

Capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky

2020/0264(COD) - 22/09/2020 - Legislative proposal

PURPOSE: to create a permanent structure dedicated to the performance review of the Single European Sky within the European Aviation Safety Agency.

PROPOSED ACT: Regulation of the European Parliament and the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the [amended proposal](#) for a Regulation of the European Parliament and of the Council on the implementation of the Single European Sky aims to update, in the light of experience, the current legislation on the Single European Sky. An important element of the amendments proposed in this context is the establishment of a permanent function of the Performance Review Body (PRB), to be carried out by the European Union Aviation Safety Agency.

In line with this aim, it is necessary to establish a permanent structure within the Agency to ensure that the tasks entrusted to the Agency acting as a Performance Review Body are carried out with the required expertise as well as in full independence from public or private interests and that, in this context, the Agency can rely on dedicated resources.

The Commission therefore considers it necessary to amend [Regulation \(EU\) No 2018/1139](#) in a manner that separates the discharge of the tasks regarding the performance and charging schemes of the Single European Sky, functionally and hierarchically, from the Agency's activity as a safety authority.

CONTENT: this proposal amending Regulation (EU) No 2018/1139 seeks in particular to establish a regulatory board for performance review and appoint a director for performance review in order to carry out specifically the functions of the Agency acting as PRB.

The proposed Regulation lays down the composition of and relevant requirements regarding the bodies and function holders provided for with a view to enabling the Agency to act as PRB. The tasks and powers to be conferred upon the Agency for these purposes are those laid down in the amended recast proposal. They include the assessment and approval of performance plans of designated air traffic service providers, the provision of advice to the Commission regarding the Network Performance Plan, the monitoring of performance, and the verification of unit rates of air traffic service providers.

For carrying out its tasks on performance review, the Agency acting as PRB shall have: (i) a regulatory board for performance review; (ii) a director for performance review; (iii) an advisory board for performance review; (iv) and an appeal board for performance review.

Performance review body (PRB)

The Agency acting as performance review body shall provide technical assistance to the Commission, in the implementation of the Single European Sky, including on the performance and charging scheme, in particular by:

- (a) conducting technical inspections, technical investigations, reviews of compliance, studies and projects;
- (b) contributing to the implementation of the ATM Master Plan, including the development and deployment of the SESAR programme.

In order to optimise the functioning of the Agency as a PRB, it would be desirable for the Union to convene with Eurocontrol the transfer of technical expertise and relevant performance-related data, possibly by amending the existing High-Level Agreement between the two parties.

It is proposed that the regulatory board for performance review act independently and shall not seek or follow instructions or accept recommendations from a government of a Member State, from the Commission or any other public or private entity.

Director of the body

The Director for performance review shall in particular be the legal representative of the Agency in matters of performance review and be in charge of the day-to-day administration in respect of this matter, as well as of various preparatory tasks.

Advisory board

Cooperation between national supervisory authorities in the area of performance review is important to ensure smooth application of Union law in this area. In this regard, the advisory board shall exchange information about the work of national supervisory authorities and decision-making principles, best practices and provide opinions and recommendations on guidance material to be issued by the Agency acting as PRB.

Budgetary implications

The proposed new “PRB” function is to be financed by fees and charges and administratively integrated into the Agency. A reserve fund covering one year of operational expenditure is proposed, in order to ensure the continuity of its operations and of the execution of its tasks. In addition, it is proposed to provide for annual contributions to be made by designated air traffic service providers concerned by the Agency’s tasks and powers as PRB, for the built up of the new function. Such annual contributions are proposed to be collected for five financial years following the entry into force of the amending Regulation, in order to cover the costs of setting up the new functions within the Agency. All in all, the Union’s budget shall not be affected.