

## COMMISSION REGULATION (EU) No 255/2010

of 25 March 2010

## laying down common rules on air traffic flow management

(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 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and the use of the airspace in the single European sky (the Airspace Regulation)<sup>(1)</sup> and in particular Article 6(7) thereof,

Whereas:

- (1) The Commission is required to lay down measures regarding air traffic flow management (hereinafter ATFM) with a view to optimising available capacity in the use of airspace and enhancing ATFM processes.
- (2) The European Organisation for the Safety of Air Navigation (Eurocontrol) has been mandated in accordance with Article 8(1) of 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)<sup>(2)</sup> to develop implementing rules for ATFM. This Regulation is based on the resulting mandate report of 7 December 2007.
- (3) The uniform application of specific rules and procedures within the airspace of the single European sky is critical for the achievement of the optimum use of available air traffic control capacity through the efficient management and operation of the ATFM function.
- (4) This Regulation should not cover military operations and training as referred to in Article 1(2) of Regulation (EC) No 549/2004. However military aircraft operating as general air traffic should be subject to ATFM measures when operating or intending to operate within airspace or airports to which ATFM measures apply.
- (5) In accordance with Article 13 of Regulation (EC) No 549/2004, Member States' essential security or defence policy interests should be safeguarded in the definition and implementation of ATFM measures.
- (6) A single central unit for ATFM in charge of planning, coordination and execution of ATFM measures has been established by Eurocontrol taking into consideration the

recommendations of the International Civil Aviation Organisation (ICAO). Member States should be required to take the necessary measures to ensure that the central unit for ATFM optimises the overall effects of ATFM measures on the European air traffic management network (hereinafter EATMN).

- (7) ATFM measures should be based on principles laid down by ICAO and all parties in the ATFM system should adhere to rules that ensure that air traffic control capacity is used safely and to the maximum extent possible.
- (8) ATFM measures should take into account the availability of routes and airspace in particular through the application of the flexible use of airspace by all relevant parties including the airspace management cell laid down by Commission Regulation (EC) No 2150/2005 of 23 December 2005 laying down common rules for the flexible use of airspace<sup>(3)</sup>.
- (9) In order to optimise available capacity of the EATMN, including airports, procedures aimed at increasing the consistency between airport slots and flight plans should be established.
- (10) It is appropriate to provide Member States and parties involved in ATFM processes with sufficient time to comply with requirements for air traffic flow management.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee,

HAS ADOPTED THIS REGULATION:

*Article 1***Subject matter and scope**

1. This Regulation lays down the requirements for air traffic flow management (hereinafter ATFM) in order to optimise the available capacity of the European air traffic management network (hereinafter EATMN) and enhance ATFM processes.
2. This Regulation shall apply within the airspace referred to in Article 1(3) of Regulation (EC) No 551/2004 to:

<sup>(1)</sup> OJ L 96, 31.3.2004, p. 20.

<sup>(2)</sup> OJ L 96, 31.3.2004, p. 1.

<sup>(3)</sup> OJ L 342, 24.12.2005, p. 20.

- (a) all flights intended to operate or operating as general air traffic and in accordance with the instrument flight rules (hereinafter IFR) in whole or in part;
- (b) all phases of flights referred to in point (a) and air traffic management.

3. This Regulation shall apply to the following parties, or agents acting on their behalf, involved in ATFM processes:

- (a) operators of aircraft,
- (b) air traffic service (hereinafter ATS) units, including ATS reporting offices and aerodrome control services;
- (c) aeronautical information services;
- (d) entities involved in airspace management;
- (e) airport managing bodies;
- (f) the central unit for ATFM;
- (g) local ATFM units;
- (h) slot coordinators of coordinated airports.

#### Article 2

##### Definitions

For the purposes of this Regulation the definitions provided for in Article 2 of Regulation (EC) No 549/2004 and Article 2 of Council Regulation (EEC) No 95/93<sup>(1)</sup> shall apply.

The following definitions shall also apply:

1. 'air traffic flow management (ATFM) measure' means the actions taken to perform air traffic flow management and capacity management;
2. 'operator' means a person, organisation or enterprise engaged in or offering to engage in an aircraft operation;
3. 'instrument flight rules (IFR)' means instrument flight rules as defined in Annex 2 of the 1944 Chicago Convention on International Civil Aviation (hereinafter Chicago Convention);
4. 'air traffic services (ATS) reporting office' means an ATS unit established for the purpose of receiving reports concerning ATS and flight plans submitted before the first delivery of an air traffic control clearance;
5. 'local air traffic flow management (ATFM) unit' means a flow management entity operating on behalf of one or more other flow management entities as the interface between the central unit for ATFM and an ATS unit or a group of such units;
6. 'critical event' means an unusual situation or crisis involving a major loss of EATMN capacity, or a major imbalance between EATMN capacity and demand, or a major failure in the information flow in one or several parts of the EATMN;
7. 'air traffic flow management (ATFM) departure slot' means a calculated take-off time attributed by the central unit for ATFM with a time tolerance managed by the local ATS unit;
8. 'route and traffic orientation' means policies and procedures for the use of routes by aircraft;
9. 'multiple flight plan' means more than one flight plan for the same intended flight between two airports;
10. 'air traffic service (ATS) unit sector configuration' means the four dimensional description of an ATS unit airspace sector, or group of sectors, which may be operated on a permanent or temporary basis;
11. 'aerodrome taxi time' means the pre-determined time value from off-block to take-off, expressed in minutes and valid during normal airport operations;
12. 'updated flight position' means aircraft position, updated by surveillance data, flight plan data or position reports;
13. 'air traffic control clearance' means the authorisation for an aircraft to proceed under conditions specified by an air traffic control unit;
14. 'flight plan suspension' means the process initiated by an entity performing ATFM to ensure that a change is made to the flight plan by the operator before the execution of the flight;
15. 'air service' means a flight or a series of flights carrying passengers, cargo or mail for remuneration or hire;
16. 'operational log' means a log of the ATFM system, converted into a database to allow quick search of ATFM data.

#### Article 3

##### Air traffic flow management framework

1. The planning, coordination and execution of the ATFM measures by the parties referred to in Article 1(3) shall comply with the ICAO provisions specified in the Annex.
2. ATFM shall be governed by the following principles:

<sup>(1)</sup> OJ L 14, 22.1.1993, p. 1.

- (a) ATFM measures shall:
- (i) prevent excessive air traffic demand compared with declared air traffic control (ATC) capacity of sectors and airports;
  - (ii) use EATMN capacity to the maximum extent possible in order to optimise the efficiency of the EATMN and minimise adverse effects on operators;
  - (iii) optimise the EATMN capacity made available through the development and application of capacity enhancing measures by ATS units;
  - (iv) support the management of critical events;
- (b) local ATFM units and the central unit for ATFM shall be considered as part of the ATFM function.

3. The allocation of ATFM departure slots shall give priority to flights according to the order of their planned entry into the location at which the ATFM measure will apply, unless specific circumstances require application of a different priority rule which is formally agreed and is of benefit to the EATMN.

The first subparagraph may be applied to flights which are unable to accept the re-routing option to avoid or alleviate congested areas, taking into consideration the location and extent of the congested area.

#### Article 4

##### General obligations of Member States

1. Member States shall ensure that the ATFM function is available to parties referred to in Article 1(3) on a 24 hour basis.
2. The definition and implementation of ATFM measures shall be compatible with Member States security and defence requirements, in order to ensure efficiency in airspace planning, allocation and use for the benefit of parties referred in Article 1(3).
3. Consistent procedures shall be established for the cooperation between the parties involved in ATFM function, ATS units and entities involved in airspace management, in order to optimise the use of the airspace.
4. A common reference document containing the policies, procedures and description for route and traffic orientation

shall be created. Where applicable, publication of route availability in national aeronautical information publications shall be fully consistent with this common reference document.

5. Common procedures for requesting exemption from an ATFM departure slot shall be drawn up in accordance with the ICAO provisions specified in the Annex. Those procedures shall be coordinated with the central unit for ATFM and published in national aeronautical information publications.

#### Article 5

##### Obligations of Member States concerning the central unit for ATFM

Member States shall ensure that the central unit for ATFM:

- (a) optimises the overall performance effects on the EATMN through planning, coordination and implementation of ATFM measures;
- (b) consults with operators on the definition of ATFM measures;
- (c) ensures the effective implementation of ATFM measures, together with local ATFM units;
- (d) in coordination with local ATFM units identifies alternative routings to avoid or alleviate congested areas, taking into account the overall performance effects on the EATMN;
- (e) offers a re-routing to those flights that would optimise the effect of point (d);
- (f) provides information on ATFM in a timely manner to operators and ATS units, including:
  - (i) planned ATFM measures;
  - (ii) impact of ATFM measures on take-off time and flight profile of individual flights;
- (g) monitors the occurrences of missing flight plans and multiple flight plans that are filed;
- (h) suspends a flight plan when, considering the time tolerance, the ATFM departure slot cannot be met and a new estimated off-block time is not known;
- (i) monitors the number of exemptions granted in accordance with Article 4(5).

*Article 6***General obligations of ATS units**

1. When an ATFM measure has to be applied, ATS units shall coordinate through the local ATFM unit with the central unit for ATFM in order to ensure that the choice of measure is made with respect to the optimisation of the overall performance effects on the EATMN.

2. When necessary, ATS reporting offices shall facilitate the exchange of information between pilots or operators and the local or the central unit for ATFM.

3. ATS units shall ensure that ATFM measures applied to airports are coordinated with the airport managing body concerned, in order to ensure efficiency in airport planning and usage for the benefit of parties referred to in Article 1(3).

4. ATS units shall notify to the central unit for ATFM through the local ATFM unit all events that may impact air traffic control capacity or air traffic demand.

5. ATS units shall provide the central unit for ATFM with the following data and subsequent updates, in a timely manner and ensuring its quality:

- (a) availability of airspace and route structures,
- (b) ATS unit sector configurations and activations,
- (c) aerodrome taxi times,
- (d) air traffic control sector and airport capacities,
- (e) route availability including availability through application of flexible use of airspace in accordance with Regulation (EC) No 2150/2005,
- (f) updated flight positions,
- (g) deviations from flight plans,
- (h) airspace availability including availability through application of flexible use of airspace in accordance with Regulation (EC) No 2150/2005,
- (i) actual flight take-off times.

The data shall be made available to parties referred to in Article 1(3) and provided free of charge to, and by, the central unit for ATFM.

6. The ATS unit at the departure airport shall ensure that:

- (a) where a flight is subject to an ATFM departure slot, that slot is included as part of the air traffic control clearance;

(b) flights adhere to ATFM departure slots;

(c) flights not adhering to their estimated off blocks time, taking into account the established time tolerance, are not given take-off clearance;

(d) flights whose flight plan has been rejected or suspended are not given take-off clearance.

*Article 7***General obligations of operators**

1. Each intended flight shall be covered by a single flight plan. The filed flight plan shall correctly reflect the intended flight profile.

2. All relevant ATFM measures and changes thereto shall be incorporated into the planned flight operation and communicated to the pilot.

3. Where departing from an airport not subject to an ATFM departure slot, operators are responsible for adhering to their estimated off blocks time, taking into account a time tolerance as laid down in relevant ICAO provisions specified in the Annex.

4. Where a flight plan has been suspended in accordance with Article 5(h), the operator concerned shall arrange for updating or cancelling the flight plan.

*Article 8***General obligations of airport managing bodies**

Airport managing bodies shall notify to the central unit for ATFM, directly or through the local ATFM unit or ATS units or both, all events that may impact air traffic control capacity or air traffic demand. They shall inform the local ATFM unit and ATS units where the notification is done directly.

*Article 9***Consistency between flight plans and airport slots**

1. Member States shall ensure that, where requested by an airport slot coordinator or a managing body of a coordinated airport, the central unit for ATFM or the local ATFM unit shall provide them with the accepted flight plan of a flight operating at that airport, before that flight takes place. The airport slot coordinators or the managing bodies of coordinated airports shall arrange access to the accepted flight plans provided by the central unit for ATFM or the local ATFM unit.

2. Before flight, operators shall provide airports of departure and arrival with the necessary information to enable a correlation to be made between the flight designator contained in the flight plan and that notified for the corresponding airport slot.

3. Any operator, airport managing body and ATS unit shall be entitled to report to the airport slot coordinator on repeated operation of air services at times that are significantly different from the allocated airport slots or with the use of slots in a significantly different way from that indicated at the time of allocation, where this causes prejudice to airport or air traffic operations.

4. Member States shall ensure that the central unit for ATFM reports to the airport slot coordinators on repeated operation of air services at significantly different times from the allocated airport slots or with the use of slots in a significantly different way from that indicated at the time of allocation, where this causes prejudice to ATFM.

#### Article 10

##### Obligations concerning critical events

1. Member States shall ensure that ATFM procedures for handling critical events are established and published by the central unit for ATFM, in order to minimise disruption to the EATMN.

2. In the preparation for critical events, ATS units and airport managing bodies shall coordinate the relevance and content of the contingency procedures with operators affected by critical events, including any adjustment to priority rules.

The contingency procedures shall include:

- (a) organisational and coordination arrangements,
- (b) ATFM measures to manage access to affected areas to prevent excessive air traffic demand compared with declared capacity of the whole or part of the airspace or airports concerned,
- (c) circumstances, conditions and procedures for the application of priority rules for flights, which respect Member States' essential security or defence policy interests,
- (d) recovery arrangements.

#### Article 11

##### Monitoring of compliance to ATFM measures

1. Member States shall ensure that where adherence to ATFM departure slots at an airport of departure is 80 % or less during a year, the ATS unit at that airport shall provide relevant information of non-compliance and the actions taken to ensure adherence to ATFM departure slots. Such actions shall

be indicated in a report to be submitted by the Member State concerned to the Commission.

2. The ATS unit at that airport concerned shall provide relevant information on any failure to adhere to flight plan rejections or suspensions at that airport and of the actions taken to ensure adherence. Such actions shall be indicated in a report to be submitted by the Member State concerned to the Commission.

3. Member States shall ensure that:

- (a) the central unit for ATFM notifies a Member State which grants exemptions in excess of 0,6 % of that Member State's annual departures;
- (b) where a Member State has been notified under point (a), it shall produce a report providing details of the exemptions granted to be submitted to the Commission.

4. Member States shall ensure that where a non-compliance to ATFM measures resulting from application of Article 5(g) is identified, the central unit for ATFM shall notify the operator of the non-compliance.

5. Operators shall submit a report to the central unit for ATFM on each non-compliance to ATFM measures providing details of the circumstances that resulted in a missing flight plan or multiple flight plans and the actions taken to correct such non-compliance.

6. Member States shall ensure that the central unit for ATFM produces an annual report providing details of missing flight plans, or multiple flight plans that are filed and that the report is submitted to the Commission.

7. Member States shall conduct an annual review of adherence to ATFM measures to ensure that parties referred to in Article 1(3) improve the level of adherence to those measures.

#### Article 12

##### Performance assessment

1. When implementing Article 11, Member States shall ensure that the central unit for ATFM produces annual reports indicating the quality of the ATFM that shall include details of:

- (a) causes of ATFM measures;
- (b) impact of ATFM measures;
- (c) adherence to ATFM measures;
- (d) contributions by parties referred to in Article 1(3) to the optimisation of the overall network effect.

2. Member States shall ensure that an archive of ATFM data listed in Article 6(5), flight plans, operational logs and relevant contextual data is created and maintained by the central unit for ATFM.

The data referred to in the first subparagraph shall be retained for 2 years from their submission and made available to the Commission, Member States, ATS units and operators.

That data shall be made available to airport coordinators and airport operators to assist their regular assessment of the declared capacity.

#### Article 13

##### Safety requirements

Member States shall ensure that a safety assessment, including hazard identification, risk assessment and mitigation, is conducted, before any significant changes to ATFM systems and procedures are introduced, including an assessment of a safety management process addressing the complete lifecycle of the air traffic management system.

#### Article 14

##### Additional requirements

1. Member States shall ensure that personnel of the parties referred to in Article 1(3) involved in ATFM activities are:

- (a) made duly aware of the provisions of this Regulation;
- (b) adequately trained and competent for their job functions.

2. Member States shall take the necessary measures to ensure that parties referred to in Article 1(3) with responsibilities for ATFM functions:

- (a) develop and maintain operations manuals containing the necessary instructions and information to enable their operations personnel to apply the provisions of this Regulation;
- (b) ensure that these manuals are consistent, accessible and kept up-to-date and that their update and distribution are subject to appropriate quality and documentation configuration management;
- (c) ensure that the working methods and operating procedures comply with this Regulation.

#### Article 15

##### Penalties

Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by 26 September 2011 at the latest and shall notify it without delay of any subsequent amendment affecting them.

#### Article 16

##### Entry into force and application

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 26 September 2011.

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

Done at Brussels, 25 March 2010.

For the Commission  
The President  
José Manuel BARROSO

## ANNEX

**List of the ICAO provisions for the purposes of air traffic flow management**

1. Chapter 3 paragraph 3.7.5 (Air Traffic Flow Management) of Annex 11 to the Chicago Convention — Air Traffic Services (13th edition — July 2001, incorporating amendment No 47).
  2. Chapter 3 (ATS Capacity and Air Traffic Flow Management) of ICAO Doc 4444, Procedures for Air Navigation Services — Air Traffic Management (PANS-ATM) (15th edition — 2007).
  3. Chapter 8.3 (exemptions from ATFM slot allocation) of ICAO Doc 7030, European (EUR) Regional Supplementary Procedures (5th edition 2007).
  4. Chapter 8.4 1.c) (Aircraft operator adherence to ATFM measures) of ICAO Doc 7030, European (EUR) Regional Supplementary Procedures (5th edition 2007).
  5. Chapter 2 paragraph 2.3.2 (Changes to EOBT) of ICAO Doc 7030, European (EUR) Region Supplementary Procedures (5th edition 2007).
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