

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)

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)

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) Implementation of the common transport policy requires an efficient air transport system allowing safe and regular operation of air transport services, thus facilitating the free movement of goods, persons and services.
- (2) At its Extraordinary Meeting in Lisbon on 23 and 24 March 2000, the European Council called on the Commission to put forward proposals on airspace management, air traffic control and air traffic flow management, based on the work of the High Level Group on the single European sky set up by the Commission. This Group, made up largely of the civil and military air navigation authorities in the Member States, submitted its report in November 2000.
- (3) Smooth operation of the air transport system requires a consistent, high level of safety in air navigation services allowing optimum use of Europe's airspace and a consistent, high level of safety in air travel, in keeping with the duty of general interest of air navigation services, including public service obligations. It should therefore be carried out to the highest standards of responsibility and competence.
- (4) The single European sky initiative should be developed in line with the obligations stemming from the membership of the Community and its Member States of

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Eurocontrol, and in line with the principles laid down by the 1944 Chicago Convention on International Civil Aviation.

- (5) Decisions relating to the content, scope or carrying out of military operations and training do not fall within the sphere of competence of the Community.
- (6) The Member States have adopted a general statement on military issues related to the single European sky⁽⁵⁾. According to this statement, Member States should, in particular, enhance civil-military cooperation and, if and to the extent deemed necessary by all Member States concerned, facilitate cooperation between their armed forces in all matters of air traffic management.
- (7) Airspace constitutes a limited resource, the optimum and efficient use of which will be possible only if the requirements of all users are taken into account and where relevant, represented in the whole development, decision-making process and implementation of the single European sky, including the Single Sky Committee.
- (8) For all these reasons, and with a view to extending the single European sky to include a larger number of European States, the Community should, while taking into account the developments occurring within Eurocontrol, lay down common objectives and an action programme to mobilise the efforts by the Community, the Member States and the various economic stakeholders in order to create a more integrated operating airspace: the single European sky.
- (9) Where Member States take action to ensure compliance with Community requirements, the authorities performing verifications of compliance should be sufficiently independent of air navigation service providers.
- (10) Air navigation services, in particular air traffic services which are comparable to public authorities, require functional or structural separation and are organised according to very different legal forms in the various Member States.
- (11) Where independent audits are required relating to providers of air navigation services, inspections by the official auditing authorities of the Member States where those services are provided by the administration, or by a public body subject to the supervision of the abovementioned authorities, should be recognised as independent audits, whether the audit reports drawn up are made public or not.
- (12) It is desirable to extend the single European sky to European third countries, either within the framework of participation by the Community in the work of Eurocontrol, after the accession by the Community to Eurocontrol, or by means of agreements concluded by the Community with these countries.
- (13) The accession of the Community to Eurocontrol is an important component in the creation of a pan-European airspace.
- (14) In the process of creating the single European sky, the Community should, where appropriate, develop the highest level of cooperation with Eurocontrol in order to ensure regulatory synergies and consistent approaches, and to avoid any duplication between the two sides.

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- (15) In accordance with the conclusions of the High Level Group, Eurocontrol is the body that has the appropriate expertise to support the Community in its role as regulator. Accordingly, implementing rules should be developed, for matters falling within the remit of Eurocontrol as a result of mandates to that organisation, subject to the conditions to be included in a framework of cooperation between the Commission and Eurocontrol.
- (16) The drafting of the measures necessary in order to create the single European sky requires broad-based consultations of economic and social stakeholders.
- (17) The social partners should be informed and consulted in an appropriate way on all measures having significant social implications. The Sectoral Dialogue Committee set up under Commission Decision 1998/500/EC of 20 May 1998 on the establishment of Sectoral Dialogue Committees promoting the dialogue between the social partners at European level⁽⁶⁾ should also be consulted.
- (18) Stakeholders such as air navigation service providers, airspace users, airports, manufacturing industry and professional staff representative bodies should have the possibility to advise the Commission on technical aspects of the implementation of the single European sky.
- (19) The performance of the air navigation services system as a whole at European level should be assessed on a regular basis, with due regard to the maintenance of a high level of safety, to check the effectiveness of the measures adopted and to propose further measures.
- (20) The sanctions provided for with respect to infringements of this Regulation and of the measures referred to in Article 3 should be effective, proportional and dissuasive, without reducing safety.
- (21) The impact of the measures taken to apply this Regulation should be evaluated in the light of reports to be submitted regularly by the Commission.
- (22) This Regulation does not affect the power of Member States to adopt provisions in relation to the organisation of their armed forces. This power may lead Member States to adopt measures to ensure that their armed forces have sufficient airspace for adequate education and training purposes. Provision should therefore be made for a safeguards clause to enable this power to be exercised.
- (23) Arrangements for greater cooperation over the use of Gibraltar airport were agreed in London on 2 December 1987 by the Kingdom of Spain and the United Kingdom in a joint declaration by the Ministers of Foreign Affairs of the two countries. Such arrangements have yet to enter into operation.
- (24) Since the objective of this Regulation, namely the creation of the single European sky, cannot be sufficiently achieved by the Member States, by reason of the transnational scale of the action, and can therefore be better achieved at Community level, while allowing for detailed implementing rules that take account of specific local conditions, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as

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set out in that Article, this Regulation does not go beyond what is necessary in order to achieve this objective.

- (25) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁷⁾.
- (26) Article 8(2) of the Standard Rules of Procedure for committees⁽⁸⁾ established in application of Article 7(1) of Decision 1999/468/EC provides a standard rule according to which the Chairman of a committee may decide to invite third parties to a meeting of that committee. If appropriate, the Chairman of the Single Sky Committee should invite representatives of Eurocontrol to take part in meetings as observers or experts,

HAVE ADOPTED THIS REGULATION:

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- (1) [OJ C 103 E, 30.4.2002, p. 1.](#)
- (2) [OJ C 241, 7.10.2002, p. 24.](#)
- (3) [OJ C 278, 14.11.2002, p. 13.](#)
- (4) Opinion of the European Parliament of 3 September 2002 ([OJ C 272 E, 13.11.2003, p. 296](#)), Council common position of 18 March 2003 ([OJ C 129 E, 3.6.2003, p. 1](#)) and position of the European Parliament of 3 July 2003 (not yet published in the Official Journal). Legislative resolution of the European Parliament of 29 January 2004 and Decision of the Council of 2 February 2004.
- (5) See page 9 of this Official Journal.
- (6) [OJ L 225, 12.8.1998, p. 27.](#)
- (7) [OJ L 184, 17.7.1999, p. 23.](#)
- (8) [OJ C 38, 6.2.2001, p. 3.](#)

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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\(11\)\(a\)](#)