

II

(Preparatory Acts)

COMMISSION

Proposal for a Regulation of the European Parliament and of the Council laying down the framework for the creation of the Single European Sky

(2002/C 103 E/01)

(Text with EEA relevance)

COM(2001) 123 final/2 — 2001/0060(COD)

(Submitted by the Commission on 30 November 2001)

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,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) Implementation of the common transport policy requires an efficient air transport system allowing safe, regular operation of air transport services and, consequently, 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, air traffic and 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 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 economic interest of the air navigation service providers.
- (4) Air navigation services should be developed in line with the general safety and performance objectives, in accordance with the principles laid down by the Convention on International Civil Aviation signed at Chicago on 7 December 1944.

(5) 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 the European Organisation for the Safety of Air Navigation (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 single European airspace: the Single European Sky.

(6) The closer cooperation between civil and military bodies, which is essential for efficient use of the airspace, should be pursued, using where possible existing cooperation frameworks and making use of all appropriate instruments for any matter concerning air traffic and air navigation services for exclusively military purposes.

(7) The establishment of rules at Community level should permit the optimal use of the airspace as a whole and the performance of the air navigation services.

(8) These rules should cover organisation and use of the airspace and the relevant procedures, provision of air navigation services, including the economic aspects, and air navigation equipment and systems and the associated procedures.

(9) Use of the airspace should be organised and managed efficiently and in total safety, to meet the needs of both civil and military users and allow equitable, non-discriminatory allocation of the resources between all users.

(10) The air navigation services provided should ensure uniform, high safety standards for the air traffic which depends on these services. Provision of these services should be optimised to guarantee the best use of Europe's airspace resources.

(11) The technical and operational solutions should secure and raise safety standards, the overall capacity of the system, and full, efficient use of the capacity available.

- (12) Some of the measures necessary for creating the Single European Sky call for the Commission to exercise the implementing powers under Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾, for the sake of efficiency and speed. Creation of the Single European Sky therefore necessitates the establishment of a mechanism for cooperation with the Member States by the setting-up of a committee of representatives from the Member States which permits consideration of both civil and military interests and which allows the participation of outside experts.
- (13) Pending the outcome of negotiations for the accession of the Community to Eurocontrol, which remains an important component in the creation of a pan-European airspace, the Commission and Eurocontrol may conclude appropriate arrangements to enable Eurocontrol to contribute to the preparation of Community legislation.
- (14) It is desirable to extend the Single European Sky to non-Community countries, either within the framework of participation by the Community in the work of Eurocontrol, subject to accession by the Community to that international organisation, or by means of agreements concluded by the Community with the non-Community countries.
- (15) It is necessary to make provision for procedures for assisting the Commission in its task of supervising and monitoring the creation of the Single European Sky in an efficient and regular fashion, notably by drawing on the expertise of the Member States and of Eurocontrol.
- (16) The performance of the air navigation services system as a whole at European level need to be constantly assessed to check the effectiveness of the measures adopted and to propose further measures.
- (17) The social partners may be informed and consulted 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 ⁽²⁾ may also be consulted.
- (18) The drafting of the measures necessary in order to create the Single European Sky requires broad-based consultations with the industrial partners concerned.
- (19) 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.
- (20) Since the objective of the action envisaged, namely the laying-down of the framework for 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 by the Community, while allowing for detailed implementing rules that take account of specific local conditions, the Commission may take measures in accordance with the subsidiarity principle set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article this Regulation does not go beyond what is necessary in order to achieve the objectives pursued,

HAVE ADOPTED THIS REGULATION:

Article 1

Objective

The objective of this Regulation is to create, by 31 December 2004 at the latest, a European airspace, conceived and managed as a single airspace, offering optimum safety conditions and overall efficiency for air traffic in the Community and ensuring a level of capacity meeting the requirements of civil and military users. This single airspace is hereinafter referred to as the 'Single European Sky'.

This Regulation lays down the general lines of approach governing creation of the Single European Sky and identifies the fields for action by the Community and the means necessary, in terms of structures, procedures and resources, in order to create the Single European Sky, while taking into account Eurocontrol's task of establishing a pan-European airspace.

The measures taken to apply the lines of approach referred to in the second paragraph shall take the form of implementation of common safety and performance rules for air navigation services, by means of mechanisms allowing optimum use of airspace at Community level and the involvement of all economic and social stakeholders concerned.

Article 2

Definitions

For the purposes of this Regulation:

- (a) 'air navigation services' means all air traffic control services, including ancillary services providing communication, navigation and surveillance infrastructure, meteorological services for airspace users, search and rescue services and aeronautical information services, all those services being provided to airspace users during every phase of the flight;
- (b) 'air navigation service providers' means any public or private entity responsible for operating and managing air navigation services;

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

⁽²⁾ OJ L 225, 12.8.1998, p. 27.

- (c) 'air traffic' means all movements of civil and State aircraft, including military, customs and police aircraft;
- (d) 'airspace users' means all civil and State aircraft, including military, customs and police aircraft;
- (e) 'Eurocontrol' means the European Organisation for the Safety of Air Navigation set up by the International Convention of 13 December 1960 relating to Cooperation for the Safety of Air Navigation ⁽¹⁾.
- (c) most flights take a straight line between the points of departure and destination or take the route closest to this straight line, subject to compliance with the demands of safety, environmental protection and the management of air traffic;
- (d) the airspace is divided into air traffic control sectors giving priority to operational requirements;
- (e) air traffic flow planning and management allow smooth, flexible air traffic making optimum use of the capacity available.

Article 3

Fields for action by the Community

1. The measures necessary in order to create the Single European Sky shall be established in the following fields, whilst ensuring maximum safety standards for air navigation:

- (a) organisation and use of the airspace and the relevant procedures;
- (b) provision of air navigation services, including the economic aspects;
- (c) air navigation equipment and systems and the associated procedures.

2. The measures set out in paragraph 1 shall aim to define the objectives and, where appropriate, the means of attaining these objectives in such a way as to safeguard the public interest.

Article 4

Organisation and use of the airspace

Measures on the organisation and use of airspace shall be such that:

- (a) the airspace above the territory of the Community is treated as a common resource constituting a continuum;
- (b) use of the airspace is flexible, with no permanent segregation and optimising the duration of any temporary segregation for military purposes;

⁽¹⁾ Convention as amended by the Protocol of 12 February 1981, and revised by the Protocol of 27 June 1997.

Article 5

Provision of air navigation services

Measures relating to the provision of air navigation services shall be such that:

- (a) definition and monitoring of application of the rules referred to in Article 1 are kept separate from operation of the air navigation services subject to these rules;
- (b) air navigation service providers hold regular, formal consultations with airspace users on the arrangements and costs for air navigation services to ensure that these users' needs are taken into account in definition of these services;
- (c) air navigation service providers ensure appropriate transparency in air navigation services, in the form of publication of financial accounts and annual reports, and regularly undergo an independent audit;
- (d) operation of air navigation services is harmonised to ensure integration and consistency of the operations of air navigation service providers, airspace users and airports;
- (e) cooperation between civil air navigation service providers is reinforced, in particular by facilitating the establishment of groupings of two or more service providers;
- (f) cooperation between civil and military air navigation service providers is encouraged;
- (g) new services are established at the same time for all interested parties in the Member States concerned;
- (h) air navigation service providers exchange all data on the situation of flights during every phase of the flight in order to facilitate operation of air navigation services; access to these data shall be open to all concerned on a non-discriminatory basis, without prejudice to safety requirements;

- (i) the economic regulations favour more efficient provision of air navigation services and provision of services releasing capacity meeting Europe's needs;
- (j) mechanisms providing performance incentives are developed to stimulate new investment in this sector and to reward timely provision of high-quality services meeting the demand from airspace users.

Article 6

Air navigation equipment and systems

Measures on air navigation equipment and systems shall be such that:

- (a) the technical and operational solutions allow uniform planning and operation of the European system, including interoperability;
- (b) creation of the Single European Sky favours the introduction of new technical and operational solutions for air navigation;
- (c) the development and validation of technical and operational solutions meet airspace users' common needs and take account of the demand from such users with regard to choice of routes and flight profiles.

Article 7

Single Sky Committee

1. A committee, hereinafter referred to as 'the Single Sky Committee', is hereby set up, composed of the representatives of the Member States and chaired by the representative of the Commission.
2. Each Member State shall appoint two representatives and two alternates.
3. Non-Community States committed to air transport agreements with the Community shall be associated with the work of the committee, in accordance with the arrangements laid down in the agreements.

Article 8

Relations with third countries

When drafting the measures taken to implement this Regulation, the Commission shall keep open the possibility of extending the Single European Sky to countries which are not members of the Community, whether under bilateral agreements concluded with the non-member countries or within the framework of Eurocontrol.

Article 9

Supervision and monitoring

1. The measures adopted pursuant to Article 3 shall define appropriate mechanisms for assisting the Commission in its responsibilities for supervising and monitoring application of those rules, including the creation of civil and military technical expertise.
2. The supervision and monitoring methods shall be based on the submission of regular reports by air navigation service providers on implementation of the measures adopted.

Article 10

Performance review

The Commission shall ensure the examination and comparison of air navigation performance involving, in particular, Eurocontrol's Performance Review Commission.

Article 11

Impact assessment

Every five years after the entry into force of this Regulation and for the first time no later than 30 June 2005, the Commission shall submit to the European Parliament and to the Council a report assessing the measures taken to create the Single European Sky.

For the purposes of drafting this report, the Commission may request the opinion of the Single Sky Committee.

The report shall contain an evaluation of the results achieved by the measures taken pursuant to this Regulation in the various fields of action in the light of the original objectives and of future needs.

Article 12

Safeguards

This Regulation shall not prevent Member States from adopting or applying measures warranted by serious internal disturbances affecting the maintenance of law and order, in the event of war, serious international tension constituting a threat of war, or in order to carry out obligations they have accepted for the purpose of maintaining peace and international security.

Article 13

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.