

P5_TA(2003)0326

Single European Sky: Airspace *II**

European Parliament legislative resolution on the Council common position for adopting a European Parliament and Council regulation on the organisation and use of the airspace in the Single European Sky ('the airspace Regulation') (15852/3/2002 – C5-0139/2003 – 2001/0236(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (15852/3/2002 – C5-0139/2003)¹,
 - having regard to its position at first reading² on the Commission proposal to Parliament and the Council (COM(2001) 564)³,
 - having regard to the Commission's amended proposal (COM(2002) 658)⁴,
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 80 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Regional Policy, Transport and Tourism (A5-0225/2003),
1. Amends the common position as follows;
 2. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 129 E, 3.6.2003, p. 11.

² P5_TA(2002)0393.

³ OJ C 103 E, 30.4.2002, p. 35.

⁴ OJ C not yet published.

Position of the European Parliament adopted at second reading on 3 July 2003 with a view to the adoption of European Parliament and Council Regulation (EC) No .../2003 on the organisation and use of the airspace in the Single European Sky ("the airspace Regulation")

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,

Whereas:

- (1) The creation of the Single European Sky requires a harmonised approach for regulation of the organisation and the use of airspace.
- (2) The report of the High Level Group on the Single European Sky in November 2000 has confirmed the need for rules at Community level to design, regulate and *strategically* manage airspace on a European basis and enhance air traffic flow management.

¹ OJ C 103 E, 30.4.2002, p. 35.

² OJ C 241, 7.10.2002, p. 24.

³ OJ C 278, 14.11.2002, p. 13.

⁴ *Position* of the European Parliament of 3 September 2002 (not yet published in the Official Journal), Council Common Position of 18 March 2003 (*OJ C 129 E*, 3.6.2003, p. 11) and *position* of the European Parliament of 3 July 2003.

- (3) The Communication of the Commission on the creation of the Single European Sky of 30 November 2001 calls for structural reform to permit the creation of the Single European Sky by way of *integrated* management of airspace and the development of new concepts and procedures of air traffic management.
- (4) Regulation (EC) No .../2003 of the European Parliament and of the Council of ... ("*the framework Regulation*")¹ lays down the framework for the creation of the Single European Sky.
- (5) In Article 1 of the 1944 Chicago Convention on Civil Aviation, the Contracting States recognise that "every State has complete and exclusive sovereignty over the airspace above its territory". It is within the framework of such sovereignty that the Member States of the Community, subject to applicable international conventions, exercise the powers of a public authority when controlling air traffic.
- (6) Airspace is a *common* resource that needs to be used flexibly by all users, ensuring fairness and transparency whilst taking into account security and defence needs of Member States and their commitments within international organisations.
- (7) Efficient airspace management is fundamental to increasing the capacity of the air traffic services system, to providing the optimum response to various user requirements and to achieving the most flexible use of airspace.
- (8) The activities of Eurocontrol confirm that the route network and airspace structure cannot realistically be developed in isolation, as each individual Member State is an integral element of the European Air Traffic Management Network ("EATMN"), both inside and outside the Community.
- (9) A *single* airspace should be established for en-route general air traffic in the upper airspace; the interface between upper and lower airspace should be identified accordingly.

¹ See page ... of this Official Journal.

- (10) A European Upper Flight Information Region ("EUIR") encompassing the upper airspace under the responsibility of the Member States within the scope of this Regulation should facilitate common planning and aeronautical information publication in order to overcome regional bottlenecks.
- (11) Airspace users face disparate conditions of access to, and freedom of movement within, the Community airspace. This is due to the lack of harmonisation in the classification of airspace.
- (12) The reconfiguration of airspace should be based on operational requirements regardless of existing boundaries. ***The plan for creating uniform functional airspace blocks should be drawn up by Eurocontrol.***
- (13) It is essential to achieve a common, harmonised airspace structure in terms of routes and sectors, to base the present and future organisation of airspace on common principles, and to design and manage airspace in accordance with harmonised rules.
- (14) The concept of the flexible use of airspace should be applied effectively; it is necessary to optimise the use of sectors of airspace, especially during peak periods for general air traffic and in high-traffic airspace, by cooperation between Member States in respect of the use of such sectors for military operations and training. To that end, it is necessary to allocate the appropriate resources for an effective implementation of the concept of the flexible use of airspace, taking into account both civil and military requirements.
- (15) Differences in the organisation of civil-military cooperation in the Community restrict uniform and timely airspace management and the implementation of changes. The success of the Single European Sky is dependent upon effective cooperation between civil and military authorities, without prejudice to the prerogatives and responsibilities of the Member States in the field of defence.
- (16) Military operations and training should be safeguarded whenever the application of common principles and criteria is detrimental to their safe and efficient performance.

- (17) Adequate measures should be introduced to improve the effectiveness of air traffic flow management in order to assist existing operational units, including the Eurocontrol Central Flow Management Unit, to ensure efficient flight operations.
- (18) It is desirable to reflect upon the extension of upper airspace concepts to the lower airspace,

HAVE ADOPTED THIS REGULATION:

Chapter I
General

Article 1
Objective and scope

1. Within the scope of the framework Regulation, this Regulation concerns the organisation and the use of airspace in the Single European Sky. The objective of this Regulation is to support the concept of a *single* operating airspace within the context of the common transport policy and to establish common procedures for design, planning and management ensuring the efficient and safe performance of air traffic management.
2. The use of airspace shall support the operation of the air navigation services as a coherent and consistent whole in accordance with Regulation (EC) No .../2003 of the European Parliament and of the Council of on the provision of air navigation services in the Single European Sky ("the service provision Regulation")¹.
3. *This Regulation* shall apply to the airspace within the ICAO EUR and AFI regions where Member States are responsible for the provision of air traffic services in accordance with the service provision Regulation. Member States may also apply this Regulation to airspace under their responsibility within other ICAO regions, on condition that they inform the Commission and the other Member States thereof.

¹ See page ... of this Official Journal.

4. The Flight Information Regions comprised within the airspace to which this Regulation applies shall be published in the Official Journal of the European Union.

Chapter II Airspace architecture

Article 2 Division level

The division level between upper and lower airspace shall be set at flight level 285.

Deviations from the division level that are justified in the light of operational requirements may be decided upon in agreement with the Member States concerned in accordance with the procedure referred in Article 5(3) of the framework Regulation.

Article 3 European Upper Flight Information Region (EUIR)

1. The Community and its Member States shall *achieve* the establishment and recognition by the ICAO of a single EUIR *by ...* at the latest*. To that effect, for matters which fall within the competence of the Community, the Commission shall submit a recommendation to the Council in accordance with Article 300 of the Treaty.
2. The EUIR shall be designed to encompass the airspace falling under the responsibility of the Member States in accordance with Article 1(3) and may also include airspace of European third countries.
3. The establishment of the EUIR shall be without prejudice to the responsibility of Member States for the designation of air traffic service providers for the airspace under their responsibility in accordance with *Article 8(1)* of the service provision Regulation.

* *5 years from the date of entry into force of this Regulation.*

4. Member States shall retain their responsibilities towards the ICAO within the geographical limits of the upper flight information regions and flight information regions entrusted to them by the ICAO on the date of entry into force of this Regulation.

5. Without prejudice to the publication by Member States of aeronautical information and in a manner consistent with this publication, the Commission, in close cooperation with Eurocontrol, shall coordinate the development of a single aeronautical information publication relating to the EUIR, taking account of relevant ICAO requirements.

Article 4 **Creation of a European Lower Flight Information Region**

Within five years of the establishment of the EUIR, the European Parliament and the Council, shall, on the basis of a proposal from the Commission, extend the concept referred to in Article 3(1) to include the creation of a European Lower Flight Information Region.

Article 5 **Airspace classification**

The Commission and the Member States shall ***designate the EUIR in accordance with a harmonised*** airspace classification, designed to ensure the seamless provision of air navigation services within the framework of the Single European Sky, ***establishing a single category of environment within which all air traffic is known to providers of air traffic services, with position and flight intentions***. This common approach shall be based on a simplified application of airspace classification, as defined within the Eurocontrol airspace strategy for the European Civil Aviation Conference States in accordance with ICAO standards.

The necessary implementing rules in this field shall be established in accordance with the procedure under *Article 8* of the framework Regulation.

Article 6
Reconfiguration of the upper airspace

1. With a view to achieving maximum capacity and efficiency of the air traffic management network within the Single European Sky, and with a view to maintaining a high level of safety, the upper airspace shall be reconfigured into functional airspace blocks.
2. Functional airspace blocks shall, inter alia:
 - (a) be supported by a safety case;
 - (b) enable optimum use of airspace, taking into account air traffic flows;
 - (c) be justified by their overall added value, including optimal use of technical and human resources, on the basis of cost-benefit analyses;
 - (d) ensure a fluent and flexible transfer of responsibility for air traffic control between air traffic service units;
 - (e) ensure compatibility between the configurations of upper and lower airspace;
 - (f) comply with conditions stemming from regional agreements concluded within the ICAO; and
 - (g) respect regional agreements in existence on the date of entry into force of this Regulation, in particular those involving European third countries.
3. Common general principles for the establishment and modification of functional airspace blocks shall be developed in accordance with the procedure under *Article 8* of the framework Regulation.
4. A functional airspace block shall only be established by mutual agreement between all Member States who have responsibility for any part of the airspace included in the block, or by a declaration of one Member State if the airspace included in the block is wholly under its responsibility. The Member State(s) concerned shall only act after having consulted interested parties, including the Commission and the other Member States.

5. In a case 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 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.

6. Where disputes arise between two or more Member States with regard to the definition of a cross-border functional airspace block, a final decision shall be taken in accordance with the procedure referred to in Article 5(3) of the framework Regulation and on the basis of the criteria laid down in paragraph 2 and the common general principles referred to in paragraph 3.

7. The decisions referred to in paragraphs 4 and 5 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.

Article 7 ***Uniform airspace design***

The structuring, division and categorising of airspace together with the planning of routes shall rely on a uniform, efficient and effective design process within the agreed concept of operation and shall be developed centrally.

Article 8 **Optimised route and sector design in the upper airspace**

1. Common principles and criteria for route and sector design shall be established to ensure the safe, economically efficient and environmentally friendly use of airspace. Sector design shall be coherent inter alia with route design.

2. The implementing rules in the fields covered by paragraph 1 shall be adopted in accordance with the procedure under *Article 8* of the framework Regulation.

3. Decisions regarding the establishment or modification of routes and sectors shall require the approval of the Member States who have responsibility for the airspace to which such decisions apply.

Article 9
Consistency with the design for lower airspace

On the basis of the criteria specified in Article 6(2), as regards the concept of functional airspace blocks, the planning and design of lower airspace shall be harmonised to be consistent with upper airspace in accordance with the procedure referred to in Article 8 of the framework Regulation. The concept shall be extended to establish similar blocks in the lower airspace, particularly to address cross-border problems for short to medium flights.

Chapter III
Flexible use of airspace in the Single European Sky

Article 10
Civil-Military Cooperation

1. Taking into account the organisation of military aspects under their responsibility, Member States shall ensure the uniform application within the Single European Sky of the concept of the flexible use of airspace as described by the ICAO and as developed by Eurocontrol, in order to facilitate airspace management and air traffic management in the context of the common transport policy.

2. Member States shall *work towards full integration of civil and military airspace and traffic flow management. Civil and military providers of air navigation services shall exchange data under the agreements provided for in Article 10 of the service provision Regulation.*

3. Subject to the general conditions for air traffic flow management, as defined under Article 12, criteria shall be established, in accordance with the procedure referred to in Article 8 of the framework Regulation:

- (a) for the use of segregated airspace, including factors for the determination of horizontal and vertical extensions, the location of such airspace, and its sub-division into functional elements to be activated according to demand;**
- (b) for the application of the concept of flexible use of airspace.**

4. Member States shall ensure the full integration of air defence in airspace management in order to allow full exploitation of airspace under certain agreed conditions and arrangements, taking into account national security requirements.

5. Without prejudice to international agreements and conventions to which the Community is a contracting party and in order to ensure the safety of civil aviation, Member States may require submission of a flight plan for any military flight entering the airspace where they have designated air traffic service providers in accordance with Article 8 of the service provision Regulation, regardless of the origin and/or the destination of the flight.

Article 11

Temporary suspension

1. In cases where the application of Article 10 gives rise to significant operational difficulties, Member States may temporarily suspend such application on condition that they inform without delay the Commission and the other Member States thereof.

2 Pursuant to Article 12 of the framework Regulation, Member States shall submit to the Commission the necessary information on the demand and actual use of airspace prohibited, closed, or restricted for military reasons, for further analysis and publication.

3. Following the introduction of a temporary suspension, adjustments to the rules adopted under *Article 10(3)* may be worked out for the airspace under the responsibility of the Member State(s) concerned, in accordance with the procedure under *Article 8* of the framework Regulation.

Article 12
Air traffic flow management

1. Implementing rules for air traffic flow management shall be established in accordance with the procedure under *Article 8* of the framework Regulation, with a view to optimising available capacity in the use of airspace and enhancing air traffic flow management processes. These rules shall be based on transparency and efficiency, ensuring that capacity is provided in a flexible and timely manner, consistent with the recommendations of the ICAO Regional Air Navigation Plan, European Region.

2. The implementing rules shall support operational decisions by air navigation service providers, airport operators and airspace users and shall cover the following areas:

- (a) flight planning;
- (b) use of available airspace capacity during all phases of flight, including slot assignment; and
- (c) use of routings by general air traffic, including
 - the creation of a single publication for route and traffic orientation,
 - options for diversion of general air traffic from congested areas, and
 - priority rules regarding access to airspace for general air traffic, particularly during periods of congestion and crisis.

Chapter IV
Final *provisions*

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 Union.

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

Done at ,

For the European Parliament
The President

For the Council
The President
