

Case No: 85259
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EFTA SURVEILLANCE AUTHORITY DECISION

of 6 April 2022

on the consistency of the performance targets contained in the draft performance plan submitted by Norway pursuant to Regulation (EC) No 549/2004 of the European Parliament and of the Council with the Union-wide performance targets for the third reference period

THE EFTA SURVEILLANCE AUTHORITY,

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 sky¹ ('the Framework Regulation'), and in particular the first paragraph of point (c) of Article 11(3) thereof and;

Commission Implementing Regulation (EU) 2019/317 of 11 February 2019 laying down a performance and charging scheme in the single European sky and repealing Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013² ('the Implementing Regulation')

as adapted to the EEA Agreement by Protocol 1 thereto.

Whereas:

Pursuant to Article 11 of the Framework Regulation, a performance scheme for air navigation services and network functions is to be set up. Furthermore, pursuant to Article 10 of the Implementing Regulation, Member States are to draw up, either at national level or at the level of functional airspace blocks ('FABs'), binding performance targets for each reference period of the performance scheme for air navigation services and network functions. Those performance targets have to be consistent with the Union-wide targets adopted by the European Commission and incorporated into the EEA Agreement for the reference period concerned. As regards Norway, the EFTA Surveillance Authority ('the Authority') is responsible for assessing whether the proposed performance targets contained in the draft performance plans are consistent with the Union-wide performance targets using the assessment criteria set out in Annex IV to the Implementing Regulation.

¹ Incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 67/2006 of 2 June 2006.

² Incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 318/2019 of 13 December 2019.

The outbreak of the COVID-19 pandemic has, since the first quarter of calendar year 2020, significantly impacted the air transport sector and has considerably reduced air traffic volumes as compared to pre-pandemic levels, due to the measures taken by all the EEA States and third countries to contain the pandemic.

Union-wide performance targets for the third reference period ('RP3') were initially set out in Commission Implementing Decision (EU) 2019/903.³ As those Union-wide performance targets and the draft RP3 performance plans subsequently submitted by the Member States and Norway were drawn up before the outbreak of the COVID-19 pandemic, they could not take account of the resulting significantly changed circumstances for air transport.

In response to the impact of the COVID-19 pandemic on the provision of air navigation services, exceptional measures for RP3, which derogate from the provisions of the Implementing Regulation, were set out in Commission Implementing Regulation (EU) 2020/1627.⁴ Pursuant to Article 2(1) of Implementing Regulation (EU) 2020/1627, the Commission adopted, on 2 June 2021, Implementing Decision (EU) 2021/891⁵ setting revised Union-wide performance targets for RP3 in the key performance areas of safety, environment, capacity and cost-efficiency.

The Authority notes that Eurocontrol's STATFOR October 2021 base traffic forecast projects that air traffic at Union-wide level will reach its pre-pandemic levels in the course of 2023 and will exceed those levels in 2024. However, the level of uncertainty regarding traffic development remains particularly high because of the risks related to the evolution of the COVID-19 epidemiological situation. The Authority also notes that the traffic recovery is expected to be uneven across the EEA.

Norway has developed and adopted a draft performance plan containing revised local performance targets for RP3, which was submitted to the Authority for assessment via the ESKY online platform on 12 October 2021 (Doc No 1279192). Following the verification of completeness of the draft performance plan, the Authority requested Norway to submit an updated draft performance plan by 17 November 2021 (Doc No 1240172). On 15 November 2021, Norway submitted an updated plan via the ESKY online platform (Doc No 1279222). The Authority's assessment presented in this Decision is based on the updated draft performance plan submitted by Norway.

The performance review body, assisting the Authority in the implementation of the performance scheme pursuant to Article 11(2) of Regulation (EC) No 549/2004 and the Decision of the Standing Committee of the EFTA States No. 1/2021/SC, has submitted to the Authority and the Commission a report containing its advice on the assessment of RP3 draft performance plans (Doc No 1279182 and 1279183).

Pursuant to Article 11(3) of the Framework Regulation the Authority is to assess the consistency of the draft performance plans with the Union-wide performance targets. Where the Authority finds that all the draft performance targets contained in a draft performance plan meet the assessment criteria it is to notify the EEA EFTA State concerned thereof. Pursuant to Article 14(2) of the Implementing Regulation, this decision is to be adopted within five months from the date of the reception of the updated draft performance plan.

In accordance with Article 14(1) of the Implementing Regulation, the Authority has assessed the consistency of the local performance targets proposed by Norway on the basis of the assessment criteria laid down in point 1 of Annex IV to the Implementing Regulation, and taking account of local circumstances. In respect of each key

³ Incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 316/2019 of 13 December 2019.

⁴ Incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 224/2020 of 11 December 2020.

⁵ Incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 307/2021 of 29 October 2021.

performance area and the related performance targets, the Authority has complemented the assessment by reviewing draft performance plans in respect of the elements set out in point 2 of Annex IV to the Implementing Regulation.

1 Assessment

1.1 Assessment of draft performance targets in the key performance area of safety

Concerning the key performance area of safety, the Authority has assessed the consistency of the targets submitted by Norway regarding the effectiveness of safety management of air navigation service providers based on the criterion laid down in point 1.1 of Annex IV to the Implementing Regulation. That assessment was conducted taking account of local circumstances and was complemented by the review of measures planned for achievement of the safety targets in respect of the elements set out in point 2.1(a) of Annex IV to the Implementing Regulation.

The draft performance targets in the key performance area of safety proposed by Norway in respect of the effectiveness of safety management, broken down per safety management objective and expressed as a level of implementation, are as follows:

Norway	Targets on the effectiveness of safety management, expressed as a level of implementation				
Air navigation service provider concerned	Safety management objective	2021	2022	2023	2024
Avinor	Safety policy and objectives	C	C	C	C
	Safety risk management	C	C	C	D
	Safety assurance	C	C	C	C
	Safety promotion	C	C	C	C
	Safety culture	C	C	C	C

In respect of the draft safety targets proposed by Norway for the air navigation service provider (Avinor), the Authority has found that the level of the Union-wide performance target is planned to be achieved in 2024 with regard to the 'safety risk management' objective, whilst for the other 'safety management objectives' the local performance targets meet the level of the Union-wide performance target for each calendar year from 2021 to 2024.

The Authority notes that the draft performance plan sets out measures for Avinor for the achievement of the local safety targets, such as fatigue reporting, improvement of safety data management, and development of safety culture.

On the basis of the findings set out in recitals (12) and (13) of the Implementing Regulation, and considering that the Union-wide safety performance targets set in Implementing Decision (EU) 2021/891 must be achieved by the final year of RP3, i.e. 2024, the draft targets included in the draft performance plan of Norway should be assessed as consistent with the Union-wide performance targets in the key performance area of safety.

1.2 Assessment of draft performance targets in the key performance area of environment

Concerning the key performance area of environment, the consistency of the targets submitted by Norway regarding the average horizontal *en route* flight efficiency of the actual trajectory has been assessed on the basis of the criterion laid down in point 1.2 of

Annex IV to the Implementing Regulation. Accordingly, the proposed targets contained in the draft performance plan of Norway have been compared to the relevant *en route* horizontal flight efficiency reference values set out in the European Route Network Improvement Plan available at the time of adopting the revised Union-wide performance targets for RP3. That assessment was conducted taking account of local circumstances and was complemented by the review of measures planned for achievement of the environment targets under point 2.1(a) of Annex IV to the Implementing Regulation.

In respect of the calendar year 2020, the Union-wide performance target for RP3 in the key performance area of environment, which was initially set out in Implementing Decision (EU) 2019/903, was not revised by Implementing Decision (EU) 2021/891, considering that the time period for the application of that target had expired and that its implementation had thus become definitive leaving no possibility for retroactive adjustment. Accordingly, it was not appropriate for Member States to revise, in the draft performance plans submitted by 1 October 2021, their local performance targets for calendar year 2020 in the key performance area of environment. In light of those considerations, the consistency of the local environment performance targets with the corresponding Union-wide performance targets should be assessed with regard to calendar years 2021, 2022, 2023 and 2024.

The draft performance targets in the key performance area of environment proposed by Norway and the corresponding national reference values for RP3 from the European Route Network Improvement Plan, expressed as the average horizontal *en route* flight efficiency of the actual trajectory, are as follows:

	2021	2022	2023	2024
Draft <i>en route</i> environment targets of Norway , expressed as the average horizontal <i>en route</i> flight efficiency of the actual trajectory	1,55%	1,55%	1,55%	1,55%
Reference values for Norway	1,55%	1,55%	1,55%	1,55%

The Authority observes that the draft environment targets proposed by Norway are equal to the corresponding national reference values for each calendar year from 2021 to 2024.

In respect of point 2.1(a) of Annex IV to the Implementing Regulation the Authority notes that Norway has presented in the draft performance plan measures for the achievement of the local environment targets which include the removal of air traffic services routes for Polaris Flight Information Region, the airspace re-organisation of Northern Norway terminal manoeuvring areas as well as cross-border collaboration within the North European Free Route Airspace (NEFRA) programme.

On the basis of the findings set out in recitals (18) and (19) of the Implementing Regulation, the draft targets included in the draft performance plan of Norway should be assessed as consistent with the Union-wide performance targets in the key performance area of environment.

1.3 Assessment of draft performance targets in the key performance area of capacity

Concerning the key performance area of capacity, the consistency of the targets submitted by Norway regarding the average *en route* air traffic flow management ('ATFM') delay per flight has been assessed on the basis of the criterion laid down in point 1.3 of Annex IV to the Implementing Regulation. Accordingly, the proposed targets contained in the draft performance plan of Norway have been compared to the relevant reference values set out in the Network Operations Plan available at the time of adopting

the revised Union-wide performance targets for RP3. That assessment was conducted taking account of local circumstances and was complemented by the review of measures planned for achievement of the capacity targets under point 2.1.(a) of Annex IV to the Implementing Regulation.

In respect of the calendar year 2020, the Union-wide performance target for RP3 in the key performance area of capacity, which was initially set out in Implementing Decision (EU) 2019/903, was not revised by Implementing Decision (EU) 2021/891, considering that the time period for the application of that target had expired and that its implementation had thus become definitive leaving no possibility for retroactive adjustment. Accordingly, it was not appropriate for Member States to revise, in the draft performance plans submitted by 1 October 2021, their local performance targets for calendar year 2020 in the key performance area of capacity. In light of those considerations, the consistency of the local capacity performance targets with the corresponding Union-wide performance targets should be assessed with regard to calendar years 2021, 2022, 2023 and 2024.

The draft *en route* capacity targets proposed by Norway for RP3, expressed in minutes of ATFM delay per flight, as well as the corresponding reference values from the Network Operations Plan, are as follows:

	2021	2022	2023	2024
Draft <i>en route</i> capacity targets of Norway, in minutes of ATFM delay per flight	0,06	0,08	0,11	0,11
Reference values for Norway	0,06	0,11	0,11	0,11

The Authority observes that the draft capacity targets proposed by Norway are equal to the corresponding national reference values for calendar years 2021, 2023 and 2024, and below the corresponding national reference value for calendar year 2022.

In respect of point 2.1(a) of Annex IV to the Implementing Regulation, the Authority notes that Norway has presented in the draft performance plan measures for the achievement of the local *en route* capacity targets, including the recruitment and training of air traffic controllers (ATCOs), the flexible rostering of ATCOs as well as the transition to a new voice communication system.

On the basis of the findings set out in recitals (24) and (25) of the Implementing Regulation, the draft targets included in the draft performance plan of Norway should be assessed as consistent with the Union-wide performance targets in the key performance area of capacity.

1.4 Assessment of draft performance targets in the key performance area of cost-efficiency

Concerning the key performance area of cost-efficiency, the consistency of the targets submitted by Norway regarding determined unit costs ('DUC') for *en route* air navigation services has been assessed on the basis of the criteria laid down in points 1.4(a), 1.4(b) and 1.4(c) of Annex IV to the Implementing Regulation. Those criteria consist of the DUC trend over RP3, the long-term DUC trend over RP2 and RP3 (2015-2024), and the baseline value for the DUC at charging zone level compared with the average value of the charging zones where air navigation service providers have a similar operational and economic environment.

The assessment of *en route* cost efficiency targets was conducted taking account of local circumstances. It was complemented by the review of the elements laid down in point 2 of

Annex IV to the Implementing Regulation, namely the key factors and parameters underpinning those targets as specified under point 2.1(d) of that Annex.

The draft *en route* cost-efficiency targets proposed by Norway for RP3 are as follows:

En route charging zone of Norway	2014 baseline value	2019 baseline value	2020 - 2021	2022	2023	2024
Draft <i>en route</i> cost-efficiency targets, expressed as determined <i>en route</i> unit cost (in real terms in 2017 prices)	522,5 NOK	518,4 NOK	789,1 NOK	547,3 NOK	485,9 NOK	459,8 NOK
	56,02 EUR	55,58 EUR	84,59 EUR	58,67 EUR	52,10 EUR	49,29 EUR

Concerning the criterion laid down in point 1.4(a) of Annex IV to the Implementing Regulation, the Authority observes that the *en route* DUC trend of Norway at charging zone level of -3,0 % per year over RP3 outperforms the Union-wide trend of +1,0 % over the same period.

Concerning the criterion laid down in point 1.4(b) of Annex IV to the Implementing Regulation, the Authority observes that the long-term *en route* DUC trend of Norway at charging zone level over RP2 and RP3 of -1,4 % per year outperforms the long-term Union-wide trend of -1,3 % over the same period.

Concerning the criterion laid down in point 1.4(c) of Annex IV to the Implementing Regulation, the Authority observes that the baseline value for the DUC of EUR 55,58 of Norway in EUR2017 is 22,0 % higher than the average baseline value of EUR 45,56 in EUR2017 of the relevant comparator group. The Authority notes that that difference remains during RP3, as the determined *en route* unit cost of Norway for 2024 is higher by 11,3 % than the average of the comparator group.

As outlined in recitals (30) and (32) of the Implementing Regulation, it is clear that Norway outperforms both the RP3 Union-wide DUC trend and the long-term Union-wide DUC trend, the former being surpassed by a significant margin. Furthermore, the DUC of Norway in 2024 is lower than the baseline values for 2014 and 2019, which shows that effective cost-efficiency gains are achieved both in the medium and long term. Regardless of the difference between Norway's baseline value and the comparator group average observed in recital 0, Norway has demonstrated a cost-efficiency evolution outperforming the Union-wide trends, which provides a sufficient basis for establishing consistency with the Union-wide cost-efficiency performance targets for RP3.

On the basis of the findings set out in recitals (30) to (33) of the Implementing Regulation, the draft targets included in the draft performance plan of Norway should be assessed as consistent with the Union-wide performance targets in the key performance area of cost-efficiency.

2 CONCLUSIONS

On the basis of the assessment set out in recitals (10) to (34) of the Implementing Regulation, the Authority has found that the performance targets contained in the draft performance plan submitted by Norway are consistent with the Union-wide performance targets

Therefore, Norway should be requested to adopt and publish the final version of its performance plan in accordance with Article 16(a) of the Implementing Regulation.

The Authority notes that some EEA States have indicated their intention to include cost items relating to airport drone detection in their RP3 cost bases. It has not been possible to precisely establish, based on the elements contained in the draft performance plans, to what extent States have included such determined costs in their RP3 cost bases and,

where such costs have been included, to what extent they are incurred in relation to the provision of air navigation services and could thus be deemed eligible under the performance and charging scheme. The airport drone detection costs in the context of unit rate compliance verification are currently being examined. Therefore, this Decision is without prejudice to the findings and conclusions on the topic of drone detection costs.

In response to Russia's military aggression against Ukraine, which started on 24 February 2022, the European Union as well as the EEA EFTA States, including Norway have adopted restrictive measures prohibiting Russian air carriers, any Russian-registered aircraft and any non-Russian-registered aircraft which is owned or chartered, or otherwise controlled by any Russian natural or legal person, entity or body from landing in, taking off from, or overflying the territory of the European Union or the territories of the EEA EFTA States. Those measures are leading to a reduced air traffic in the airspace over this territory. The impact at the EEA-wide level should however not be comparable to the reduction of air traffic which resulted from the outbreak of the COVID-19 pandemic in March 2020. Therefore, it is appropriate to maintain the existing measures and processes for the implementation of the performance and charging scheme in RP3. However, Norway should monitor the operational and financial effects of the relevant changes in traffic and, if necessary and duly justified, may request the revision of its RP3 performance plan during the reference period pursuant to Article 18(1) of the Implementing Regulation.

HAS ADOPTED THIS DECISION:

Article 1

The performance targets contained in the draft performance plan submitted by Norway, pursuant to Regulation (EC) No 549/2004, and listed in the Annex to this Decision, are consistent with the Union-wide performance targets for the third reference period ('RP3') set out in Implementing Decision (EU) 2021/891.

Article 2

Norway is authorised to publish and adopt the performance plan for the third reference period ('RP3') in accordance with Article 16(a) of Implementing Regulation (EU) 2019/317.

Article 3

This Decision is addressed to Norway.

Article 4

This Decision shall be authentic in the English language.

Done at Brussels,

For the EFTA Surveillance Authority

Arne Røksund
President

Stefan Barriga
College Member

Árni Páll Árnason
Responsible College Member

Melpo-Menie Joséphidès
Countersigning as Director,
Legal and Executive Affairs

This document has been electronically authenticated by Arne Roeksund, Melpo-Menie Josephides.

ANNEX

Performance targets included in the draft performance plan, submitted by Norway pursuant to Regulation (EC) No 549/2004, found to be consistent with the Union-wide performance targets for the third reference period.

KEY PERFORMANCE AREA OF SAFETY

Effectiveness of Safety Management

Norway	Targets on the effectiveness of safety management, expressed as a level of implementation				
Air navigation service provider concerned	Safety management objective	2021	2022	2023	2024
Avinor	Safety policy and objectives	C	C	C	C
	Safety risk management	C	C	C	D
	Safety assurance	C	C	C	C
	Safety promotion	C	C	C	C
	Safety culture	C	C	C	C

KEY PERFORMANCE AREA OF ENVIRONMENT

Average horizontal *en route* flight efficiency of the last filed flight plan trajectory

	2021	2022	2023	2024
Draft environment targets of Norway, expressed as the average horizontal <i>en route</i> flight efficiency of the actual trajectory	1,55%	1,55%	1,55%	1,55%
Reference values for Norway	1,55%	1,55%	1,55%	1,55%

KEY PERFORMANCE AREA OF CAPACITY
Average *en route* ATFM delay in minute per flight

	2021	2022	2023	2024
Draft <i>en route</i> capacity targets of Norway , in minutes of ATFM delay per flight	0,06	0,08	0,11	0,11
Reference values for Norway	0,06	0,11	0,11	0,11

KEY PERFORMANCE AREA OF COST-EFFICIENCY
Determined unit cost for *en route* air navigation services

<i>En route</i> charging zone of Norway	2019 baseline value	2020-2021	2022	2023	2024
Draft <i>en route</i> cost-efficiency targets , expressed as determined <i>en route</i> unit cost (in real terms in 2017 prices)	518,4 NOK	789,1 NOK	547,3 NOK	485,9 NOK	459,8 NOK
	55,58 EUR	84,59 EUR	58,67 EUR	52,10 EUR	49,29 EUR