



EUROPEAN COMMISSION

Brussels, 7.7.2011
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COMMISSION DECISION

of 7.7.2011

**on the nomination of the Network Manager for the air traffic management (ATM)
network functions of the single European sky**

(Text with EEA relevance)

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the airspace Regulation)¹, and in particular Article 6 thereof,

Having regard to Commission Regulation (EU) No 255/2010 laying down common rules on air traffic flow management (the ATFM Regulation)²,

Having regard to Commission Regulation (EU) No ... laying down the detailed rules for the implementation of air traffic management (ATM) network functions and amending Regulation (EU) No 691/2010 (the network functions Regulation)³,

Having regard to Commission Regulation (EU) No 691/2010 of 29 July 2010 laying down a performance scheme for air navigation services and network functions and amending Regulation (EC) No 2096/2005 laying down common requirements for the provision of air navigation services (the performance Regulation)⁴,

Whereas:

- (1) The airspace Regulation provides that the Commission may entrust the European Organisation for the Safety of Air Navigation (Eurocontrol) established by the International Convention of 13 December 1960 relating to Cooperation for the Safety of Air Navigation as amended on 12 February 1981 and revised on 27 June 1997 or another competent and impartial body the tasks necessary for the execution of the air traffic management (ATM) network functions.
- (2) The airspace Regulation provides that these tasks shall be executed in an impartial and cost-effective manner and performed on behalf of the Member States and stakeholders; that they shall be subject to appropriate governance, which recognises the separate accountabilities for service provision and regulation, taking into consideration the

¹ OJ L 96 of 31.3.2004, p. 20.

² OJ L 80 of 26.3.2010, p. 10.

³ OJ L xxx

⁴ OJ L 201, 3.8.2010, p. 1.

needs of the whole ATM network and with the full involvement of the airspace users and air navigation service providers.

- (3) Article 3(3) of the network functions Regulation provides that the nomination of the Network Manager shall take the form of a Commission Decision after consultation of the Single Sky Committee; that Decision shall include the terms and conditions of the nomination, including the financing and the conditions of its withdrawal.
- (4) Following the requirements of Article 6(6) of the airspace Regulation, Member States have already entrusted by Decision of the Permanent Commission at its 75th session on 4 July 1989 Eurocontrol with the performance of a central flow management function; this Decision of the Permanent Commission of Eurocontrol is deemed constituting the nomination referred to in Article 6(6) of the airspace Regulation and the ATFM Regulation.
- (5) The network functions should be provided in a cost-efficient manner, in particular avoiding any duplication of efforts, and therefore enabling the provision of these functions at reduced, or at least not higher, financial and human resources requirements in the Member States compared to the situation before a Network Manager was nominated.
- (6) Following assessment of its application by the Commission, Eurocontrol should be nominated as the Network Manager for a period corresponding to two reference periods of the performance Regulation.
- (7) Eurocontrol has expressed no objection to be nominated as the Network Manager.
- (8) The measures provided for this Decision are in accordance with the opinion of the Single Sky Committee.

HAS ADOPTED THIS DECISION:

Article 1

Nomination of the Network Manager

1. Eurocontrol is nominated as the Network Manager for the ATM network functions (the Network Manager) as referred to in the network functions Regulation for a period starting on the date of notification of the present Decision up to the end of the second reference period foreseen in Article 7 of the performance Regulation.
2. When performing the duties entrusted to it by the present Decision, the Network Manager shall apply the following requirements:
 - be impartial;
 - maintain adequate competence;

- execute the tasks in a cost-effective manner enabling the provision of the functions at reduced or at least not higher financial and human resources requirements for the Member States compared to the situation before a Network Manager was nominated;
 - establish the appropriate governance;
 - avoid conflicts of interest, in particular respect the separation of the regulatory tasks (including support to them) and service provision tasks;
 - comply with the Union legislation relevant for the execution of the functions; and
 - be able to promote the Network Manager concept outside Europe.
3. The term of the nomination can be renewed following assessment of the compliance with the provisions of the present Decision, after consultation of the Single Sky Committee.

Article 2

Duties of the Network Manager

1. The Network Manager shall perform the network functions under the conditions defined in the network functions Regulation.
2. The Network Manager shall facilitate the implementation of the single European sky and in particular shall contribute to the deployment of SESAR according to the European ATM Master Plan. The role of the Network Manager shall be reflected through updated objectives for the European Single Sky Implementation (ESSIP), including actions for execution and reporting by the Network Manager.

Article 3

Network Management Board

1. Voting members of the Network Management Board shall be designated as follows:
 - for air navigation service providers: with one representative per functional airspace block;
 - for commercial and non-commercial civil airspace users and airport operators: among representative organisations at EU level; and
 - for military air navigation service providers and airspace users: among States represented in the Single Sky Committee.
2. The Network Manager shall be represented by the Director in charge of the network functions in Eurocontrol.
3. The Network Management Board shall have its first meeting within three months of the nomination of the Network Manager.

Article 4

Participation in the Single Sky Committee

The Network Manager shall be invited to attend all meetings of the Single Sky Committee as an observer. It shall inform the Single Sky Committee of the results of the work performed under the present Decision on a regular basis.

Article 5

Financing

1. The Network Manager shall finance the duties entrusted to it on its own budget, for which the Member States shall support the financing mechanism of network functions through the Eurocontrol budget.
2. The Network Manager shall bear the costs related to the tasks of the chairman of the Network Management Board.

Article 6

Relations with international organisations

Within the remits of competences established in the network functions Regulation, the Network Manager shall coordinate its participation in the work of international organisations with the Commission to ensure its full alignment with Union policies.

Article 7

Relations with third countries

Third countries as defined in the network functions Regulation may participate in the work of the Network Manager from the date of its nomination. Other countries may participate in the work of the Network Manager after that date subject to positive opinion of the Single Sky Committee.

Article 8

Data collection

Relevant data already available within Eurocontrol shall be made available to the Network Manager and not be requested again from Member States, operational stakeholders and third countries concerned.

Article 9

Conditions of withdrawal

In case of the failure by Eurocontrol to comply with the provisions of the present Decision, the Commission may decide to revise or terminate the present nomination with six months prior written notice by the Commission, subject to positive opinion of the Single Sky Committee.

Article 10

This Decision is addressed to Eurocontrol.

Done at Brussels, 7.7.2011

For the Commission
Sim KALLAS
Vice-President