Regulation (EC) No 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the single European sky (the service provision Regulation) (Text with EEA relevance)

REGULATION (EC) No 550/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 10 March 2004

on the provision of air navigation services in the single European sky

(the service provision Regulation)

(Text with EEA relevance)

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[(1)],

Having regard to the opinion of the European Economic and Social Committee[(2)],

Having regard to the opinion of the Committee of the Regions[(3)],

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(4)], in the light of the joint text approved by the Conciliation Committee on 11 December 2003,

Whereas:

(1) Member States have restructured, to varying degrees, their national air navigation service providers by increasing their level of autonomy and freedom to provide services. It is increasingly necessary to ensure that minimum public-interest requirements are satisfied under this new environment.

(2) The report of the High Level Group on the single European sky of November 2000 has confirmed the need for rules at Community level to distinguish between regulation and service provision and to introduce a system of certification aimed at preserving public interest requirements, most notably in terms of safety, and to improve charging mechanisms.

(3) Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 (the framework Regulation)[(5)] lays down the framework for the creation of the single European sky.

(4) In order to create the single European sky, measures should be adopted to ensure the safe and efficient provision of air navigation services consistent with the organisation and use of airspace as provided for in Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation)[(6)]. The establishment of

Changes to legislation: *Regulation (EC) No 550/2004 of the European Parliament and of the Council is up to date with all changes known to be in force on or before 20 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

a harmonised organisation for the provision of such services is important in order to respond adequately to the demand of airspace users and to regulate air traffic safely and efficiently.

(5) The provision of air traffic services, as envisaged by this Regulation, is connected with the exercise of the powers of a public authority, which are not of an economic nature justifying the application of the Treaty rules of competition.

(6) Member States are responsible for monitoring the safe and efficient provision of air navigation services and for the control of compliance by air navigation service providers with the common requirements established at Community level.

(7) Member States should be permitted to entrust to recognised organisations, which are technically experienced, the verification of compliance of air navigation service providers with the common requirements established at Community level.

(8) Smooth operation of the air transport system also requires uniform and high safety standards for air navigation service providers.

(9) Arrangements should be made to harmonise the licensing systems for controllers, in order to improve the availability of controllers and to promote the mutual recognition of licences.

(10) Whilst guaranteeing the continuity of service provision, a common system should be established for certifying air navigation service providers, which constitutes a means for defining the rights and obligations of those providers and for regular monitoring of compliance with such requirements.

(11) Conditions attached to certificates should be objectively justified and should be non-discriminatory, proportionate and transparent, and compatible with relevant international standards.

(12) The certificates should be mutually recognised by all Member States in order to allow air navigation service providers to provide services in a Member State other than the country in which they obtained their certificates, within the limits of the safety requirements.

(13) The provision of communication, navigation and surveillance services, as well as aeronautical information services, should be organised under market conditions whilst taking into account the special features of such services and maintaining a high level of safety.

(14) In the interest of facilitating the safe handling of air traffic across the boundaries of the Member States for the benefit of the airspace users and their passengers, the system of certification should provide for a framework to enable Member States to designate providers of air traffic services, regardless of where they have been certified.

(15) On the basis of their analysis of safety considerations, Member States should be able to designate one or more providers of meteorological services in respect of all or part of the airspace under their responsibility, without the need to organise a call for tenders.

***Changes to legislation:** Regulation (EC) No 550/2004 of the European Parliament and of the Council is up to date with all changes known to be in force on or before 20 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(16) Air navigation service providers should establish and maintain close cooperation with military authorities responsible for activities that may affect general air traffic, through appropriate arrangements.

(17) The accounts of all air navigation service providers should provide for maximum transparency.

(18) The introduction of harmonised principles and conditions for access to operational data should facilitate the provision of air navigation services and the operation of airspace users and airports under a new environment.

(19) Charging conditions applying to airspace users should be fair and transparent.

(20) User charges should provide remuneration for the facilities and services provided by air navigation service providers and Member States. The level of user charges should be proportionate to the cost, taking into consideration the objectives of safety and economic efficiency.

(21) There should be no discrimination between airspace users as to the provision of equivalent air navigation services.

(22) Air navigation service providers offer certain facilities and services directly related to the operation of aircraft, the costs of which they should be able to recover according to the ‘user pays’ principle, which is to say that airspace users should pay for the costs they generate at, or as close as possible to, the point of use.

(23) It is important to ensure the transparency of the costs to which such facilities or services give rise. Accordingly, any changes made to the system or level of charges should be explained to airspace users; such changes or investment proposed by air navigation service providers should be explained as part of an exchange of information between their management bodies and airspace users.

(24) There should be scope for modulating charges that contribute to maximising system-wide capacity. Financial incentives may be a useful way of accelerating the introduction of ground-based or airborne equipment that increases capacity, of rewarding high performance or of offsetting the inconvenience of choosing less desirable routings.

(25) In the context of those revenues raised to provide a reasonable return on assets, and in direct correlation with the savings made from efficiency improvements, the Commission should study the possibility of establishing a reserve aimed at reducing the impact of a sudden increase in charges to airspace users at times of reduced levels of traffic.

(26) The Commission should examine the feasibility of organising temporary financial aid for measures to increase the capacity of Europe's air traffic control system as a whole.

(27) The establishment and imposition of charges on airspace users should be reviewed by the Commission on a regular basis, in cooperation with Eurocontrol, and with national supervisory authorities and airspace users.

(28) Owing to the particular sensitivity of information concerning air navigation service providers, national supervisory authorities should not disclose information covered by

Changes to legislation: *Regulation (EC) No 550/2004 of the European Parliament and of the Council is up to date with all changes known to be in force on or before 20 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

the obligation of professional secrecy, without prejudice to the organisation of a system for monitoring and publishing the performance of those providers,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL

Article 1

Scope and objective

1 Within the scope of the framework Regulation, this Regulation concerns the provision of air navigation services in the single European sky. The objective of this Regulation is to establish common requirements for the safe and efficient provision of air navigation services in the Community.

2 This Regulation shall apply to the provision of air navigation services for general air traffic in accordance with and within the scope of the framework Regulation.

I[F1] Article 2

Tasks of the national supervisory authorities

1 The national supervisory authorities referred to in Article 4 of the framework Regulation shall ensure the appropriate supervision of the application of this Regulation, in particular with regard to the safe and efficient operation of air navigation service providers which provide services relating to the airspace falling under the responsibility of the Member State which nominated or established the relevant authority.

2 To this end, each national supervisory authority shall organise proper inspections and surveys to verify compliance with the requirements of this Regulation, including human resources requirements for the provision of air navigation services. The air navigation service provider concerned shall facilitate such work.

3 In respect of functional airspace blocks that extend across the airspace falling under the responsibility of more than one Member State, the Member States concerned shall conclude an agreement on the supervision provided for in this Article with regard to the air navigation service providers providing services relating to those blocks.

4 National supervisory authorities shall cooperate closely to ensure adequate supervision of air navigation service providers holding a valid certificate from one Member State that also provide services relating to the airspace falling under the responsibility of another Member State. Such cooperation shall include arrangements for the handling of cases involving non-compliance with the applicable common requirements set out in Article 6 or with the conditions set out in Annex II.

5 In the case of cross-border provision of air navigation services, such arrangements shall include an agreement on the mutual recognition of the supervisory tasks set out in paragraphs 1 and 2 and of the results of these tasks. This mutual recognition shall apply also

***Changes to legislation:** Regulation (EC) No 550/2004 of the European Parliament and of the Council is up to date with all changes known to be in force on or before 20 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

where arrangements for recognition between national supervisory authorities are made for the certification process of service providers.

6 If permitted by national law and with a view to regional cooperation, national supervisory authorities may also conclude agreements regarding the division of responsibilities regarding supervisory tasks.

Textual Amendments

F1 Substituted by Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 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 (Text with EEA relevance).

Article 3

Qualified entities

1 National supervisory authorities may decide to delegate in full or in part the inspections and surveys referred to in Article 2(2) to qualified entities that fulfil the requirements set out in Annex I.

2 Such a delegation granted by a national supervisory authority shall be valid within the Community for a renewable period of three years. National supervisory authorities may instruct any of the qualified entities located in the Community to undertake these inspections and surveys.

Textual Amendments

F1 Substituted by Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 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 (Text with EEA relevance).

Article 4

Safety requirements

The Commission shall, in accordance with the regulatory procedure referred to in Article 5(3) of the framework Regulation, 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, where necessary with appropriate adaptations.]

Textual Amendments

F1 Substituted by Regulation (EC) No 1070/2009 of the European Parliament and of the Council of 21 October 2009 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 (Text with EEA relevance).