







Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Awaiting Parliament's position in 1st reading
Capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky Amending Regulation 2018/1139 2015/0277(COD)	
Subject 3.20.01 Air transport and air freight 3.20.01.01 Air safety 8.40.08 Agencies and bodies of the EU	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	TRAN Transport and Tourism	 LIBERADZKI Boguslaw Shadow rapporteur  MARINESCU Marian-Jean  OETJEN Jan-Christoph  CAMPOMENOSI Marco  ZŁOTOWSKI Kosma  DALY Clare	
Council of the European Union			
European Commission	Commission DG Mobility and Transport	Commissioner	VĂLEAN Adina-Ioana
European Economic and Social Committee			
European Committee of the Regions			

Key events			
22/10/2020	Committee referral announced in Parliament, 1st reading		
17/06/2021	Vote in committee, 1st reading		
17/06/2021	Committee decision to open interinstitutional negotiations with report adopted in committee		
28/06/2021	Committee report tabled for plenary, 1st reading	A9-0217/2021	Summary

05/07/2021

Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)

Technical information

Procedure reference	2020/0264(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation 2018/1139 2015/0277(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 153-p2; Treaty on the Functioning of the EU TFEU 100-p2
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Awaiting Parliament's position in 1st reading
Committee dossier	TRAN/9/04207

Documentation gateway

Legislative proposal	COM(2020)0577	22/09/2020	EC	Summary
Committee draft report	PE660.310	15/12/2020	EP	
Amendments tabled in committee	PE680.873	02/02/2021	EP	
Committee report tabled for plenary, 1st reading/single reading	A9-0217/2021	28/06/2021	EP	Summary

Capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky

PURPOSE: to create a permanent structure dedicated to the performance review of the Single European Sky within the European Aviation Safety Agency.

PROPOSED ACT: Regulation of the European Parliament and the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the [amended proposal](#) for a Regulation of the European Parliament and of the Council on the implementation of the Single European Sky aims to update, in the light of experience, the current legislation on the Single European Sky. An important element of the amendments proposed in this context is the establishment of a permanent function of the Performance Review Body (PRB), to be carried out by the European Union Aviation Safety Agency.

In line with this aim, it is necessary to establish a permanent structure within the Agency to ensure that the tasks entrusted to the Agency acting as a Performance Review Body are carried out with the required expertise as well as in full independence from public or private interests and that, in this context, the Agency can rely on dedicated resources.

The Commission therefore considers it necessary to amend [Regulation \(EU\) No 2018/1139](#) in a manner that separates the discharge of the tasks regarding the performance and charging schemes of the Single European Sky, functionally and hierarchically, from the Agency's activity as a safety authority.

CONTENT: this proposal amending Regulation (EU) No 2018/1139 seeks in particular to establish a regulatory board for performance review and appoint a director for performance review in order to carry out specifically the functions of the Agency acting as PRB.

The proposed Regulation lays down the composition of and relevant requirements regarding the bodies and function holders provided for with a view to enabling the Agency to act as PRB. The tasks and powers to be conferred upon the Agency for these purposes are those laid down in the amended recast proposal. They include the assessment and approval of performance plans of designated air traffic service providers, the provision of advice to the Commission regarding the Network Performance Plan, the monitoring of performance, and the verification of unit rates of air traffic service providers.

For carrying out its tasks on performance review, the Agency acting as PRB shall have: (i) a regulatory board for performance review; (ii) a

director for performance review; (iii) an advisory board for performance review; (iv) and an appeal board for performance review.

Performance review body (PRB)

The Agency acting as performance review body shall provide technical assistance to the Commission, in the implementation of the Single European Sky, including on the performance and charging scheme, in particular by:

- (a) conducting technical inspections, technical investigations, reviews of compliance, studies and projects;
- (b) contributing to the implementation of the ATM Master Plan, including the development and deployment of the SESAR programme.

In order to optimise the functioning of the Agency as a PRB, it would be desirable for the Union to convene with Eurocontrol the transfer of technical expertise and relevant performance-related data, possibly by amending the existing High-Level Agreement between the two parties.

It is proposed that the regulatory board for performance review act independently and shall not seek or follow instructions or accept recommendations from a government of a Member State, from the Commission or any other public or private entity.

Director of the body

The Director for performance review shall in particular be the legal representative of the Agency in matters of performance review and be in charge of the day-to-day administration in respect of this matter, as well as of various preparatory tasks.

Advisory board

Cooperation between national supervisory authorities in the area of performance review is important to ensure smooth application of Union law in this area. In this regard, the advisory board shall exchange information about the work of national supervisory authorities and decision-making principles, best practices and provide opinions and recommendations on guidance material to be issued by the Agency acting as PRB.

Budgetary implications

The proposed new PRB function is to be financed by fees and charges and administratively integrated into the Agency. A reserve fund covering one year of operational expenditure is proposed, in order to ensure the continuity of its operations and of the execution of its tasks. In addition, it is proposed to provide for annual contributions to be made by designated air traffic service providers concerned by the Agency's tasks and powers as PRB, for the built up of the new function. Such annual contributions are proposed to be collected for five financial years following the entry into force of the amending Regulation, in order to cover the costs of setting up the new functions within the Agency. All in all, the Union's budget shall not be affected.

Capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky

The Committee on Transport and Tourism adopted the report by Bogusław LIBERADZKI (S&D, PL) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1139 as regards the capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky.

The amended proposal for the implementation of the Single European Sky provides for the establishment of a permanent Performance Review Body (PRB), which will be integrated into the European Union Aviation Safety Agency (EASA).

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Strengthening independence

Members recommended strengthening the independence of the new PRB: the tasks entrusted to the Agency acting as PRB should be carried out with the required expertise and in complete independence from governmental or private interests. In this context, the Agency should be provided with resources specifically dedicated to the new tasks, including staffing and structures.

The Regulatory Board for Performance Review should be fully independent and should not seek or take instructions or accept recommendations from any Member State government, the Commission, EASA or any other public or private entity. The Regulatory Board for Performance Review should appoint the Director for Performance Review.

Fines and periodic penalty payments

The Commission could, at the request of the Agency acting as PRB, impose on a legal or natural person responsible for the performance of air navigation service providers at least one of the following: (a) a fine, where that person has infringed, intentionally or negligently, any of the provisions of Regulation [amended SES II+], (b) the payment of a periodic penalty payment where that person continues to infringe any of those provisions, in order to compel compliance with those provisions.

The amount of the fines should not exceed 4% of the annual income or turnover of the natural or legal person concerned. The amount of the periodic penalty payment would not exceed 2.5% of the average daily income or turnover of the natural or legal person concerned.

The Court of Justice should have unlimited jurisdiction to rule on appeals against Commission decisions taken under these provisions. It could cancel, reduce or increase the fine or periodic penalty payment imposed.

Director for Performance Review

The Director of Performance Review should be appointed on the basis of merit and skills and experience in the aeronautical industry or in the economic regulation of network industries, from a list of at least three candidates proposed by the Commission and following an open and transparent selection procedure.

The Director responsible for performance assessment should not have held any professional position or responsibility with any air navigation

service provider or airline company for the one year prior to the appointment.

Climate and environmental performance

In the framework of the European Green Deal, the actors involved in the activity of EASA as a quality assessment body should act with particular attention to climate and environmental performance.

To this end, the amended Regulation provides that the members of the Regulatory Performance Assessment Committee and their alternates should have scientific knowledge and expertise on the environmental and climatic impacts of the aviation sector.

The Regulatory Board for Performance Review may invite any person whose opinion may be of interest, including scientific experts in the field of climate and environmental performance, to attend its meetings with observer status.

The Advisory Board for Performance Review should also include a non-voting representative of the Commission and an alternate with expertise and knowledge of the environmental and climate impact of aviation.

Powers of the Appeal Board for Performance Review

The proposal provides for the establishment of an Appeal Board for Performance Review to decide on appeals against decisions taken by the Agency acting as an PRB.

An amendment specifies that the Board of Appeal should be independent of the Regulatory Board for Performance Review, the Advisory Board for Performance Review and the Director of Performance Review.