



EUROPEAN
COMMISSION

Brussels, **XXX**
[...] (2021) **XXX** draft

COMMISSION IMPLEMENTING DECISION (EU) .../...

of XXX

**setting revised Union-wide performance targets for the air traffic management network
for the third reference period (2020-2024) and repealing Implementing Decision (EU)
2019/903**

(Text with EEA relevance)

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

COMMISSION IMPLEMENTING DECISION (EU) .../...

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setting revised Union-wide performance targets for the air traffic management network for the third reference period (2020-2024) and repealing Implementing Decision (EU) 2019/903

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THE EUROPEAN COMMISSION,

Having regard to 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)¹, and in particular Article 11(3), point (a) thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2019/317² sets out the detailed rules and procedures for the implementation of the performance and charging scheme and establishes that the third reference period ('RP3') of the performance and charging scheme covers calendar years 2020 to 2024 inclusive.
- (2) The outbreak of the COVID-19 pandemic has led, since the first quarter of calendar year 2020, to a significant drop in air traffic, due to the measures taken by the Member States and third countries to contain the pandemic. Whilst air transport continued to be heavily impacted by the COVID-19 crisis since then, the sector is expected to gradually recover in the course of RP3. However, substantial uncertainty remains as to the pace and intensity of the recovery which are contingent on the evolution of the sanitary and economic situation in the Union and the rest of the world.
- (3) Union-wide performance targets for RP3 were set out in Commission Implementing Decision (EU) 2019/903³. As the Union-wide performance targets and the draft performance plans subsequently adopted by the Member States were drawn up before the outbreak of the COVID-19 pandemic, they could not take account of the resulting significantly changed circumstances for air transport.
- (4) In response to the impact of the COVID-19 pandemic on the provision of air navigation services, exceptional measures for RP3, which derogate from the provisions of Implementing Regulation (EU) 2019/317, were set out in Commission Implementing Regulation (EU) 2020/1627⁴.

¹ OJ L 96, 31.3.2004, p. 1.

² Commission Implementing Regulation (EU) 2019/317 of 11 February 2019 laying down a performance and charging scheme in the single European sky and repealing Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013 (OJ L 56, 25.2.2019, p. 1).

³ Commission Implementing Decision (EU) 2019/903 of 29 May 2019 setting the Union-wide performance targets for the air traffic management network for the third reference period starting on 1 January 2020 and ending on 31 December 2024 (OJ L 144, 3.6.2019, p. 49).

⁴ Commission Implementing Regulation (EU) 2020/1627 of 3 November 2020 on exceptional measures for the third reference period (2020-2024) of the single European sky performance and charging scheme due to COVID-19 pandemic (OJ L 366, 4.11.2020, p. 7).

- (5) Pursuant to paragraph 1 of Article 2 of Implementing Regulation (EU) 2020/1627, the Commission is required to adopt revised Union-wide performance targets for RP3 by 1 May 2021. In line with paragraph 4 of Article 9 of Implementing Regulation (EU) 2019/317 the Commission is to review together with the Union-wide performance targets, the following values : the Union-wide ‘baseline value for determined costs’, the Union-wide ‘baseline value for the determined unit cost’, the alert thresholds beyond which Member States may request a revision of the performance targets contained in performance plans, as well as the comparator groups of air navigation service providers with a similar operational and economic environment.
- (6) The revised Union-wide performance targets for RP3 set out in this Decision have been informed by inputs received from the Performance Review Body (PRB), the Network Manager, the European Union Aviation Safety Agency (‘EASA’), and the national supervisory authorities and account has been taken of the stakeholder consultations.
- (7) The revised Union-wide performance targets for RP3 included in this Decision are based on data covering the Member States, Norway and Switzerland.
- (8) The traffic assumptions underpinning this Decision are expressed in terms of Instrument Flight Rules (‘IFR’) movements and in service units based on Eurocontrol's STATFOR *en route* traffic forecast of 4 November 2020. Due to a changed terminology on the side of STATFOR, the middle scenario or ‘Scenario 2’ is regarded as the ‘STATFOR base forecast’ within the meaning of Article 9(3), point (b) of Implementing Regulation (EU) 2019/317. This *en route* traffic forecast corresponds to 4 455 611 IFR movements and 52 594 913 *en route* service units for 2020, 5 153 494 IFR movements and 57 373 113 service units for 2021, 7 303 402 IFR movements and 86 656 273 service units for 2022, 8 326 704 IFR movements and 101 925 348 service units for 2023, and 9 326 147 IFR movements and 116 358 421 service units for 2024.
- (9) The setting of Union-wide performance targets should take into account economic, safety, environmental and operational considerations as well as interdependencies or trade-offs between key performance areas. Indeed, the performance targets in the key performance areas of cost-efficiency and capacity should take into account the relationship between costs to provide additional capacity and the improvements those costs can deliver. The performance targets in the key performance area of environment should take into account that air traffic management (‘ATM’) operational measures aiming to minimise fuel consumption, and to therefore reduce emissions, cannot always be implemented in practice. This is due to operational restrictions related to, in particular, safe separation of aircraft and the available ATM capacity. Finally, the performance targets in the key performance area of safety should take account of the fact that the provision of air navigation services in a safe way is an overriding objective and that safety should be fully embedded into the business planning of air navigation service providers.
- (10) In respect of the key performance area of safety, the Union-wide performance targets for RP3 were set out in Implementing Decision (EU) 2019/903 in respect of the level of effectiveness of safety management to be achieved by air navigation service providers in the final year of RP3, i.e. 2024. Those targets should be maintained. The sharp decrease in air traffic caused by the COVID-19 crisis as well as the resulting significant short-term volatility in the number of flights should not lead to any deterioration of safety performance. The planned improvements in the effectiveness of

safety management of air navigation service providers should continue to be delivered during RP3.

- (11) The revision of Union-wide performance targets for RP3 in the key performance areas of environment and capacity should be forward-looking and cover the remaining part of the reference period, including the calendar year 2021.
- (12) In respect of the calendar year 2020, the Union-wide performance targets in the key performance areas of environment and capacity were set out in Implementing Decision (EU) 2019/903. Those targets should not be revised and should not be included as part of this Decision, considering that the time period for their application has expired and that their implementation has become definitive leaving no possibility for retroactive adjustments.
- (13) The revision of Union-wide performance targets in the key performance area of environment for the remaining years of RP3, measured as the average horizontal *en route* flight efficiency of the actual trajectory, should take account of the level of performance achieved in the second reference period and in calendar year 2020, and of the measures implemented to optimise ATM operations. Specific consideration should be given to the impact resulting from the COVID-19 crisis in respect of horizontal flight efficiency.
- (14) The data on the actual operational performance of air navigation service providers in 2019 demonstrate, at Union-wide level, a statistically significant correlation between the capacity shortages experienced by some air navigation service providers and the extension of flight routes. This correlation entailed longer actual routes flown during the calendar months in which high levels of air traffic flow management ('ATFM') delay were experienced, whilst horizontal flight efficiency clearly improved during the calendar months with lower ATFM delays. This observation is further confirmed in respect of 2020, which displayed a horizontal flight inefficiency of 2,51% for the whole year and of 2,13% for the time period, between March and December, following the outbreak of the COVID-19 pandemic.
- (15) The COVID-19 crisis should not slow down the implementation of structural improvements in the key performance area of environment, which are expected to include in particular the finalisation of the implementation of free route airspace. Combined with the gradual implementation of cross-border free route activities, this can lead to more direct routing and should reduce the number of nautical miles flown and emissions caused by air traffic, thereby supporting a sustainable reduction of the carbon intensity of aviation. In light of the lower traffic levels expected over RP3, which should enable additional flight efficiency improvements, the Union-wide performance targets in the key performance area of environment for the remaining years of RP3 should be revised in order to further reduce the ATM impact on environmental performance.
- (16) The revision of Union-wide performance targets in the key performance area of capacity, measured as the average *en route* ATFM delay per flight attributable to air navigation services, should take account of the level of performance achieved in the second reference period and in calendar year 2020. Specific consideration should be given to the impact resulting from the COVID-19 crisis in respect of *en route* ATFM delays.
- (17) In the years preceding RP3, structural capacity and staffing issues were responsible for high levels of ATFM delays in many Member States, in the context of a strong and

continuous traffic growth. The actual ATFM delay per flight in calendar year 2020 amounted to 0,35 minute per flight, whilst in 2019 the corresponding ATFM delay reached 1,67 minutes per flight.

- (18) In light of the significant reduction of traffic, air navigation service providers should aim to maintain ATFM delays in 2021 at a level not exceeding the actual figure of 2020. For the three following years of RP3, in which traffic will gradually recover towards the pre-crisis levels, the Union-wide capacity targets should be set taking into account the system-wide optimum average ATFM delay per flight. Furthermore, it is justified to expect air navigation service providers to be able to deliver adequate capacity to meet traffic demand during the whole RP3 timeframe, whilst also addressing in parallel capacity-related structural issues in order to prepare for higher traffic demand beyond RP3.
- (19) With respect to calendar years 2020 and 2021, Implementing Regulation (EU) 2020/1627 requires the revision of the Union-wide cost-efficiency performance targets, which are expressed as a percentage, reflecting the year-on-year change of the average Union-wide ‘determined unit cost’ (‘DUC’) for *en route* air navigation services, as a single period, by way of derogation from Implementing Regulation (EU) 2019/317, which prescribes annual target values.
- (20) The revision of Union-wide cost-efficiency performance targets should take into account the actual performance achieved by air navigation service providers in previous reference periods and the latest information available for the calendar year 2020.
- (21) The Union-wide baseline values for RP3 contained in Implementing Decision (EU) 2019/903 were set on the basis of estimates and forecasts regarding costs and traffic, in the absence of actual data for calendar year 2019. Therefore those baseline values should be revised in order to accurately reflect the actual costs and service units recorded for 2019 on a Union-wide level.
- (22) The Union-wide cost-efficiency performance targets for RP3 set out in Implementing Decision (EU) 2019/903 were based on the assumption of sustained traffic growth during the whole reference period, leading to an increase of cost for air navigation service providers relating to the delivery of additional capacity. As these traffic assumptions have been significantly revised downwards as a result of the COVID-19 crisis, the level of total determined costs chargeable to airspace users should also be revised downwards in response to this adverse situation.
- (23) The latest estimates on actual costs for calendar year 2020 indicate, on a Union-wide level, a 1% decrease from the 2019 level, against a 58% year-on-year reduction of service units. It is understandable that air navigation service providers are not fully able to adjust their cost bases in line with such an unprecedented drop in traffic, due to the high share of fixed costs and the obligation to continuously maintain the availability of services.
- (24) However, air navigation service providers should take commensurate measures in order to improve their cost-efficiency during RP3 and take advantage of all synergies and efficiency gains available through cross-border cooperation and restructuring initiatives. Structural changes, including efficiency gains offered by new technological solutions comprised in the ATM Master Plan and the rationalization of redundant communication, navigation and surveillance infrastructure, should be pursued as a matter of priority. Further cost savings should be possible in respect of overtime costs,

which were estimated to amount to 4% of the total actual costs in 2019 but are expected to remain very limited over RP3. Furthermore, as an exceptional short-term action, air navigation service providers should strongly consider voluntarily waiving or reducing the return on equity which they are allowed to recover as part of air navigation charges, considering the severity of the crisis faced by airspace users.

- (25) The forward-looking cost estimates for RP3 received by the Commission indicate that the cumulated costs of RP3 would exceed the actual costs of RP2 by 8 %. It should be noted that the forward-looking data have in the past proved to overestimate the costs actually incurred for the provision of air navigation services. For RP2, this amounted to an over-estimation of costs by an average of 8%. It can be assumed that the forward-looking cost data in respect of RP3 includes a similar margin and does not yet take account of the potential for additional cost-efficiency gains.
- (26) Therefore, it is appropriate to expect air navigation service providers to adapt their cost bases in an adequate manner in response to the reduced traffic demand over RP3 and that, as a result, the Union-wide cost-efficiency performance targets for RP3 should be based on the assumption that the annual Union-wide determined costs do not exceed 90% of the Union-wide actual costs recorded for calendar year 2019.
- (27) On the basis of the analysis conducted by the PRB, this level of Union-wide determined costs should enable air navigation service providers to provide the necessary capacity during RP3 and to implement the measures which are necessary to accommodate future traffic growth, including securing appropriate resources and the training of air traffic controllers and investments in modern technology. Furthermore, Implementing Regulation (EU) 2019/317 allows possible deviations from the Union-wide cost-efficiency performance targets where those deviations are found to be justified by restructuring measures resulting in net benefits to airspace users at the latest in the following reference period. Therefore, air navigation service providers should be able to respond to the circumstances deriving from the COVID-19 crisis whilst building up capabilities to meet future traffic demand and addressing the structural issues impacting operational performance.
- (28) The alert thresholds for RP3 beyond which Member States may request a revision of the performance targets contained in their performance plans should be maintained at the levels set out in Implementing Decision (EU) 2019/903. Those alert thresholds are deemed to remain adequate as they cater for a reasonable level of traffic variation around the STATFOR base traffic forecast ('Scenario 2) published in November 2020, whilst offering the possibility for Member States to request a revision of their respective local performance plans in the event that actual traffic would rather evolve in line with the STATFOR high forecast ('Scenario 1') or the STATFOR low forecast ('Scenario 3').
- (29) The comparator groups of air navigation service providers with a similar operational and economic environment, which were defined in Article 7(a) of Implementing Decision (EU) 2019/903 are used in the context of the assessment of draft performance plans, specifically for the purpose of comparing the DUC baseline values of the relevant charging zones. It is clear that those groups reflect the situation before the beginning of RP3 and therefore the composition of those groups, as set out in Implementing Decision (EU) 2019/903, should remain.
- (30) Implementing Decision (EU) 2019/903 should be repealed.

(31) The measures provided for in this Decision are in accordance with the opinion of the Single Sky Committee,

HAS ADOPTED THIS DECISION:

Article 1

Union-wide performance targets in the key performance area of safety

Union-wide performance targets in the key performance area of safety, set for the key performance indicator defined in point 1.1 of Section 1 of Annex I to Implementing Regulation (EU) 2019/317, to be achieved by the end of 2024 by air navigation service providers certified to provide air traffic services are set at the following levels of effectiveness of safety management:

- (a) at least Level C in the safety management objectives ‘safety culture’, ‘safety policy and objectives’, ‘safety assurance’, and ‘safety promotion’;
- (b) at least Level D in the safety management objective ‘safety risk management’.

Article 2

Union-wide performance targets in the key performance area of environment

Union-wide performance targets for the key performance area of environment, set for the key performance indicator defined in point 2.1 of Section 1 of Annex I to Implementing Regulation (EU) 2019/317, shall be expressed as an average horizontal *en route* flight efficiency of the actual trajectory and measured as average additional distance flown compared to the great circle distance and shall not exceed the following percentages: 2,39% in 2021, 2,37% in 2022, 2,37% in 2023 and 2,37% in 2024.

Article 3

Union-wide performance targets in the key performance area of capacity

Union-wide performance targets for the key performance area of capacity, set for the key performance indicator defined in point 3.1 of Section 1 of Annex I to Implementing Regulation (EU) 2019/317, shall be an average *en route* ATFM delay attributable to air navigation services of a maximum of 0,35 minute per flight in 2021, 0,5 minute per flight in 2022, 0,5 minute per flight in 2023 and 0,5 minute per flight in 2024.

Article 4

Union-wide performance targets in the key performance area of cost-efficiency

1. Union-wide performance targets for the key performance area of cost-efficiency, set for the key performance indicator defined in point 4.1 of Section 1 of Annex I to Implementing Regulation (EU) 2019/317 and subject, in respect of calendar years 2020 and 2021, to Articles 2(4) and 4(1) of Implementing Regulation (EU) 2020/1627, shall be a year-on-year change of the average Union-wide DUC for *en route* air navigation services:

(a) in respect of the combined calendar years 2020 and 2021, for which a single average DUC is calculated in accordance with Article 4(1) of Implementing Regulation (EU) 2020/1627: change of +104,2% from the Union-wide DUC baseline value for the DUC set in paragraph 3;

(b) in respect of calendar year 2022: change of -36,5% from the single average Union-wide DUC of calendar years 2020 and 2021 combined, calculated in accordance with Article 4(1) of Implementing Regulation (EU) 2020/1627;

(c) in respect of calendar year 2023: change of -15,0% from the average Union-wide DUC of calendar year 2022;

(d) in respect of calendar year 2024: change of -12,4% from the average Union-wide DUC of calendar year 2023.

2. The Union-wide baseline value for determined costs shall be set at 6.265.631.152 EUR in EUR2017.

3. The Union-wide DUC baseline value shall be set at 50,23 EUR in EUR2017.

Article 5

Alert thresholds

1. Member States may request a revision of one or more performance targets contained in the performance plans, in accordance with Article 18(1), point (a)(i) of Implementing Regulation (EU) 2019/317, where:

(a) the actual traffic, recorded by Eurocontrol, deviates from the traffic forecast in the performance plan adopted in accordance with Article 16 of Implementing Regulation (EU) 2019/317 over a given calendar year by at least 10 % of IFR movements;

(b) the actual traffic, recorded by Eurocontrol, deviates from the traffic forecast in the performance plan adopted in accordance with Article 16 of Implementing Regulation (EU) 2019/317 over a given calendar year by at least 10 % of service units.

2. Member States may request a revision of one or more performance targets contained in the performance plans, in accordance with Article 18(1), point (a)(i) of Implementing Regulation (EU) 2019/317, where the variation of the reference values as a result of the seasonal updates of the Network Operations Plan pursuant to Article 9(4), point (a) and Article 9(8) of Commission Implementing Regulation (EU) 2019/123⁵ in comparison to the reference values from the latest version of the Network Operations Plan available at the time of drawing up the performance plan is at least:

(a) 0,05 minute of *en route* ATFM delay if the reference value from the latest version of the NOP available at the time of drawing up the performance plan is less than 0,2 minute of *en route* ATFM delay; or

(b) 0,04 minute of *en route* ATFM delay increased by 5 % of the reference value from the latest version of the NOP available at the time of drawing up the performance plan if the reference value is greater than or equal to 0,2 minute of *en route* ATFM delay.

⁵ Commission Implementing Regulation (EU) 2019/123 of 24 January 2019 laying down detailed rules for the implementation of air traffic management (ATM) network functions and repealing Commission Regulation (EU) No 677/2011 (OJ L 28, 31.1.2019, p. 1).

Article 6

Comparator groups

The comparator groups of air navigation service providers with a similar operational and economic environment for the purpose of assessing performance targets in the key performance area of cost-efficiency shall be set as follows:

- (a) Group A: the air navigation service providers of Germany, France, Spain and Italy;
- (b) Group B: the air navigation service providers of Norway, Sweden, Denmark, Finland and Ireland;
- (c) Group C: the air navigation service providers of Czechia, Croatia, Slovenia, Hungary, Slovakia, Bulgaria, Poland, Romania and Portugal;
- (d) Group D: the air navigation service providers of Cyprus, Malta, Estonia, Latvia, Lithuania and Greece;
- (e) Group E: the air navigation service providers of Austria, Switzerland, Belgium-Luxembourg and the Netherlands.

Article 7

Repeal

Implementing Decision (EU) 2019/903 is repealed.

Article 8

Entry into force

This Decision shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Done at Brussels,

For the Commission

The President
Ursula von der Leyen