Commission Implementing Decision (EU) 2018/1782 of 15 November 2018 allowing targets in the key performance area of cost-efficiency for the years 2018 and 2019 for air navigation services of Romania and Portugal to be revised in accordance with Article 17(1) of Regulation (EU) No 390/2013 (notified under document C(2018) 7486) (only the Romanian and Portuguese texts are authentic) (Text with EEA relevance)

COMMISSION IMPLEMENTING DECISION (EU) 2018/1782

of 15 November 2018

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(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 Romania and Portugal included in the performance plan of Danube FAB and South-West FAB, respectively, were consistent with the Union-wide performance targets for the second reference period (2015-2019).

(3) In 2017, Romania and Portugal 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 their local *en route* and terminal cost-efficiency targets for the years 2018 and 2019.

(4) The documentation submitted by Romania and Portugal was assessed by the Performance Review Body ('PRB'), which assists the Commission in the implementation of the performance scheme pursuant to Article 3 of Implementing

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2018/1782. (See end of Document for details)*

Regulation (EU) No 390/2013. The report from the assessment for Romania was submitted to the Commission on 13 April 2018, and a further update was provided on 31 August 2018. The report from the assessment for Portugal was submitted to the Commission on 2 August 2018.

(5) Romania and Portugal explained that their services have been affected by changes in traffic flows caused by geopolitical crises and by a more favourable economic development than planned, which were unforeseeable at the time of adoption of the performance plans. In addition, Romania and Portugal also provided evidence, obtained on the basis of the reports on the monitoring of the performance and additional documents, which in their views demonstrates that the initial assumptions and rationales underlying the setting of the initial targets were no longer valid.

(6) With regard to Romania, the alert thresholds set for variations between planned and actual traffic in Romania, laid down in the performance plan of Danube FAB, were reached for *en route* traffic for the years 2015 and 2017 and for terminal traffic for the years 2016 and 2017. Actual *en route* traffic was 13,9 % above planned in 2015 and 12,7 % above planned in 2017. Actual terminal traffic was 17,5 % above planned in 2016 and 23,3 % above planned in 2017. 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 Romanian airspace than originally foreseen. The traffic flows in the Romanian 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. In addition, better than foreseen economic development in Romania led to significant increases in terminal traffic. For example, at the Bucharest airport, the number of movements of the three biggest low cost operators increased by 216 % during the years 2014 to 2017. The Commission therefore considers that the alert thresholds were 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 Romania 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 Portugal, the alert thresholds set for variations between planned and actual traffic in Portugal, laid down in the performance plan of South-West FAB, were reached for *en route* and terminal traffic for the years 2016 and 2017. Actual *en route* traffic was 13 % above planned in 2016 and 21 % above planned in 2017. Actual terminal traffic was 16,2 % above planned in 2016 and 28,9 % above planned in 2017. Political instability in the North African region shifted leisure traffic to different destinations, including Portugal and the Canary Islands, which resulted in an increase of *en route* traffic in the Portuguese airspace. In addition, unforeseen growth in the operations of low cost and charter carriers, showing double digit growth rates between 2014 and 2017, led to significant increases in terminal traffic. The Commission therefore considers that the alert thresholds were 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 Portugal 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 Romania, 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 increase in traffic complexity resulting from a higher concentration of traffic flows. Indeed, in spring 2016, changes in the airspace structure at the interface between Romania, Bulgaria and Turkey were deemed necessary to accommodate the displacement in traffic flows, which in turn resulted in higher traffic complexity in the northern part of the Romanian airspace. The Commission therefore considers 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) In addition, the cost assumptions of Portugal, in particular in relation to staffing, laid down in the performance plan of South-West FAB, are no longer valid in view of the increase in traffic. Indeed, measures agreed for the capacity plan of the Portuguese air navigation service provider to mitigate the impact of traffic increase requires an important number of additional staff. The Commission therefore considers 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.

(10) Based on the assessment of documentation received, the Commission considers that Romania and Portugal provided sufficient evidence to support the request to revise their local cost-efficiency targets for the years 2018 and 2019.

(11) Romania and Portugal are therefore allowed to revise their local targets in the key performance area of cost-efficiency, for *en route* and terminal air navigation services, for the years 2018 and 2019, to the extent necessary to address the circumstances causing that the alert thresholds were reached and based on the evidence that the initial data, assumptions and rationales underlying the setting of the initial targets were 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, Romania and Portugal may revise those targets and should submit amended performance plans, based on the revised targets, for the Commission's assessment of 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: