

Regulation (EC) No 549/2004 of the European Parliament and of the Council  
of 10 March 2004 laying down the framework for the creation of the single  
European sky (the framework Regulation) (Text with EEA relevance)

*[<sup>F1</sup>Article 11*

**Performance scheme**

1 To improve the performance of air navigation services and network functions in the single European sky, a performance scheme for air navigation services and network functions shall be set up. It shall include:

- a Community-wide performance targets on the key performance areas of safety, the 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 the performance of air navigation services and network functions.

2 In accordance with the regulatory procedure referred to in Article 5(3), the Commission may designate Eurocontrol or another impartial and competent body to act as a 'performance review body'. The role of the performance review body shall be to assist the Commission, in coordination with the national supervisory authorities, and to assist the national supervisory authorities on request in the implementation of the performance scheme referred to in paragraph 1. The Commission shall ensure that the performance review body acts independently when carrying out the tasks entrusted to it by the Commission.

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- a The Community-wide performance targets for the air traffic management network shall be adopted by the Commission in accordance with the regulatory procedure referred to in Article 5(3), after taking into account the relevant inputs from national supervisory authorities at national level or at the level of functional airspace blocks.
- b The national or functional airspace block plans referred to in point (b) of paragraph 1 shall be drawn up by national supervisory authorities and adopted by the Member State(s). These plans shall include binding national targets or targets at the level of functional airspace blocks and an appropriate incentive scheme as adopted by the Member State(s). Drafting of the plans shall be subject to consultation with air navigation service providers, airspace users' representatives, and, where relevant, airport operators and airport coordinators.
- c The consistency of the national or functional airspace block targets with the Community-wide performance targets shall be assessed by the Commission using the assessment criteria referred to in point (d) of paragraph 6.

In the event that the Commission identifies that one or more national or functional airspace block targets do not meet the assessment criteria, it may decide, in accordance with the advisory procedure referred to in Article 5(2), to issue a recommendation that the national supervisory authorities concerned propose revised performance target(s). The Member State(s) concerned shall adopt revised performance targets and appropriate measures which shall be notified to the Commission in due time.

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**Changes to legislation:** There are outstanding changes not yet made to Regulation (EC) No 549/2004 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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Where the Commission finds that the revised performance targets and appropriate measures are not adequate, it may decide, in accordance with the regulatory procedure referred to in Article 5(3), that the Member States concerned shall take corrective measures.

Alternatively, the Commission may decide, with adequate supporting evidence, to revise the Community-wide performance targets in accordance with the regulatory procedure referred to in Article 5(3).

- d The reference period for the performance scheme shall cover a minimum of three years and a maximum of five years. During this period, in the event that the national or functional airspace block targets are not met, the Member States and/or the national supervisory authorities shall apply the appropriate measures they have defined. The first reference period shall cover the first three years following the adoption of the implementing rules referred to in paragraph 6.
- e The Commission shall carry out regular assessments of the achievement of the performance targets and present the results to the Single Sky Committee.

4 The following procedures shall apply to the performance scheme referred to in paragraph 1:

- a collection, validation, examination, evaluation and dissemination of relevant data related to the performance of air navigation services and network functions from all relevant parties, including air navigation service providers, airspace users, airport operators, national supervisory authorities, Member States and Eurocontrol;
- b selection of appropriate key performance areas on the basis of ICAO Document No 9854 'Global air traffic management operational concept', and consistent with those identified in the Performance Framework of the ATM Master Plan, including safety, the environment, capacity and cost-efficiency areas, adapted where necessary in order to take into account the specific needs of the single European sky and relevant objectives for these areas and definition of a limited set of key performance indicators for measuring performance;
- c establishment of Community-wide performance targets that shall be defined taking into consideration inputs identified at national level or at the level of functional airspace blocks;
- d assessment of the national or functional airspace block performance targets on the basis of the national or functional airspace block plan; and
- e monitoring of the national or functional airspace block performance plans, including appropriate alert mechanisms.

The Commission may add to the list of procedures referred to in this paragraph. These measures designed to amend non-essential elements of this Regulation, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 5(4).

5 The establishment of the performance scheme shall take into account that en route services, terminal services and network functions are different and should be treated accordingly, if necessary also for performance-measuring purposes.

6 For the detailed functioning of the performance scheme, the Commission shall by 4 December 2011 and within a suitable time-frame with a view to meeting the relevant deadlines laid down in this Regulation, adopt implementing rules in accordance with the regulatory procedure referred to in Article 5(3). These implementing rules shall cover the following:

- a the content and timetable of the procedures referred to in paragraph 4;

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- b the reference period and intervals for the assessment of the achievement of performance targets and setting of new targets;
- c criteria for the setting up by the national supervisory authorities of the national or functional airspace block performance plans, containing the national or functional airspace block performance targets and the incentive scheme. The performance plans shall:
  - (i) be based on the business plans of the air navigation service providers;
  - (ii) address all cost components of the national or functional airspace block cost base;
  - (iii) include binding performance targets consistent with the Community-wide performance targets;
- d criteria to assess whether the national or functional airspace block targets are consistent with the Community-wide performance targets during the reference period and to support alert mechanisms;
- e general principles for the setting up by Member States of the incentive scheme;
- f principles for the application of a transitional mechanism necessary for the adaptation to the functioning of the performance scheme not exceeding 12 months following the adoption of the implementing rules.]

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#### **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).

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Art. 11 omitted by [S.I. 2019/459 reg. 13](#)

**Changes and effects yet to be applied to the whole legislation item and associated provisions**

- Signature words omitted by [S.I. 2019/459 reg. 18](#)
- Art. 2(14a) inserted by [S.I. 2019/459 reg. 4\(2\)](#)
- Art. 2(15) words substituted by [S.I. 2019/459 reg. 4\(3\)](#)
- Art. 2(17) word inserted by [S.I. 2019/459 reg. 4\(4\)\(a\)](#)
- Art. 2(17) words omitted by [S.I. 2019/459 reg. 4\(4\)\(b\)](#)
- Art. 2(17)(a)-(h) and words inserted by [S.I. 2019/459 reg. 4\(4\)\(c\)](#)
- Art. 2(18) words substituted by [S.I. 2019/459 reg. 4\(5\)](#)
- Art. 2(19) words inserted by [S.I. 2019/459 reg. 4\(6\)](#)
- Art. 2(28) words inserted by [S.I. 2019/459 reg. 4\(7\)\(b\)](#)
- Art. 2(28) words substituted by [S.I. 2019/459 reg. 4\(7\)\(a\)](#)
- Art. 2(32) words inserted by [S.I. 2019/459 reg. 4\(8\)](#)
- Art. 2(36) words inserted by [S.I. 2019/459 reg. 4\(9\)\(a\)](#)
- Art. 2(36) words substituted by [S.I. 2019/459 reg. 4\(9\)\(b\)](#)
- Art. 2(39a) inserted by [S.I. 2019/459 reg. 4\(10\)](#)
- Art. 2(41) word substituted by [S.I. 2019/459 reg. 4\(11\)\(b\)](#)
- Art. 2(41) words substituted by [S.I. 2019/459 reg. 4\(11\)\(a\)](#)