

COMMISSION IMPLEMENTING REGULATION (EU) No 1216/2011

of 24 November 2011

amending Commission Regulation (EU) No 691/2010 laying down a performance scheme for air navigation services and network functions

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

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 thereof,

Whereas:

- (1) Commission Regulation (EU) No 691/2010 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 ⁽²⁾ provides for Key Performance Indicators (KPIs) and binding targets on the key performance areas of safety, environment, capacity and cost-efficiency.
- (2) The safety KPIs for national or functional airspace block (FAB) target setting set out in Annex 1 to Regulation (EU) No 691/2010 are: the effectiveness of safety management as measured by a methodology based on the ATM Safety Framework Maturity Survey; the application of the severity classification of the Risk Analysis Tool to allow harmonised reporting of severity assessment of Separation Minima Infringement, Runway Incursions and Air Traffic Management (ATM) Specific Technical Events; and the reporting of just culture.
- (3) Pursuant to Annex 1 to Regulation (EU) No 691/2010, those safety KPIs should be further developed jointly by the Commission, the Member States, the European Aviation Safety Agency (EASA) and the European

Organisation for the Safety of Air Navigation (Euro-control) and adopted by the Commission prior to the first reference period.

- (4) To this effect the Commission established a Working Group consisting of representatives from EASA, Euro-control and the Commission (so-called E3-Task Force). That working group produced a technical report entitled "Metrics for Safety Key Performance Indicators for the Performance Scheme". That report was further developed on the basis of the comments received from Member States and the stakeholders and constitutes the technical concept for this Regulation and its associated Acceptable Means of Compliance (AMC) and Guidance Material (GM).
- (5) Work already done in respect of other initiatives such as EASA Safety Plan and Eurocontrol's Risk Analysis Tool and Safety Framework Maturity Survey should be taken into account in the development of safety KPIs.
- (6) Experience gained from the gradual implementation of the performance scheme shows that the time allocated to the Commission for the assessment of revised performance targets should be increased in view of the workload generated by the detailed assessment of performance plans and in order to conduct the necessary dialogue with the national supervisory authorities and to ensure an appropriate justification of the results of that assessment.
- (7) Regulation (EU) No 691/2010 should therefore be amended accordingly.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 691/2010 is amended as follows:

(1) Article 14 is amended as follows:

- (a) In paragraph 1, the words 'two months' are replaced by 'four months';
- (b) In paragraph 2, the words 'two months' are replaced by 'four months';

⁽¹⁾ OJ L 96, 31.3.2004, p. 1.

⁽²⁾ OJ L 201, 3.8.2010, p.1.

(c) In paragraph 3, the words 'two months' are replaced by 'four months';

(2) In Annex I point 1 of Section 2 is replaced by the following:

‘1. SAFETY KEY PERFORMANCE INDICATORS

(a) The first national/FAB safety KPI for the first reference period shall be the effectiveness of safety management as measured by a methodology based on the ATM Safety Framework Maturity Survey.

With regard to Member States and their national supervisory authorities and air navigation service providers, certified to provide air traffic services or communication, navigation and surveillance services, this KPI shall be measured by the level of implementation of the following Management Objectives:

- Safety policy and objectives;
- Safety risk management;
- Safety assurance;
- Safety promotion;
- Safety Culture.

(b) The second national/FAB safety KPI for the first reference period shall be the application of the severity classification below based on the Risk Analysis Tool methodology to the reporting of, as a minimum, three categories of occurrences: Separation Minima Infringements, Runway Incursions and ATM-specific occurrences at all Air Traffic Control Centres and at airports. Member States may decide not to apply the method at airports with less than 50 000 commercial air transport movements per year.

When reporting the above occurrences Member States and air navigation service providers shall use the following severity classes:

- Serious incident
- Major incident
- Significant incident
- No safety effect
- Not determined; for example insufficient information available, or inconclusive or conflicting evidence precluded such determination.

Reporting on the application of the method shall be done for individual occurrences.

(c) The third national/FAB safety KPI for the first reference period shall be the reporting by the Member States and their air navigation service providers through a questionnaire established in accordance with paragraph (e), which measures the level of presence and corresponding level of absence of just culture.

(d) During the first reference period, there will be no EU wide safety performance targets. However, Member States may set targets corresponding to these Safety KPIs.

(e) In order to facilitate the implementation and measurement of the safety KPIs, EASA – in consultation with the Performance Review Body - shall adopt before the start of the first reference period acceptable means of compliance and guidance material in accordance with the procedure adopted under Article 52 of Regulation (EC) No 216/2008.

- (f) Eurocontrol shall provide, in a timely manner, the information needed for the development of the documents referred to in point (e), including at least the specification of the Risk Analysis Tool methodology and its further development and the details of the methodology of the Safety Framework Maturity Survey and its weighting factors.
- (g) The yearly measurement of the KPIs referred to in points (a) and (c) (questionnaires on effectiveness of safety management and just culture) by national supervisory authorities and air navigation service providers shall be reported to the EASA for the previous year by the national supervisory authorities before 1st February of each year. These yearly measurements shall be used as input for the monitoring functions described in points (h) and (i). If any changes in the yearly measurement of the KPIs occur the national supervisory authorities shall present those changes before the next yearly report is being due.
- (h) National supervisory authorities shall monitor the implementation and measurement of the safety KPIs by air navigation service providers, in accordance with the procedures for safety oversight established in Commission Implementing Regulation (EU) No 1034/2011 (*).
- (i) In the context of its standardisation inspections the EASA shall monitor the implementation and measurement of the safety KPIs by national supervisory authorities, in accordance with the working methods referred to in Article 24 of Regulation (EC) No 216/2008. The EASA shall inform the Performance Review Body of the outcome of these inspections.

(*) OJ L 271, 18.10.2011, p. 15.'

Article 2

This Regulation shall enter into force on the 20th day following 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 Brussels, 24 November 2011.

For the Commission
The President
José Manuel BARROSO