Basic information

2008/0127(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Performance and sustainability of the European aviation system Amending Regulation (EC) No 549/2004 2001/0060(COD) Amending Regulation (EC) No 550/2004 2001/0235(COD) Amending Regulation (EC) No 551/2004 2001/0236(COD) Amending Regulation (EC) No 552/2004 2001/0237(COD) **Subject** 3.20.01 Air transport and air freight 3.20.15.02 Air transport agreements and cooperation	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
TRAN Transport and Tourism	MARINESCU Marian-Jean (PPE-DE)	15/07/2008

Committee for opinion	Rapporteur for opinion	Appointed
ITRE Industry, Research and Energy	RIERA MADURELL Teresa (PSE)	25/08/2008

Council of the European Union

Council configuration	Meetings	Date
Transport, Telecommunications and Energy	2935	2009-03-30
Transport, Telecommunications and Energy	2913	2008-12-08
Agriculture and Fisheries	2959	2009-09-07

European Commission

Commission DG	Commissioner
Energy and Transport	TAJANI Antonio

Key events

Date	Event	Reference	Summary
25/06/2008	Legislative proposal published	COM(2008)0388	Summary
08/07/2008	Committee referral announced in Parliament, 1st reading		

08/12/2008	Vote in committee, 1st reading		Summary
20/01/2009	Committee report tabled for plenary, 1st reading	A6-0002/2009	
24/03/2009	Debate in Parliament		
25/03/2009	Decision by Parliament, 1st reading	T6-0169/2009	Summary
25/03/2009	Results of vote in Parliament		
07/09/2009	Act adopted by Council after Parliament's 1st reading		
21/10/2009	Final act signed		
21/10/2009	End of procedure in Parliament		
14/11/2009	Final act published in Official Journal		

Technical information

Procedure reference	2008/0127(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 549/2004 2001/0060(COD) Amending Regulation (EC) No 550/2004 2001/0235(COD) Amending Regulation (EC) No 551/2004 2001/0236(COD) Amending Regulation (EC) No 552/2004 2001/0237(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 100-p2
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/6/64738

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE412.349	15/10/2008	
Amendments tabled in committee		PE415.123	19/11/2008	
Committee opinion	ITRE	PE413.996	03/12/2008	
Committee report tabled for plenary, 1st reading/single reading		A6-0002/2009	20/01/2009	
Text adopted by Parliament, 1st reading/single reading		T6-0169/2009	25/03/2009	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	03640/2009/LEX	21/10/2009	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2008)0388	25/06/2008	Summary
Document attached to the procedure	SEC(2008)2093	25/06/2008	
Document attached to the procedure	SEC(2008)2094	25/06/2008	
Commission response to text adopted in plenary	SP(2009)3060	04/06/2009	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0044/2009	14/01/2009	

Additional information		
Source	**Document**	**Date**
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act	
Regulation 2009/1070 OJ L 300 14.11.2009, p. 0034	Summary

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.

Performance and sustainability of the European aviation system

2008/0127(COD) - 08/12/2008

In public deliberation, the Council reached agreement on the technical provisions of a proposal for a Regulation amending four existing Regulations laying down the framework of the single European sky in order to improve the performance of the air traffic management system. The existing Regulations are:

- Regulation (EC) No 549/2004 laying down the framework for the creation of the Single European Sky;
- Regulation (EC) No 550/2004 on the provision of air navigation services in the Single European Sky;
- Regulation (EC) No 551/2004 on the organisation and use of the airspace in the Single European Sky;
- Regulation (EC) No 552/2004 on the interoperability of the European air traffic management network.

Work on the legislative proposal will continue under the Czech Presidency. All Member States welcomed the proposal, given the continued growth in air traffic and delays attributed to problems linked to the fragmentation of the European airspace.

The European Parliament should adopt its opinion at first reading soon.

Performance and sustainability of the European aviation system

2008/0127(COD) - 30/03/2009

The Presidency briefed the Council on the first reading agreement reached with the European Parliament on the Single Sky Package (draft Regulation 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 and draft Regulation amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services).

Performance and sustainability of the European aviation system

2008/0127(COD) - 25/06/2008 - Legislative proposal

PURPOSE: to revise the single European sky legislation in order to improve the performance and sustainability of the European aviation system.

BACKGROUND: the European Commission adopted the second package of legislation for a Single European Sky (SES II). The proposals included in the package aim to improve the performance of the European aviation system in key areas such as safety, capacity, flight and cost efficiency and environment within the overriding safety objectives (see COD/2008/0128).

The SES II package is based on four pillars: updates to existing legislation from 2004; the SESAR (Single European Sky Air Traffic Management Research) Master Plan or 'technological pillar'; the 'safety pillar' and an airport capacity action plan.

CONTENT: this proposal introduces several enhancements to the original SES legislation, including binding performance targets for air navigation service providers, a European network management function to ensure convergence between national networks and a definitive date for Member States to improve performance, initially through a cross border cooperative approach known as Functional Airspace Blocks.

The main elements of the proposal are as follows:

Designation and independence of national supervisory authorities: Member States shall, jointly or individually, nominate or establish a body or bodies as their national supervisory authority in order to assume the tasks assigned to such authority under the Regulation. The national supervisory authorities must: (i) be at least functionally independent from any other public or private entity; (ii) exercise their powers impartially and transparently; (iii) have adequate human and financial resources to carry out their duties.

Industry Consultation Body: the Commission shall establish an 'industry consultation body', to which air navigation service providers, associations of airspace users, airports, the manufacturing industry and professional staff representative bodies shall belong. The role of this body shall be to advise the Commission on the implementation of the single European sky.

Social partners: social partners should be better informed and consulted on all measures having significant social implications. The Sectoral Dialogue Committee set up under Commission Decision 98/500/EC on the establishment of Sectoral Dialogue Committees promoting the Dialogue between the social partners at European level should also be consulted.

Improved performance system: to drive improved performance of air traffic management (ATM) and air navigation services (ANS), the proposal establishes a framework for the definition, implementation and enforcement of binding performance targets in key performance areas in line with International Civil Aviation Organisation's (ICAO) policies. This framework provides an appropriate mechanism for reporting, examining, evaluating and disseminating performance data of ATM and ANS along with relevant incentives and disincentives to encourage achievement of the targets.

Safety requirements: the Commission shall adopt implementing rules incorporating the relevant provisions of the Eurocontrol safety regulatory requirements (ESARRs) and subsequent amendments to those requirements falling within the scope of this Regulation. It is specified that a Member State shall not refuse to designate an air traffic service provider on the grounds that it is established in another Member State or that it belongs to nationals of that Member State.

Functional Airspace Blocks: Member States shall take all necessary measures in order to ensure the establishment of functional airspace blocks as soon as possible and at the latest by the end of 2012 with a view to achieving maximum 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 a reduced environmental impact. Member States shall cooperate with each other to the fullest extent possible in order to ensure compliance with this provision.

Charging scheme for air navigation services: this 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. This scheme shall also be consistent with the 1944 Chicago Convention on International Civil Aviation and with Eurocontrol's charging system for en-route charges.

Single European Flight Information Region (EFIR): an EFIR encompassing the airspace falling under the responsibility of the Member States should facilitate common planning and integrated operations in order to overcome regional bottlenecks. The Community and the Member States shall request ICAO to establish and recognise a single European Flight Information Region (EFIR). To this end, for matters which fall within the competence of the Community, the Commission shall, if necessary, submit a recommendation to the Council.

Aeronautical information: without prejudice to the publication by Member States of aeronautical information, the Commission, working in cooperation with Eurocontrol, 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.

Rules of the air and airspace classifications: the Commission shall adopt implementing rules in order to: (i) incorporate the appropriate provisions of ICAO standards and recommended practices on rules of the air, where necessary with appropriate adaptations and improvements; (ii) harmonise the application of the ICAO airspace classification, where necessary with appropriate adaptations and improvements, in order to ensure the seamless provision of air navigation services within the single European sky.

Network management and design: the air traffic management (ATM) network shall allow optimum use of airspace and ensure that airspace users can operate preferred trajectories, while allowing maximum access to airspace and air navigation services. In order to achieve these objectives, the Commission shall ensure that the following functions are carried out: (i) design of the European route network; (ii) coordination and allocation of scarce resources, in particular radio frequencies and radar transponder codes; (iii) additional functions for the ATM network, as defined in the ATM Master Plan.

Comitology: power should be conferred on the Commission to update measures due to technical or operational developments as well as to lay down the basic criteria and procedures for the exercise of certain management network functions. These measures must be adopted in accordance with the regulatory procedure with scrutiny.

Performance and sustainability of the European aviation system

2008/0127(COD) - 21/10/2009 - Final act

PURPOSE: to establish a harmonised regulatory framework for the creation of the single European sky.

LEGISLATIVE ACT: Regulation (EC) No 1070/2009 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.

CONTENT: the Council adopted two regulations to improve the performance and safety of the European aviation system. This Regulation t strengthens the Single European Sky legislation while the second extends the tasks of the European Aviation Safety Agency.

Both regulations were adopted following a first-reading agreement reached with the European Parliament in March 2009.

This Regulation on the Single European Sky amends four existing regulations (Regulation (EC) No 549/2004 laying down the framework for the creation of the Single European Sky, Regulation (EC) No 550/2004 on the provision of air navigation services in the Single European Sky, Regulation (EC) No 551/2004 on the organisation and use of the airspace in the Single European Sky, Regulation (EC) No 552/2004 on the interoperability of the European air traffic management network) which were adopted in 2004. Since their adoption it has proved necessary to consolidate and address a number of challenges, relating in particular to:

- sustainable development – attenuating the environmental impact of aviation through, for example, the creation of a rational European route network, including shorter routes for intra-Community traffic;
- performance – the performance of the network in terms of reduction in delays and lower costs for airspace users;
- governance issues - ensuring that the system is supervised in a transparent and correct manner at national and EU level.

The **objective of the single European sky initiative** is to enhance current air traffic safety standards, to contribute to the sustainable development of the air transport system 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. This single European sky will comprise a coherent pan-European network of routes, network management and air traffic management systems based only on safety, efficiency and technical considerations, for the benefit of all airspace users. In pursuit of this objective, the Regulation establishes a harmonised regulatory framework for the creation of the single European sky.

The application of the Regulation is 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 and the Regulation does not cover military operations and training. It is also 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, an additional objective of the 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.

The Regulation sets a fixed deadline for the implementation of functional airspace blocks that are a tool for a more rational and efficient European airspace. In addition, it strengthens the central network function at the EU level, as well as the principles concerning the degree of autonomy to be accorded to national supervisory authorities responsible for overseeing the provision of aeronautical services in Member States.

Functional airspace blocks: the functional airspace blocks are key enablers for enhancing cooperation between air navigation service providers in order to improve performance and create synergies. The Regulation provides that **by 4 December 2012**, Member States must take the necessary measures in order to ensure the implementation of functional airspace blocks 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 a reduced environmental impact. Member States shall cooperate to the fullest extent possible with each other, in particular Member States establishing neighbouring functional airspace blocks, in order to ensure compliance with this provision. Where relevant, cooperation may also include third countries taking part in functional airspace blocks.

Functional airspace blocks system 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), who will facilitate at the request of all Member States concerned and, where appropriate, third countries taking part in the same functional airspace block, overcoming of difficulties in their negotiation process in order to speed up the establishment of functional airspace blocks. The Coordinator shall act impartially in particular with regard to Member States, third countries, the Commission and the stakeholders.

Performance scheme: to drive improved performance of ATM and air navigation services (ANS), the Regulation establishes a framework for the definition, implementation and enforcement of binding performance targets in key performance areas in line with the policies of the International Civil Aviation Organisation (ICAO). An indispensable feature of such a framework is an appropriate mechanism for reporting, examining, evaluating and disseminating performance data of ATM and ANS along with a relevant incentive scheme to encourage achievement of the targets.

SEFIR: in view of the creation of functional airspace blocks and the setting up of the performance scheme, the Commission should determine and take into account the necessary conditions for the Community to create a Single European Flight Information Region (SEFIR), to be requested by the Member States from the ICAO in accordance with both the established procedures of that organisation and the rights, obligations and responsibilities of Member States under the Chicago Convention. By encompassing the airspace under the responsibility of the Member States, the SEFIR should facilitate common planning and integrated operations in order to overcome regional bottlenecks. Such a SEFIR should include the necessary flexibility to reflect specific needs such as traffic density and the level of complexity required.

National supervisory authorities: national supervisory authorities have a key role to play in the implementation of the single European sky and the Commission 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. This cooperation should take place on a regular basis. 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.

Common projects: common projects may assist the successful implementation of the air traffic management (ATM) Master Plan. Such 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 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.

Consultation of stakeholders: the Member States, acting in accordance with their national legislation, shall establish consultation mechanisms for appropriate involvement of stakeholders, including professional staff representative bodies, in the implementation of the single European sky. The Commission shall establish a consultation mechanism at Community level. The text includes a list of interested parties.

Report: the Commission shall periodically review the application of this Regulation report to the European Parliament and to the Council by 4 June 2011, and at the end of each reference period.

Review: the Commission shall submit a study no later than 4 December 2012 evaluating the legal, safety, industrial, economic and social impacts of the application of market principles to the provision of communication, navigation, surveillance and aeronautical information services, compared to existing oralternative organisational principles and taking into account developments in the functional airspace blocks and in available technology.

ENTRY INTO FORCE: 04/12/2009. Article 6(2) and (6) of Regulation (EC) No 551/2004 (Network management and design), as amended by this Regulation, shall apply from the date specified in their respective implementing rules but no later than 4 December 2012.