Performance and sustainability of the European aviation system

2008/0127(COD) - 25/03/2009 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 614 votes to 47, with 24 abstentions, a legislative resolution amending, under the first reading of the codecision procedure, the proposal for a regulation of the European Parliament and of the Council amending Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004 and (EC) No 552/2004 in order to improve the performance and sustainability of the European aviation system.

The amendments were the result of a compromise negotiated with the Council. The main amendments were as follows:

Application: the application of Regulation (EC) No 549/2004 shall be without prejudice to the rights and duties of Member States under the 1944 Chicago Convention on International Civil Aviation. In this context, an additional objective of this Regulation is, in the fields it covers, to assist Member States in fulfilling their obligations under the Chicago Convention, by providing a basis for a common interpretation and uniform implementation of its provisions, and by ensuring that these provisions are duly taken into account in this Regulation and in the rules drawn up for its implementation.

There is an additional provision with regard to the application to the airport of Gibraltar.

Definitions: new definitions are inserted for, inter alia, "certificate", "flight information service" "alerting services" and "cross-border services".

Independence: the national supervisory authorities shall be independent of air navigation service providers. This independence shall be achieved through adequate separation, at the functional level at least, between the national supervisory authorities and such providers. National supervisory authorities shall exercise their powers impartially, independently and transparently. This shall be achieved by applying appropriate management and control mechanisms, including within the administration of a Member State. However, this shall not prevent the national supervisory authorities from exercising their tasks within the rules of organisation of national civil aviation authorities or any other public bodies.

Relations with European third countries: the Community and its Member States shall aim at and support the extension of the SES to countries which are not members of the EU. To that end, they shall endeavour, either in the framework of agreements concluded with neighbouring third countries or in the context of agreements on functional airspace blocks, to extend the application of this Regulation to those countries.

Implementing rules: for the development of implementing rules the Commission may issue mandates to Eurocontrol or to another body, setting out the tasks to be performed and the timetable for this and taking into account the relevant deadlines laid down in this Regulation.

There is a **provision on penalties** for infringements of the Regulation in particular by airspace users and service providers.

Stakeholder consultations: Member States shall establish consultation mechanisms for appropriate involvement of stakeholders, including professional staff representative bodies, in the implementation of the single European sky. The text sets out an open list of stakeholders.

Improved performance system: a performance scheme for air navigation services and network functions shall be set up and include: a) Community-wide performance targets on the key performance areas of safety, environment, capacity and cost-efficiency; (b) national plans, or plans for functional airspace blocks, including performance targets, ensuring consistency with the Community-wide performance targets; and c) periodic review, monitoring and benchmarking of performance of air navigation services and network functions. The text sets out the procedures that will apply to the performance scheme, as well as **the reference periods**. For the detailed functioning of the performance scheme, the Commission must adopt implementing rules which must cover certain specified factors.

Report: the Commission shall first report to the European Parliament and to the Council 18 months after the entry into force of this Regulation, and at the end of each reference period thereafter.

European Aviation Safety Agency: when implementing this Regulation and Regulations (EC) No 550 /2004, (EC) No 551/2004 and (EC) No 552/2004, Member States and the Commission, in accordance with their respective roles, shall coordinate as appropriate with the EASA to ensure that all safety aspects are properly addressed.

Air navigation service providers: the compromise text adds additional provisions to Regulation (EC) No 550/2004 with regard to the duties of national supervisory authorities.

An additional Article is inserted on **qualified entities.**

Functional airspace blocks (FABs): Member States shall take all necessary measures in order to ensure the implementation of functional airspace blocks no later than 3 years following the entry into force of this Regulation. FABs must also ensure consistency with the European route network and facilitate consistency with Community-wide performance targets. The text adds provisions regarding the Commission's assessment of the fulfilment of requirements for FABs.

Coordinator: in order to facilitate the establishment of the functional airspace blocks, the Commission may designate a natural person as Functional Airspace Blocks System Coordinator ("the Coordinator"). The Coordinator shall facilitate at the request of all Member States concerned and, where appropriate, third countries taking part in the same FAB, overcoming of difficulties in their negotiation process in order to speed up the establishment of functional airspace blocks. He will act on the basis of a mandate from all Member States concerned and, where appropriate, third countries taking part in the same FAB. He shall act impartially in particular vis-à-vis Member States, third countries, the Commission and the stakeholders.

The Coordinator will report to the Commission, to the Single Sky Committee and to the European Parliament every 3 months after his/her designation. The remit of the Coordinator shall expire when the last FAB agreement is signed but no later than three years following the entry into force of this Regulation.

The text also deals with **relations with military authorities**

Costs: a provision on determined costs is inserted and the text states that 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;"

Common projects: common projects may assist the successful implementation of the ATM Master Plan. Such projects shall, furthermore, support the objectives of the 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 Commission may develop guidance material concerning the way in which such projects can support the implementation of the ATM

Master Plan. Such guidance material shall not prejudice mechanisms for the deployment of such projects in relation with a functional airspace block as agreed upon by the partners of those blocks. The Commission may also decide to set up **common projects for network-related functions**, which are of particular importance for the improvement of the overall performance of air traffic management and air navigation services in Europe. Such common projects may be considered eligible for funding support via European funds 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, 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.

Network management function: the agreement laid down certain principles that the Commission should observe when establishing the network management function.