

COUNCIL DECISION (EU) 2016/1124**of 24 June 2016****on the position to be taken by the Member States on behalf of the European Union within the Permanent Commission of Eurocontrol as regards the decisions to be adopted on centralised services**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Council Decision (EU) 2015/2394 ⁽¹⁾ established a Union position in respect of a decision on centralised services that was planned to be taken by the Permanent Commission of Eurocontrol ('the Permanent Commission') on 9 December 2015. The purpose of that decision on centralised services was to allow Eurocontrol to develop financing, procurement arrangements and technical specifications with a view to timely deploying a new 'European Air/Ground Data Communication Services' ('EAGDCS').
- (2) The position established in Decision (EU) 2015/2394 was that a decision on centralised services by the Permanent Commission had to be postponed because the Union was not in possession of sufficient information to evaluate the substance of such decision on centralised services and because it could have prejudged future activity conducted by Eurocontrol in a manner that would have been detrimental to the Union's activity in that field.
- (3) On 9 December 2015, due to the Union's position established in Decision (EU) 2015/2394, the Permanent Commission did not take a decision on EAGDCS and asked the Eurocontrol Agency to continue working on a revised proposal in close cooperation with the industry stakeholders and to provide an assessment of the economic costs of EAGDCS.
- (4) The Eurocontrol Agency and industry stakeholders presented on 9 February 2016 a revised and commonly supported proposal on EAGDCS, and the Eurocontrol Agency ensured the full availability of the assessment of economic costs through existing feasibility studies.
- (5) The Eurocontrol Agency proposed on 6 April 2016 to the Permanent Commission to adopt the decision based on the proposal on EAGDCS in a written procedure.
- (6) That decision concerns the development of EAGDCS. It has legal effects since it governs areas covered by Union law and, depending on its content, may have concrete effects on those areas. It may affect the benefits flowing from the technical work on data link services performed by the SESAR Joint Undertaking, the risk of mismatches in the area of certification and oversight, given the role of the European Aviation Safety Agency ('EASA') in that area, and thus the risk of ineffective spending of funds stemming from route charges and Union support, as well as the cost-efficiency of relevant deployment activities to be conducted by the Union in the context of the SESAR project.
- (7) Given the advantages that can be expected from the development of technical solutions, such as a demonstrator, the decision favouring the relevant collaboration should be supported in principle. However, the decision should contain conditions safeguarding the Union's interests on the points referred to above.
- (8) It is appropriate to establish the position to be taken by the Member States on the Union's behalf within the Permanent Commission with regard to the decisions on centralised services to be adopted by that Commission,

⁽¹⁾ Council Decision (EU) 2015/2394 of 8 December 2015 on the position to be taken by the Member States on behalf of the European Union, concerning the decisions to be adopted by the Permanent Commission of Eurocontrol, with regard to the roles and tasks of Eurocontrol and on centralised services (OJ L 332, 18.12.2015, p. 136).

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the Member States on behalf of the Union within the Permanent Commission of Eurocontrol shall be the following:

as regards the proposal of 6 April 2016 sent out by the Eurocontrol Agency, the Union's position is to support the Eurocontrol Agency's continued collaboration with Air Navigation Service Providers and, where appropriate, with aircraft operators of the Member States of Eurocontrol in the context of the SESAR project, including the development of the necessary Governance, Financing and Procurement arrangements, and to develop technical specifications with a view to timely deploying the European Air/Ground Data Communication Services (EAGDCS). The above arrangements and technical solutions will be submitted to the Provisional Council/Permanent Commission for information and before proceeding to any possible procurement. This should also be based on evidence of the technical and operational feasibility and the development of a comprehensive economic impact assessment.

The decision to be adopted within the Permanent Commission shall ensure that:

- the outcome of the technical work on data link performed by the SESAR Joint Undertaking is fully taken into account,
- the activities covered by that decision are conducted in cooperation with EASA in so far as that decision concerns EASA's preparatory work for future certification and oversight of EAGDCS,
- it remains without prejudice to the deployment and operation of EAGDCS, as well as the procurement thereof, which shall be subject to further decisions by the Member States of the Eurocontrol,
- the activities covered by that decision are based on agreement with Air Navigation Service Providers, and
- financing and procurement arrangements, as well as technical specifications remain without prejudice to any investment and associated costs already incurred by the Union Member State Air Navigation Service Providers and aircraft operators in compliance with the requirements of Commission Regulation (EC) No 29/2009 ⁽¹⁾.

The Member States shall act jointly in the interest of the Union.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Luxembourg, 24 June 2016.

For the Council
The President
A.G. KOENDERS

⁽¹⁾ Commission Regulation (EC) No 29/2009 of 16 January 2009 laying down requirements on data link services for the single European sky (OJ L 13, 17.1.2009, p. 3).