

COMMISSION DECISION (EU) 2022/2424**of 5 December 2022****on the consistency of the performance targets contained in the revised draft performance plan submitted by Romania 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***(notified under document C(2022) 8740)***(Only the Romanian text is authentic)****(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(3) point (c), thereof,Having regard to 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 391/2013 ⁽²⁾, and in particular Article 15(2) thereof,

Whereas:

GENERAL CONSIDERATIONS

- (1) Pursuant to Article 10 of Implementing Regulation (EU) 2019/317, Member States are to draw up performance plans, either at national level or at functional airspace blocks level ('FAB'), which have to include binding performance targets for each reference period of the performance scheme for air navigation services and network functions. Those performance targets are to be consistent with the Union-wide targets adopted by the Commission for the reference period concerned.
- (2) Union-wide performance targets for the third reference period ('RP3') were originally set out in Commission Implementing Decision (EU) 2019/903 ⁽³⁾. Since those Union-wide performance targets and the draft RP3 performance plans subsequently submitted in October 2019 by Member States were drawn up before the outbreak of the COVID-19 pandemic in March 2020, they did not take account of the considerable reduction in air traffic due to the measures taken by the Member States and third countries to contain the pandemic.
- (3) 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 Implementing Regulation (EU) 2019/317, were set out in Commission Implementing Regulation (EU) 2020/1627 ⁽⁴⁾. The Commission adopted, on 2 June 2021, Commission Implementing Decision (EU) 2021/891 ⁽⁵⁾ setting revised Union-wide performance targets for RP3. On that basis, in October 2021, Member States submitted to the Commission draft performance plans containing revised local performance targets for RP3.

⁽¹⁾ OJ L 96, 31.3.2004, p. 1.

⁽²⁾ OJ L 56, 25.2.2019, p. 1.

⁽³⁾ Commission Implementing Decision (EU) 2019/903 of 29 May 2019 setting the Union-wide performance targets for the air traffic management network for the third reference period starting on 1 January 2020 and ending on 31 December 2024 (OJ L 144, 3.6.2019, p. 49).

⁽⁴⁾ Commission Implementing Regulation (EU) 2020/1627 of 3 November 2020 on exceptional measures for the third reference period (2020-2024) of the single European sky performance and charging scheme due to COVID-19 pandemic (OJ L 366, 4.11.2020, p. 7).

⁽⁵⁾ Commission Implementing Decision (EU) 2021/891 of 2 June 2021 setting revised Union-wide performance targets for the air traffic management network for the third reference period (2020-2024) and repealing Implementing Decision (EU) 2019/903 (OJ L 195, 3.6.2021, p. 3).

- (4) Commission Implementing Decision (EU) 2022/728 ⁽⁶⁾ was addressed to Belgium, Germany, Greece, France, Cyprus, Latvia, Luxembourg, Malta, the Netherlands, Romania, and Sweden. In that Decision, the Commission found that the *en route* cost-efficiency performance targets included in the draft performance plan for RP3 of Romania are not consistent with the Union-wide performance targets, and issued recommendations for the revision of those targets.
- (5) In response to Russia's war of aggression against Ukraine, which started on 24 February 2022, the Union has imposed restrictive measures which prohibit 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 and taking off from, or overflying the territory of the Union. Those restrictive measures and the counter-measures adopted by Russia have led to changes in air traffic in European airspace. Certain Member States have been severely affected by a significant reduction in the number of overflights in the airspace under their responsibility. However, at Union-wide level, the observed impact on the number of flights has been limited in contrast with the sharp reduction of air traffic across Europe which resulted from the outbreak of the COVID-19 pandemic.
- (6) On 13 July 2022, Romania submitted to the Commission a revised draft performance plan for RP3 (the 'revised draft performance plan').
- (7) The performance review body, assisting the Commission in the implementation of the performance scheme pursuant to Article 11(2) of Regulation (EC) No 549/2004, has submitted to the Commission a report containing its assessment of the revised draft performance plan.
- (8) In accordance with Article 15(1) of Implementing Regulation (EU) 2019/317, the Commission, taking account of local circumstances, has assessed the consistency of the local performance targets included in the revised draft performance plan of Romania on the basis of the assessment criteria laid down in point 1 of Annex IV to that Regulation. In respect of each key performance area and the related performance targets, the Commission has complemented its assessment by reviewing the elements set out in point 2 of Annex IV to Implementing Regulation (EU) 2019/317.
- (9) The Eurocontrol Statistics and Forecast Service ('STATFOR') base traffic forecast published in June 2022 takes account of the change in circumstances with respect to air traffic in European airspace. On the basis of that forecast, the Commission notes that Romania is expected to have additional flight movements in its airspace during the rest of RP3 because of shifts in air traffic flows resulting from Russia's war in Ukraine. However, that situation does not significantly change the operational conditions for air navigation services in Romania and does not have a detrimental impact on its revised draft performance plan.

COMMISSION ASSESSMENT

Assessment of performance targets in the key performance area of safety

- (10) Concerning the key performance area of safety, the Commission has assessed the consistency of the targets submitted by Romania regarding the effectiveness of safety management of air navigation service providers ('ANSPs') in accordance with point 1.1 of Annex IV to Implementing Regulation (EU) 2019/317.

⁽⁶⁾ Commission Implementing Decision (EU) 2022/728 of 13 April 2022 on the inconsistency of certain performance targets contained in the draft national and functional airspace block performance plans submitted by Belgium, Germany, Greece, France, Cyprus, Latvia, Luxembourg, Malta, the Netherlands, Romania, and Sweden 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 and setting out recommendations for the revision of those targets (OJ L 135, 12.5.2022, p. 4).

- (11) The local safety performance targets proposed by Romania in respect of the effectiveness of safety management, broken down per safety management objective and expressed as a level of implementation, are as follows:

Romania	Targets on the effectiveness of safety management, expressed as a level of implementation, ranging from European Union Aviation Safety Agency level A to D				
Air navigation service provider concerned	Safety management objective	2022	2023	2024	Union-wide targets (2024)
ROMATSA	Safety policy and objectives	C	C	C	C
	Safety risk management	C	C	D	D
	Safety assurance	C	C	C	C
	Safety promotion	C	C	C	C
	Safety culture	C	C	C	C

- (12) The safety performance targets proposed by Romania for the air navigation service provider, namely ROMATSA, are consistent with the Union-wide performance targets.
- (13) The Commission notes that the revised draft performance plan submitted by Romania sets out measures for ROMATSA for the achievement of the local safety targets, including the implementation of internal safety monitoring procedures and processes for continuous improvement of the effectiveness of safety management.
- (14) Therefore, in the light of what has been said in recitals 11, 12 and 13 and considering that the Union-wide safety performance targets set in Implementing Decision (EU) 2021/891 are to be achieved by the final year of RP3, namely 2024, the targets in the key performance area of safety included in the revised draft performance plan of Romania should be considered consistent with the Union-wide performance targets.

Assessment of performance targets in the key performance area of environment

- (15) Concerning the key performance area of environment, the consistency of the targets submitted by Romania regarding the average horizontal *en route* flight efficiency of the actual trajectory has been assessed in accordance with point 1.2 of Annex IV to Implementing Regulation (EU) 2019/317. Accordingly, the proposed targets included in the revised draft performance plan of Romania have been compared with the relevant *en route* horizontal flight efficiency reference values set out in the European Route Network Improvement Plan ('ERNIP') available on 2 June 2021, the date of adoption of the revised Union-wide performance targets for RP3.
- (16) In respect of the 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, before the outbreak of the COVID-19 pandemic, was not revised by Implementing Decision (EU) 2021/891, in so far as the period for the application of that target had expired and its implementation had thus become definitive leaving no possibility for retroactive adjustments. Similarly, it is not possible to modify retroactively, in the revised draft performance plans, the local environment performance targets for the year 2021 set by Member States in the draft performance plans submitted in October 2021. Therefore, the consistency of the local environment performance targets with the corresponding Union-wide performance targets should be assessed with regard to the years 2022, 2023 and 2024.

- (17) The performance targets in the key performance area of environment proposed by Romania and the corresponding national reference values for RP3 from the ERNIP, expressed as the average horizontal *en route* flight efficiency of the actual trajectory, are as follows:

Romania	2022	2023	2024
Targets in the key performance area of environment, expressed as the average horizontal <i>en route</i> flight efficiency of the actual trajectory	2,05 %	2,05 %	2,05 %
Reference values	2,05 %	2,05 %	2,05 %

- (18) The Commission observes that the environment targets proposed by Romania are equal to the corresponding national reference values for each of the years 2022, 2023 and 2024.
- (19) The Commission notes that, in its revised draft performance plan, Romania has presented measures for the achievement of the local environment targets which include its participation in the South East Europe Free Route Airspace initiative, increased cross-border cooperation, a transition plan for the implementation of performance-based navigation, and changes in the configuration of operational sectors to improve airspace utilisation.
- (20) Therefore, in the light of what has been said in recitals 17, 18 and 19, the targets in the key performance area of environment included in the revised draft performance plan of Romania should be considered consistent with the Union-wide performance targets.

Assessment of performance targets in the key performance area of capacity

- (21) Concerning the key performance area of capacity, the consistency of the targets submitted by Romania regarding the average *en route* air traffic flow management ('ATFM') delay per flight has been assessed in accordance with point 1.3 of Annex IV to Implementing Regulation (EU) 2019/317. Accordingly, the proposed targets included in the revised draft performance plan of Romania have been compared with the relevant reference values set out in the Network Operations Plan available on 2 June 2021, the time of adopting the revised Union-wide performance targets for RP3.
- (22) In respect of the 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, before the outbreak of the COVID-19 pandemic, was not revised by Implementing Decision (EU) 2021/891 in so far as the period for the application of that target had expired and its implementation had thus become definitive leaving no possibility for retroactive adjustments. Similarly, it is not possible to modify retroactively, in the revised draft performance plans, the local capacity performance targets for the year 2021 set by Member States in the draft performance plans submitted in October 2021. Therefore, the consistency of the local capacity performance targets with the corresponding Union-wide performance targets should be assessed with regard to the years 2022, 2023 and 2024.
- (23) The *en route* capacity targets proposed by Romania 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:

Romania	2022	2023	2024
Targets in the key performance area of capacity, expressed in minutes of ATFM delay per flight	0,04	0,04	0,04
Reference values	0,04	0,04	0,04

- (24) The Commission observes that the capacity targets proposed by Romania are equal to the corresponding national reference values for each of the years 2022, 2023 and 2024.

- (25) The Commission notes that Romania has presented measures for the achievement of the local *en route* capacity targets in the revised draft performance plan. Those measures include the implementation of a new air traffic management system, airspace configuration focusing on the implementation of free route airspace and flexible use of airspace concepts, and the recruitment and training of new air traffic controllers.
- (26) Therefore, in the light of what has been said in recitals 23, 24 and 25, the targets in the key performance area of capacity included in the revised draft performance plan of Romania should be considered consistent with the Union-wide performance targets.

Review of capacity targets for terminal air navigation services

- (27) With regard to airports which fall within the scope of Implementing Regulation (EU) 2019/317 as set out in Article 1(3) and (4) of that Regulation, the Commission has complemented its assessment of *en route* capacity targets by reviewing the capacity targets for terminal air navigation services in accordance with point 2.1.(b) of Annex IV to Implementing Regulation (EU) 2019/317. Those targets were not found to raise concerns in respect of Romania.

Assessment of revised performance targets in the key performance area of cost-efficiency

- (28) By Implementing Decision (EU) 2022/728, the Commission concluded that the proposed *en route* cost-efficiency targets included in the draft performance plan of Romania submitted in 2021 are inconsistent with the Union-wide performance targets. Romania has proposed revised *en route* cost-efficiency targets in its revised draft performance plan.
- (29) The following table sets out the initial RP3 *en route* cost-efficiency performance targets for the charging zone of Romania, as laid down in the draft performance plan submitted in 2021, and the corresponding revised performance targets included in the revised draft performance plan submitted in 2022:

<i>En route</i> charging zone of Romania	2014 baseline value	2019 baseline value	2020- 2021	2022	2023	2024
<i>Initial en route cost-efficiency targets (included in the draft performance plan submitted in 2021), expressed as determined en route unit cost (in real terms in 2017 prices)</i>	165,00 RON	155,38 RON	298,87 RON	191,50 RON	174,25 RON	174,33 RON
	36,13 EUR	34,03 EUR	65,45 EUR	41,94 EUR	38,16 EUR	38,18 EUR
Revised <i>en route</i> cost-efficiency targets (included in the revised draft performance plan), expressed as determined <i>en route</i> unit cost (in real terms in 2017 prices)	165,00 RON	155,38 RON	298,87 RON	179,53 RON	163,47 RON	160,39 RON
	36,13 EUR	34,03 EUR	65,45 EUR	39,32 EUR	35,80 EUR	35,13 EUR

- (30) The Commission observes that Romania has revised its local cost-efficiency targets for the years 2022, 2023 and 2024. Those targets result, when compared to the draft performance plan submitted in 2021, in an overall determined unit cost ('DUC') which is 6,9 % lower over 2022, 2023 and 2024 and 5,4 % lower over RP3 as a whole. Those DUC reductions result from the upward revision of the traffic assumptions used in the revised draft performance plan for the years 2022, 2023 and 2024, which are partly counterbalanced by an increase of the determined costs for the years 2023 and 2024.

- (31) The Commission notes that the traffic assumptions used in the revised draft performance plan are based on the Eurocontrol STATFOR June 2022 base traffic forecast. The following table compares the *en route* service units forecasted for the charging zone for the years 2022, 2023 and 2024, to the figures included in the draft performance plan:

En route charging zone of Romania	2022	2023	2024
<i>Initial traffic forecast (included in the draft performance plan submitted in 2021), expressed in thousands of en route service units</i>	4 360	5 022	5 269
Updated traffic forecast (included in the revised draft performance plan), expressed in thousands of <i>en route</i> service units	4 583	5 531	5 825
Difference	+ 5,1 %	+ 10,1 %	+ 10,6 %

- (32) When compared to the draft performance plan submitted in 2021, the annual increases in the number of service units for the years 2022, 2023 and 2024 are in the range of 5 % to 11 %.
- (33) The revised determined costs for the years 2022, 2023 and 2024, expressed in real terms in 2017 prices, are set out in the following table:

En route charging zone of Romania	2022	2023	2024
<i>Initial determined costs in real terms in 2017 prices (contained in the draft performance plan submitted in 2021)</i>	835 M RON	875 M RON	919 M RON
Revised determined costs in real terms in 2017 prices (included in the revised draft performance plan)	823 M RON	904 M RON	934 M RON
Difference	- 1,5 %	+ 3,3 %	+ 1,7 %

- (34) The revised draft performance plan comprises an updated inflation forecast for Romania for the years 2022, 2023 and 2024, as set out in the following table:

En route charging zone of Romania	2022	2023	2024
<i>Initial inflation index, with forecasted year-on-year change in inflation in parenthesis (data included in the draft performance plan submitted in 2021)</i>	116,1 (2,1 %)	119,1 (2,6 %)	122,2 (2,6 %)
Revised inflation index , with year-on-year change in inflation in parenthesis (data included in the revised draft performance plan)	125,9 (9,3 %)	130,9 (4,0 %)	134,8 (3,0 %)

- (35) Due to the update of the inflation forecast, the revised determined costs in nominal terms are planned to increase substantially in particular for the years 2023 and 2024, as follows:

En route charging zone of Romania	2022	2023	2024
<i>Initial determined costs in nominal terms (included in the draft performance plan submitted in 2021)</i>	946 M RON	1 013 M RON	1 088 M RON
Revised determined costs in nominal terms (included in the revised draft performance plan)	1 000 M RON	1 138 M RON	1 209 M RON
Difference	+ 5,7 %	+ 12,3 %	+ 11,0 %

- (36) The Commission has assessed the consistency of the revised cost-efficiency targets proposed by Romania in accordance with the criteria laid down in points 1.4(a), (b) and (c) of Annex IV to Implementing Regulation (EU) 2019/317.
- (37) As regards point 1.4(a) of Annex IV to Implementing Regulation (EU) 2019/317, the Commission observes that the *en route* DUC trend at charging zone level of +0,8 % over RP3 outperforms the Union-wide trend of +1,0 % over the same period. The Commission notes that this constitutes an improvement from the DUC trend of +2,9 % calculated on the basis of the draft performance plan submitted in 2021.
- (38) As regards point 1.4(b) of Annex IV to Implementing Regulation (EU) 2019/317, the Commission observes that the long-term *en route* DUC trend at charging zone level over the second reference period ('RP2') and RP3 of -0,3 % is way below the long-term Union-wide trend of -1,3 % over the same period. The Commission notes that this, however, constitutes an improvement from the long-term DUC trend of +0,6 % calculated on the basis of the draft performance plan submitted in 2021.
- (39) As regards point 1.4(c) of Annex IV to Implementing Regulation (EU) 2019/317, the Commission observes that the EUR 34,03 baseline value for the DUC of Romania expressed in 2017 prices is 14,6 % lower than the EUR 39,84 average baseline value in EUR2017 of the relevant comparator group.
- (40) It is clear that Romania's revised cost-efficiency targets result in a DUC trend over RP3 which outperforms the corresponding Union-wide trend. Furthermore, Romania's revised DUC for 2024 is lower than the baseline value for 2014, which demonstrates a reduction of the DUC over RP2 and RP3, even though the long-term Union-wide DUC trend is not met. Finally, Romania demonstrates a good cost-efficiency performance in respect of the baseline value for 2019 which is significantly lower than the corresponding comparator group average. Therefore, the Commission considers that, in respect of Romania, the deviation from the Union-wide long-term DUC trend, referred to in recital 38, does not preclude the cost-efficiency performance targets from being consistent with the Union-wide cost-efficiency performance targets.
- (41) On balance, the Commission therefore considers that Romania has adequately addressed the recommendations set out in Article 3 of Implementing Decision (EU) 2022/728 with regard to the revision of its local cost-efficiency performance targets.
- (42) In the light of what has been said in recitals 29 to 41, the targets in the key performance area of cost-efficiency included in the revised draft performance plan of Romania should be considered consistent with the Union-wide performance targets.

Review of the revised cost-efficiency targets for terminal air navigation services

- (43) With regard to airports which fall within the scope of Implementing Regulation (EU) 2019/317, as set out in Articles 1(3) and (4) of that Regulation, the Commission has complemented its assessment of *en route* cost-efficiency targets by reviewing the cost-efficiency targets for terminal air navigation services in accordance with point 2.1(c) of Annex IV to Implementing Regulation (EU) 2019/317.

- (44) In Implementing Decision (EU) 2022/728, the Commission raised concerns regarding the terminal cost-efficiency targets proposed by Romania in the draft performance plan submitted in 2021, and considered that Romania was to further justify those targets or revise them downwards. The Commission notes, however, that Romania has, on the contrary, revised those targets upwards for the years 2022 and 2023, including an increase of the determined costs in real terms for the year 2023.
- (45) The Commission observes that the terminal DUC trend of Romania of +4,2 % over RP3 remains higher than the *en route* DUC trend of +0,8 % over RP3, and remains higher than the actual terminal DUC trend of -3,1 % observed over RP2. Furthermore, the terminal RP3 DUC trend has only marginally improved in comparison with the draft performance plan of Romania submitted in 2021, in which a terminal DUC trend of +4,3 % was observed.
- (46) Therefore, in the light of what has been said in recitals 44 and 45, the Commission concludes that the revised terminal cost-efficiency performance targets of Romania continue to give rise to concerns. The Commission therefore reiterates its view that Romania should revise downwards those targets or provide adequate justifications for those targets, including for the increased determined costs of the year 2023. Romania should address those concerns in connection with the adoption of its final performance plan pursuant to Article 16, point (a) of Implementing Regulation (EU) 2019/317.

Review of the incentive schemes referred to in Article 11 of Implementing Regulation (EU) 2019/317 complementing the Commission's assessment of capacity targets

- (47) In accordance with point 2.1(f) of Annex IV to Implementing Regulation (EU) 2019/317, the Commission has complemented its assessment of capacity targets by reviewing the incentive schemes referred to in Article 11 of Implementing Regulation (EU) 2019/317. In that respect, the Commission has examined whether the proposed incentive schemes fulfil the substantive requirements set out in Article 11(1) and (3) of Implementing Regulation (EU) 2019/317.
- (48) In Implementing Decision (EU) 2022/728, the Commission concluded that Romania is to revise its incentive scheme for achieving terminal capacity targets in such a way that the maximum financial disadvantage stemming from that incentive scheme is set at a level having a material impact on the revenue at risk. The Commission notes that Romania has revised its incentive scheme for achieving terminal capacity targets by setting the resulting maximum financial disadvantage at a level equal to 1 % of determined costs. The revision addresses the concerns raised by the Commission in Implementing Decision (EU) 2022/728. The Commission does not have any further observations on the incentive schemes set out in the revised draft performance plan of Romania.

CONCLUSION

- (49) In the light of all the foregoing, the Commission finds that the performance targets included in the revised draft performance plan submitted by Romania are consistent with the Union-wide performance targets,

HAS ADOPTED THIS DECISION:

Article 1

The performance targets included in the revised draft performance plan submitted by Romania 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 set out in Implementing Decision (EU) 2021/891.

Article 2

This Decision is addressed to Romania.

Done at Brussels, 5 December 2022.

For the Commission
Adina VĂLEAN
Member of the Commission

ANNEX

Performance targets included in the revised draft performance plan submitted by Romania 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**

Romania	Targets on the effectiveness of safety management, expressed as a level of implementation, ranging from EASA level A to D			
Air navigation service provider concerned	Safety management objective	2022	2023	2024
ROMATSA	Safety policy and objectives	C	C	C
	Safety risk management	C	C	D
	Safety assurance	C	C	C
	Safety promotion	C	C	C
	Safety culture	C	C	C

KEY PERFORMANCE AREA OF ENVIRONMENT**Average horizontal *en route* flight efficiency of the actual trajectory**

Romania	2022	2023	2024
Targets in the key performance area of environment, expressed as the average horizontal <i>en route</i> flight efficiency of the actual trajectory	2,05 %	2,05 %	2,05 %

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

Romania	2022	2023	2024
Targets in the key performance area of capacity, expressed in minutes of ATFM delay per flight	0,04	0,04	0,04

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

<i>En route</i> charging zone of Romania	2014 baseline value	2019 baseline value	2020 -2021	2022	2023	2024
Revised <i>en route</i> cost-efficiency targets, expressed as determined <i>en route</i> unit cost (in real terms in 2017 prices)	165,00 RON	155,38 RON	298,87 RON	179,53 RON	163,47 RON	160,39 RON
	36,13 EUR	34,03 EUR	65,45 EUR	39,32 EUR	35,80 EUR	35,13 EUR