simplified application of the classification of airspace currently prescribed in chapter 2 of twelfth edition of July 1998 of Annex 11 to the 1944 Chicago Convention on International Civil Aviation.

3. The necessary implementing rules in the fields covered by this Article shall be prescribed in accordance with the procedure laid down in Article 16(2) of this Regulation.

Article 7

Direct routeing in the upper airspace

Subject to safety analysis, air navigation service providers shall organise the phased implementation of direct routeings in the EUIR as the optimum economic and environmental usage of Community airspace. Service providers shall regularly report to the Commission on this implementation.

Article 8

Uniform airspace design

The structuring, division and categorising of airspace together with the planning of routes shall rely on a uniform, efficient and effective design process within the agreed concept of operation. To this end, airspace rules, common principles and criteria for sector design, especially the design of cross-border sectors, and route design shall be established on the basis of the ‘Concept and Criteria for Medium Term EUR Route Network and Associated Airspace Sectorisation’, EATMP ARN Version 4 issued by Eurocontrol on 1 April 2001.

The necessary implementing rules in the fields covered by this Article shall be prescribed in accordance with the procedure laid down in Article 16(2) of this Regulation.

Article 9

Consistency with the design for lower airspace

Based on the criteria specified in Article 5(2) of this Regulation, the planning and design of lower airspace shall be harmonised to be consistent with upper airspace and take account of the environment at and around airports in accordance with the procedure laid down in Article 16(2) of this Regulation. Pursuant to Article 4(3), the concept of the functional airspace blocks, specified in Article 5 of this Regulation, shall be extended to establish similar blocks in the lower airspace, particularly to address cross-border problems for short to medium flights.

Air navigation service providers shall harmonise operations and practices concerning approaches and departures of aircraft to/from airports and their movement on the airport surface. A common procedure to the definition of such practices shall be defined in accordance with the procedure laid down in Article 16(2) of this Regulation, including risk assessment methods to verify the local feasibility of these procedures.

PART III

CIVIL MILITARY CO-ORDINATION

Article 10

Civil military co-ordination

1. Member States shall ensure an efficient allocation and use of airspace by civil and military airspace users through the uniform and full application of the concept of the Flexible Use of Airspace.

2. Member States shall facilitate the organisation of civil-military co-operation particularly in all aspects of airspace management and flow management. Civil and military providers of air navigation services shall exchange data under the agreements provided for in Article 10 of Regulation (EEC) . . . [service provision]
3. Taking into account the general conditions for air traffic flow management, as defined under Article 13 of this Regulation, criteria shall be established:

— for the use of segregated airspace, including factors for the determination of horizontal and vertical extensions, the location of such airspace, and its sub-division into functional elements to be activated according to demand;

— for the application of the Flexible Use of Airspace concept, in accordance with the procedure laid down in Article 16(2) of this Regulation.

These criteria shall implement the principles provided for in Article 4 of Regulation (EEC) . ./. . . [framework regulation].

4. Member States shall encourage the full integration of air defence in airspace management ensuring full exploitation of airspace under certain agreed conditions and arrangements, taking into account national security requirements.

5. Without prejudice to international agreements and conventions to which the Community is a contracting party and in order to ensure the safety of civil aviation, Member States can request the submission of a flight plan for any military flight entering the airspace where they have designated air traffic services providers in accordance with Article 8 and 9 of Regulation (EEC) . ./. . . [service provision], regardless of the origin and/or the destination of the flight.

PART IV

FLOW MANAGEMENT

Article 13

Air traffic flow management

Rules for air traffic flow management shall be established in order to optimise available capacities in the use of airspace and to enhance flow management processes. These rules shall be based on transparency and efficiency ensuring that capacity is provided flexibly and in a timely manner. They shall support a framework for operational decisions by air navigation service providers, airport owners and airspace users, i.e. Collaborative Decision Making. These measures will cover:

— a consistent route and traffic orientation policy defined in a single publication;

— consistency between airport slots and slots assigned by the Central Flow Management Unit;

— inconsistencies in flight planning;

— options for diversion of air traffic from congested areas into routes in less congested areas;

— priority rules in access to airspace, particularly during periods of congestion and crisis.

The necessary implementing rules shall be prescribed in accordance with the procedure laid down in Article 16(2) of this Regulation.

PART V

FINAL PROVISIONS

Article 14

Procedures

When preparing for implementing rules covered by this Regulation, the Commission may request, where appropriate, Eurocontrol to draw up draft measures on the basis of a work programme laid down by the Commission.

Article 15

Review of measures

1. In order to make adaptations to technical developments adjustments may be made to:

— the flight level referred to in Article 4(2) of this Regulation,

— references to ICAO and Eurocontrol documents as referred to in Articles 3, 4, 6 and 8 of this Regulation,

in accordance with the procedure laid down in Article 16(2) of this Regulation.
2. The Commission shall publish implementing rules adopted on the basis of this Regulation in the *Official Journal of the European Communities*.

**Article 16**

*Procedures for the Single Sky Committee*

1. The Commission shall be assisted by the ‘Single Sky Committee’ as provided for in Article 7 of Regulation (EEC) …/… [framework regulation].

2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7(3) and Article 8 thereof.

3. The period provided for in Article 5(6) of Decision 1999/468/EC shall be one month.

**PART VI**

**ENTRY INTO FORCE**

**Article 17**

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

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