

COMMISSION IMPLEMENTING DECISION (EU) 2017/1985**of 31 October 2017****allowing targets in the key performance area of cost-efficiency for the years 2017, 2018 and 2019 for air navigation services of Malta, Bulgaria, and Poland to be revised in accordance with Article 17(1) of Implementing Regulation (EU) No 390/2013***(notified under document C(2017) 7121)***(Only the Bulgarian, English, Maltese and Polish texts are authentic)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Commission Implementing Regulation (EU) No 390/2013 of 3 May 2013 laying down a performance scheme for air navigation services and network functions ⁽¹⁾, and in particular Article 17(1) thereof,

Whereas:

- (1) In accordance with Regulation (EC) No 549/2004 of the European Parliament and of the Council ⁽²⁾, the Member States are to adopt national or functional airspace block ('FAB') plans, including binding national targets or targets at the level of FABs, ensuring consistency with the Union-wide performance targets.
- (2) The Commission adopted Implementing Decision (EU) 2015/348 ⁽³⁾ which established, inter alia, that the local targets in the key performance area of cost-efficiency of Malta, Bulgaria and Poland included in the performance plans of BLUEMED FAB, DANUBE FAB and BALTIC FAB, respectively, were consistent with the Union-wide performance targets for the second reference period (2015-2019).
- (3) In 2016, Malta, Bulgaria and Poland requested, in accordance with Article 17(1), in conjunction with Article 19(2), of Implementing Regulation (EU) No 390/2013, permission of the Commission to revise local cost-efficiency targets for the years 2017, 2018 and 2019. Those Member States explained that they have been affected by changes in traffic flows caused by geopolitical crises which were unforeseeable at the time of adoption of the performance plans that include those targets and which affect the calculation of those targets. In addition, Bulgaria and Poland also provided evidence, obtained on the basis of the reports on the monitoring of the performance and additional documents, which demonstrates in their view that the initial assumptions and rationales underlying the setting of the initial targets are no longer valid.
- (4) The documentation submitted by the three Member States was assessed by the Performance Review Body ('PRB'), which is charged with assisting the Commission in the implementation of the performance scheme pursuant to Article 3 of Implementing Regulation (EU) No 390/2013. Reports of the assessment were submitted to the Commission on 29 November 2016.
- (5) Based on the assessment of documentation received, the Commission considers that Malta, Bulgaria and Poland provided sufficient evidence to support the request to revise the local cost-efficiency targets for the years 2017, 2018 and 2019.
- (6) With regard to Malta, the alert threshold set for variations between planned and actual traffic, laid down in the performance plan of BLUEMED FAB, was reached and significantly exceeded for the year 2015. Actual traffic in 2015 was 35,2 % above planned. As a result of the closure of the Libyan Flight Information Region ('FIR'), East-West traffic which used to overfly Libya started to transit across the Malta FIR. The geopolitical situation in Syria

⁽¹⁾ OJ L 128, 9.5.2013, p. 1.⁽²⁾ Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation) (OJ L 96, 31.3.2004, p. 1).⁽³⁾ Commission Implementing Decision (EU) 2015/348 of 2 March 2015 concerning the consistency of certain targets included in the national or functional airspace block plans submitted pursuant to Regulation (EC) No 549/2004 of the European Parliament and of the Council with the Union-wide performance targets for the second reference period (OJ L 60, 4.3.2015, p. 55).

and Iraq, security issues over the Sinai Peninsula and capacity issues in the Nicosia FIR and Athens FIR changed the traffic flows to and from the Middle East through the Malta FIR, thus bringing an increase in traffic. It is therefore considered that the alert threshold was reached due to circumstances that were unforeseeable at the time of adoption of the performance plan and are both insurmountable and beyond the control of Malta and that the conditions of point (b) of Article 17(1) and Article 19(2) of Implementing Regulation (EU) No 390/2013 have been met.

- (7) With regard to Bulgaria, the alert threshold set for variations between planned and actual traffic, laid down in the performance plan of DANUBE FAB, was also reached for the year 2015. Actual traffic in 2015 was 22,7 % above planned. The unavailability of flight planning of major portions of the Eastern part of the Ukrainian airspace and of the Black Sea created significant shifts in traffic flows. Although it occurred in 2014, this crisis lasted longer and had further reaching implications for traffic in the Bulgarian airspace than originally foreseen. The traffic flows in Bulgarian airspace were also impacted by the reduction of traffic demand between the Russian Federation and Turkey, as well as mutual interdiction of overflights of aircraft registered respectively by Ukraine and the Russian Federation. It is therefore considered that the alert threshold was reached due to circumstances that were unforeseeable at the time of adoption of the performance plan and are both insurmountable and beyond the control of Bulgaria and that the conditions of point (b) of Article 17(1) and Article 19(2) of Implementing Regulation (EU) No 390/2013 have been met.
- (8) In addition, the cost assumptions of Bulgaria, in particular in relation to staffing, laid down in the performance plan of DANUBE FAB, are no longer valid in view of the increase in traffic and the upcoming opening of a new airport in Turkey which requires changes in Bulgarian airspace. It is therefore considered that the initial data, assumptions and rationales, as regards costs, underlying the setting of the initial targets in the key performance area of cost-efficiency are no longer valid and that conditions of point (a) of Article 17(1) of Implementing Regulation (EU) No 390/2013 have been met.
- (9) With regard to Poland, the alert threshold set for variations between planned and actual traffic, laid down in the performance plan of BALTIC FAB, was also reached for the year 2015. Actual traffic in 2015 was 11,1 % below planned. The unavailability of flight planning of major portions of the Eastern part of the Ukrainian airspace and of the Black Sea created significant shifts in traffic flows. Although it occurred in 2014, this crisis lasted longer and had further reaching implications for traffic in the Polish airspace than originally foreseen. The traffic flows in the Polish airspace were affected by reduction of traffic to and from Russia in general, and specifically a reduction of traffic demand between the Russian Federation and Turkey as well as mutual interdiction of overflights of aircraft registered respectively by Ukraine and the Russian Federation. It is therefore considered that the alert threshold was reached due to circumstances that were unforeseeable at the time of adoption of the performance plan and are both insurmountable and beyond the control of Poland and that the conditions of point (b) of Article 17(1) and Article 19(2) of Implementing Regulation (EU) No 390/2013 have been met.
- (10) In addition, Poland made incorrect assumptions on costs, laid down in the performance plan of BALTIC FAB. Those incorrect cost assumptions related mainly to operating costs, in particular staff costs, and investments, including cost of capital and depreciation, in view of significant projects related to the restructuring and sectorisation of the airspace and the need to improve safety management and ensure future achievement of safety performance targets. It is therefore considered that the initial data, assumptions and rationales, as regards costs, underlying the setting of the initial targets in the key performance area of cost-efficiency are no longer valid and that conditions of point (a) of Article 17(1) of Implementing Regulation (EU) No 390/2013 have been met.
- (11) Malta, Bulgaria and Poland should therefore be allowed to revise their local targets in the key performance area of cost-efficiency, in as far as necessary in light of the circumstances causing the alert threshold to be reached and the evidence provided that the initial data, assumptions and rationales underlying the setting of the initial targets are no longer valid.
- (12) In accordance with Implementing Regulation (EU) No 390/2013, after having been allowed by the Commission to revise the relevant targets, the Member States concerned may revise those targets and submit amended performance plans, based on the revised targets, for the Commission to assess their consistency with the Union-wide targets for the second reference period.
- (13) The measures provided for in this Decision are in accordance with the opinion of the Single Sky Committee,

HAS ADOPTED THIS DECISION:

Article 1

Bulgaria, Malta and Poland may revise their local targets in the key performance area of cost-efficiency for the years 2017, 2018 and 2019, laid down in the performance plans of DANUBE, BLUEMED and BALTIC functional airspace blocks, respectively.

Article 2

This Decision is addressed to the Republic of Bulgaria, the Republic of Malta, and the Republic of Poland.

Done at Brussels, 31 October 2017.

For the Commission
Violeta BULC
Member of the Commission
