

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)

CHAPTER II

**RULES FOR THE PROVISION OF SERVICES**

*Article 6*

**Common requirements**

Common requirements for the provision of air navigation services shall be established in accordance with the procedure referred to in Article 5(3) of the framework Regulation. The common requirements shall include the following:

- technical and operational competence and suitability,
- systems and processes for safety and quality management,
- reporting systems,
- quality of services,
- financial strength,
- liability and insurance cover,
- ownership and organisational structure, including the prevention of conflicts of interest,
- human resources, including adequate staffing plans,
- security.

*Article 7*

**Certification of air navigation service providers**

1 The provision of all air navigation services within the Community shall be subject to certification by Member States.

2 Applications for certification shall be submitted to the national supervisory authority of the Member State where the applicant has its principal place of operation and, if any, its registered office.

3 National supervisory authorities shall issue certificates to air navigation service providers where they comply with the common requirements referred to in Article 6. Certificates may be issued individually for each type of air navigation service as defined in Article 2 of the framework Regulation, or for a bundle of such services, *inter alia*, where a provider of air traffic services, whatever its legal status, operates and maintains its own communication, navigation and surveillance systems. The certificates shall be checked on a regular basis.

4 Certificates shall specify the rights and obligations of air navigation service providers, including non-discriminatory access to services for airspace users, with particular regard to safety. Certification may be subject only to the conditions set out in Annex II. Such conditions shall be objectively justified, non-discriminatory, proportionate and transparent.

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*Changes to legislation: There are outstanding changes not yet made to Regulation (EC) No 550/2004 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)*

5 Notwithstanding paragraph 1, Member States may allow the provision of air navigation services in all or part of the airspace under their responsibility without certification in cases where the provider of such services offers them primarily to aircraft movements other than general air traffic. In those cases, the Member State concerned shall inform the Commission and the other Member States of its decision and of the measures taken to ensure maximum compliance with the common requirements.

[<sup>F16</sup> Without prejudice to Articles 8 and 9, the issue of certificates shall confer on air navigation service providers the possibility of offering their services to Member States, other air navigation service providers, airspace users and airports within the Community.

7 National supervisory authorities shall monitor compliance with the common requirements and with the conditions attached to the certificates. Details of such monitoring shall be included in the annual reports to be submitted by Member States pursuant to Article 12(1) of the framework Regulation. If a national supervisory authority finds that the holder of a certificate no longer satisfies such requirements or conditions, it shall take appropriate measures while ensuring continuity of services on condition that safety is not compromised. Such measures may include the revocation of the certificate.]

8 A Member State shall recognise any certificate issued in another Member State in accordance with this Article.

9 In exceptional circumstances, Member States may postpone compliance with this Article beyond the date resulting from Article 19(2) by six months. Member States shall notify the Commission of such postponement, giving their reasons therefor.

#### 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).

### <sup>F1</sup>Article 8

#### Designation of air traffic service providers

1 Member States shall ensure the provision of air traffic services on an exclusive basis within specific airspace blocks in respect of the airspace under their responsibility. For this purpose, Member States shall designate an air traffic service provider holding a valid certificate in the Community.

2 For the provision of cross-border services, Member States shall ensure that compliance with this Article and Article 10(3) is not prevented by their national legal system requiring that air traffic service providers providing services in the airspace under the responsibility of that Member State:

- a be owned directly or through a majority holding by that Member State or its nationals;
- b have their principal place of operation or registered office in the territory of that Member State; or
- c use only facilities in that Member State.

3 Member States shall define the rights and obligations to be met by the designated air traffic service providers. The obligations may include conditions for the timely supply of

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relevant information enabling all aircraft movements in the airspace under their responsibility to be identified.

4 Member States shall have discretionary powers in choosing an air traffic service provider, on condition that the latter fulfils the requirements and conditions referred to in Articles 6 and 7.

5 In respect of functional airspace blocks established in accordance with Article 9a that extend across the airspace under the responsibility of more than one Member State, the Member States concerned shall jointly designate, in accordance with paragraph 1 of this Article, one or more air traffic service providers, at least one month before implementation of the airspace block.

6 Member States shall inform the Commission and other Member States immediately of any decision within the framework of this Article regarding the designation of air traffic service providers within specific airspace blocks in respect of the airspace under their responsibility.]

#### **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 9*

#### **Designation of providers of meteorological services**

1 Member States may designate a provider of meteorological services to supply all or part of meteorological data on an exclusive basis in all or part of the airspace under their responsibility, taking into account safety considerations.

2 Member States shall inform the Commission and other Member States without delay of any decision within the framework of this Article regarding the designation of a provider of meteorological services.

### *[<sup>F2</sup>Article 9a*

#### **Functional airspace blocks**

1 By 4 December 2012, Member States shall take all 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.

2 Functional airspace blocks shall, in particular:

- a be supported by a safety case;
- b enable optimum use of airspace, taking into account air traffic flows;

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- c ensure consistency with the European route network established in accordance with Article 6 of the airspace Regulation;
- d be justified by their overall added value, including optimal use of technical and human resources, on the basis of cost-benefit analyses;
- e ensure a smooth and flexible transfer of responsibility for air traffic control between air traffic service units;
- f ensure compatibility between the different airspace configurations, optimising, inter alia, the current flight information regions;
- g comply with conditions stemming from regional agreements concluded within the ICAO;
- h respect regional agreements in existence on the date of entry into force of this Regulation, in particular those involving European third countries; and
- i facilitate consistency with Community-wide performance targets.

3 A functional airspace block shall only be established by mutual agreement between all the Member States and, where appropriate, third countries who have responsibility for any part of the airspace included in the functional airspace block. Before notifying the Commission of the establishment of a functional airspace block, the Member State(s) concerned shall provide the Commission, the other Member States and other interested parties with adequate information and give them an opportunity to submit their observations.

4 Where a functional airspace block relates to airspace that is wholly or partly under the responsibility of two or more Member States, the agreement by which the functional airspace block is established shall contain the necessary provisions concerning the way in which the block can be modified and the way in which a Member State can withdraw from the block, including transitional arrangements.

5 Where difficulties arise between two or more Member States with regard to a cross-border functional airspace block that concerns airspace under their responsibility, the Member States concerned may jointly bring the matter to the Single Sky Committee for an opinion. The opinion shall be addressed to the Member States concerned. Without prejudice to paragraph 3, the Member States shall take that opinion into account in order to find a solution.

6 After having received the notifications by Member States of the agreements and declarations referred to in paragraphs 3 and 4 the Commission shall assess the fulfilment by each functional airspace block of the requirements set out in paragraph 2 and present the results to the Single Sky Committee for discussion. If the Commission finds that one or more functional airspace blocks do not fulfil the requirements it shall engage in a dialogue with the Member States concerned with the aim of reaching a consensus on the measures necessary to rectify the situation.

7 Without prejudice to paragraph 6, the agreements and declarations referred to in paragraphs 3 and 4 shall be notified to the Commission for publication in the *Official Journal of the European Union*. Such publication shall specify the date of entry into force of the relevant decision.

8 Guidance material for the establishment and modification of functional airspace blocks shall be developed by 4 December 2010 in accordance with the advisory procedure referred to in Article 5(2) of the framework Regulation.

9 The Commission shall, by 4 December 2011 and in accordance with the regulatory procedure referred to in Article 5(3) of the framework Regulation, adopt implementing rules regarding the information to be provided by the Member State(s) concerned before establishing and modifying a functional airspace block in accordance with paragraph 3 of this Article.

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### Textual Amendments

- F2** Inserted 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 9b

### Functional airspace blocks system coordinator

1 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 Commission shall act in accordance with the regulatory procedure referred to in Article 5(3) of the framework Regulation.

2 Without prejudice to Article 9a(5) the Coordinator shall 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 on the basis of a mandate from all Member States concerned and, where appropriate, third countries taking part in the same functional airspace block.

3 The Coordinator shall act impartially in particular with regard to Member States, third countries, the Commission and the stakeholders.

4 The Coordinator shall not disclose any information obtained whilst performing his function except where authorised to do so by the Member State(s) and, where appropriate, third countries concerned.

5 The Coordinator shall report to the Commission, to the Single Sky Committee and to the European Parliament every three months after his designation. The report shall include a summary of negotiations and their results.

6 The remit of the Coordinator shall expire when the last functional airspace block agreement is signed but no later than 4 December 2012.]

### Textual Amendments

- F2** Inserted 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 10

### Relations between service providers

1 Air navigation service providers may avail themselves of the services of other service providers that have been certified in the Community.

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2 Air navigation service providers shall formalise their working relationships by means of written agreements or equivalent legal arrangements, setting out the specific duties and functions assumed by each provider and allowing for the exchange of operational data between all service providers in so far as general air traffic is concerned. Those arrangements shall be notified to the national supervisory authority or authorities concerned.

3 In cases involving the provision of air traffic services, the approval of the Member States concerned shall be required. In cases involving the provision of meteorological services, the approval of the Member States concerned shall be required if they have designated a provider on an exclusive basis in accordance with Article 9(1).

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

#### **Relations with military authorities**

Member States shall, within the context of the common transport policy, take the necessary steps to ensure that written agreements between the competent civil and military authorities or equivalent legal arrangements are established or renewed in respect of the management of specific airspace blocks.]

#### **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 12*

#### **Transparency of accounts**

1 Air navigation service providers, whatever their system of ownership or legal form, shall draw up, submit to audit and publish their financial accounts. These accounts shall comply with the international accounting standards adopted by the Community. Where, owing to the legal status of the service provider, full compliance with the international accounting standards is not possible, the provider shall endeavour to achieve such compliance to the maximum possible extent.

2 In all cases, air navigation service providers shall publish an annual report and regularly undergo an independent audit.

[<sup>F13</sup> When providing a bundle of services, air navigation service providers shall identify and disclose the costs and income deriving from air navigation services, broken down in accordance with the charging scheme for air navigation services referred to in Article 14 and, where appropriate, shall keep consolidated accounts for other, non-air-navigation services, as they would be required to do if the services in question were provided by separate undertakings.]

4 Member States shall designate the competent authorities that shall have a right of access to the accounts of service providers that provide services within the airspace under their responsibility.

5 Member States may apply the transitional provisions of Article 9 of Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application

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of international accounting standards<sup>(1)</sup> to air navigation service providers that fall within the scope of that regulation.

#### **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 13*

#### **Access to and protection of data**

1 In so far as general air traffic is concerned, relevant operational data shall be exchanged in real-time between all air navigation service providers, airspace users and airports, to facilitate their operational needs. The data shall be used only for operational purposes.

2 Access to relevant operational data shall be granted to appropriate authorities, certified air navigation service providers, airspace users and airports on a non-discriminatory basis.

3 Certified service providers, airspace users and airports shall establish standard conditions of access to their relevant operational data other than those referred to in paragraph 1. National supervisory authorities shall approve such standard conditions. Detailed rules relating to such conditions shall be established, where appropriate, in accordance with the procedure referred to in Article 5(3) of the framework Regulation.

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- (1) [OJ L 243, 11.9.2002, p. 1.](#)



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