

EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION

EUROCONTROL

-Directives of the Permanent Commission -

DIRECTIVE N°22/112

requesting the Agency to establish and manage a Voluntary Temporary Solidarity Fund to support Estonia, Latvia, Lithuania and Poland in sustaining, for 2022 and 2023, staff/training costs and any other costs to ensure operational continuity

THE PERMANENT COMMISSION FOR THE SAFETY OF AIR NAVIGATION:

Having regard to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as amended by the Protocol signed at Brussels on 12 February 1981 and in particular Articles 6.1(b) and 7.3 thereof;

Having regard to Decision No 22/138 of the Permanent Commission of 24 November 2022 entrusting the Organisation with the task of creating voluntary solidarity funds in support of one or more Member States in air traffic crisis situations;

Considering the current war situation in Ukraine and its direct consequences for Estonia, Latvia, Lithuania and Poland;

Considering that this situation constitutes an air traffic crisis situation due to reasons beyond Estonia's, Latvia's, Lithuania's and Poland's control;

Considering the missing revenues resulting from the decrease in air traffic and the necessity to support Estonia, Latvia, Lithuania and Poland in sustaining, for 2022 and 2023, staff/training costs and any other costs to ensure operational continuity;

Considering Member States' willingness to apply, on a voluntary but also temporary basis, the solidarity principle, also in order to safeguard the continuum and integrity of the network when traffic is back to normal;

Considering that in accordance with the Financial Regulations applicable to the Route Charges System, and in particular Article 4 thereof, the route charges collected may be distributed to recipients designated by the States;

On the proposal of the Provisional Council;

GIVES THE FOLLOWING DIRECTIVE TO THE AGENCY:

Article 1

The Agency shall establish and manage a Voluntary Temporary Solidarity Fund in order to support Estonia, Latvia, Lithuania and Poland in sustaining, for 2022 and 2023, staff/training costs and any other costs to ensure operational continuity for a total amount of 46.1 MEUR. The Fund is held by the Organisation and has no legal personality.

Article 2

The principles governing the functioning of the Voluntary Temporary Solidarity Fund referred to in Article 1 (e.g. voluntary contribution, loan, direct transfer or transfer of route charges) are contained at Annex 1.

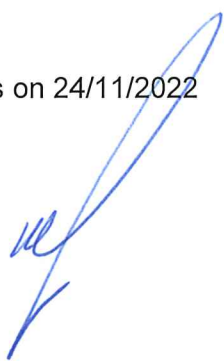
Article 3

The template for the Special Agreements with Estonia, Latvia, Lithuania and Poland respectively relating to the requirements for the use of this Voluntary Temporary Solidarity Fund and all associated administrative and governance arrangements is at Annex 2.

Article 4

This Directive shall enter into effect at the date of its signature.

Done at Brussels on 24/11/2022



Māris Gorodcovs
President of the Permanent Commission

Principles governing the functioning of the Voluntary Temporary Solidarity Fund

The following principles shall apply to the Voluntary Temporary Solidarity Fund of a total amount of 46.1M EUR created in order to support Estonia, Latvia, Lithuania and Poland (respectively 6.0, 5.6, 6.2 and 28.3 MEUR) sustaining, for 2022 and 2023, staff/training costs and any other costs to ensure operational continuity:

1. Financing of the Fund: funded on a voluntary basis by any EUROCONTROL Member State that decides to contribute to the Fund (loan)¹.
2. Participation in the Fund: the percentage of the share of each State that decides to take part in the Fund is established based on an allocation key taking into account their net amount billed in the year 2019. The objective is to achieve a total amount of 46.1M EUR to support Estonia, Latvia, Lithuania and Poland in sustaining, for 2022 and 2023, staff/training costs and any other costs to ensure operational continuity. The details of the financing of the fund /allocation key per State are below.
3. Management of the Fund: the Fund is managed by the Agency. The Fund will be subject to audit procedures and oversight and the DG will report to the Permanent Commission through the Provisional Council.
4. Contributions to the Fund: States shall inform the PC/CN Secretariat of their chosen option to finance the Fund:
 - a. Transfer of route charges: the amounts due by each State participating in the Voluntary Temporary Solidarity Fund shall be deducted from the national route charges collected on behalf of the participating States by the CRCO, starting on 15 December 2022, with the total amount per State established in the table below to be retained in equal payments on a monthly basis over a period of maximum 6 months, and be transferred to the designated accounts of the Fund under article 5 below. The decision of the States to retain amounts from the collected route charges for the Fund supersedes any current payment instructions already provided to EUROCONTROL by the States for the transfer of route charges. These charges shall be deducted from the amounts to be paid to the main current beneficiary of the collected route charges; or
 - b. Direct transfer to the Fund: the total amount due by each State and established in the table below shall be transferred by the State to the designated accounts of the Fund under article 5 below. The amount due shall be transferred in maximum 6 equal payments on the 15th of each month (or the following working day if the 15th is not working day), starting with the first payment on 15 December 2022. Alternatively, the payment can be made in a lump sum at the latest by 15 May 2023. The basis for payment for States choosing this option shall be the present Directive of the Permanent Commission and in particular the table below. Confirmation of the amounts to be paid by a State to the Fund can be issued by the Agency to the State concerned on request.
5. Accounts of the Fund: the amounts deducted from the national route charges (4.a above) or directly transferred (4.b above) will be credited to four separate accounts, one for each State, pro rata. The accounts shall be set up in the name of the Organisation and be managed separately from the other assets of the Organisation.
6. Payments to Estonia, Latvia, Lithuania and Poland (beneficiary States):
 - a. The beneficiary State shall issue a written request to the Agency to benefit from whole or part of the amounts credited in the relevant accounts. In such request, the State shall formally state that the requirements as set out under 7 are fulfilled.

¹ In view of a third party attachment order, route charges collected on behalf of one State cannot currently be retained and disbursed to the Fund; the contribution of that State to the Fund will therefore be through option 4.b.

- b. Such request shall be signed by the duly authorised representative of the State as established in the Special Agreement relating to the requirements for the use of the Voluntary Temporary Solidarity Fund and all associated administrative and governance arrangements, and according to a template to be provided by the Agency.
 - c. Upon receipt of the said request, the Agency shall review the formal validity of the same and check that (i) the requested amounts are available in the Fund and (ii) the Agency is not prevented from making any payment due to any reason beyond its control.
 - d. If these conditions are fulfilled, the Agency will notify the State accordingly and inform it of the payment amount and date. Until that notification, no claim from the State shall exist against EUROCONTROL with respect to the amounts to be disbursed through the Fund.
 - e. The last written request from the beneficiary States shall be received at the latest by 1st December 2023 and should cover the remaining amounts in the Fund designated bank accounts.
 - f. Beneficiary States shall keep for a period of 5 (five) years all justifying documents needed for potential audit purposes. The costs of the audit procedures shall be borne by the beneficiary States.
7. Use of the Fund: the Fund is created exclusively to support Estonia, Latvia, Lithuania and Poland in sustaining, for 2022 and 2023 staff/training costs and any other costs to ensure operational continuity and, thereby, contribute to the availability of air navigation services to facilitate the traffic recovery once hostilities in Ukraine have subsided and civilian air traffic services are deemed safe in all or parts of the affected airspace, in accordance with the Special Agreement relating to the requirements for the use of the Voluntary Temporary Solidarity Fund. EUROCONTROL cannot be held liable for any misuse of the amounts received by the beneficiary States under the Fund.
 8. Suspension of the financing of the Fund: if, despite the availability of amounts in the Fund, the Agency is prevented from making any payment due to reasons beyond its control or in case the conditions for the access by Estonia and/or Latvia and/or Lithuania and/or Poland to the support as defined in the Special Agreement should cease to exist, the Organisation may in part or totally suspend any obligation or right in relation to the Fund.
 9. Liquidation of the Fund: the Agency, on behalf of the Organisation, is delegated authority to liquidate the Fund once the total amount received in the Fund is disbursed to Estonia, Latvia, Lithuania and Poland in line with these principles. The Agency, on behalf of the Organisation, is delegated authority to liquidate in part or totally the Fund beforehand if its financing or the possibility for the Agency to release the corresponding amount to Estonia and/or Latvia and/or Lithuania and/or Poland is in part or totally suspended and/or made impossible for a period of six months or more and where the circumstances allow so. The Agency will inform the Member States accordingly and reimburse the amounts left in the account/s pro rata to the contributing States.
 10. Treatment of the amounts transferred to, and received under, the Fund: the amounts transferred to, and received under, the Fund should not be recovered from airspace users.
 11. Reimbursement to the contributing States: in 2025, the amounts transferred to the States from the Fund will be reimbursed without interest by Estonia, Latvia, Lithuania and Poland to the Organisation as per the provisions of the Agreement concluded with EUROCONTROL (constituting an interest free loan). The amounts received from Estonia, Latvia, Lithuania and Poland shall be credited to a separate EUROCONTROL account and will be transferred by the Organisation to the contributing States on a monthly basis following a monthly request as from 1st January 2025. Following the said request, the Agency will inform the State concerned about the payment amount and date. Until that notification, no claim from the State shall exist against EUROCONTROL with respect to the amounts to be disbursed through the account. If, despite the availability of amounts in this separate account, the Agency is prevented from making any payment due to reasons beyond its control, the Organisation may in part or totally suspend the reimbursement to the contributing States.

State	Net amount billed 2019 in €	% on amount billed 2019 (except Moldova, Ukraine, Baltic States and Poland)	Amount to be paid for Baltic States and Poland	% for solidarity vs Planned Total Revenues 2022
Albania	25,207,431	0.331%	152,688	0.6%
Armenia	6,060,819	0.080%	36,712	0.8%
Austria	225,893,954	2.968%	1,368,295	0.7%
Belgium	168,386,386	2.212%	1,019,958	0.4%
Bosnia and Herzegovina	42,621,462	0.560%	258,169	0.7%
Bulgaria	125,673,883	1.651%	761,238	0.7%
Croatia	92,869,869	1.220%	562,536	0.6%
Cyprus	65,409,681	0.859%	396,203	0.6%
Czech Republic	116,537,608	1.531%	705,897	0.6%
Denmark	101,094,740	1.328%	612,356	0.6%
<i>Estonia</i>	<i>26,363,754</i>			
Finland	50,386,439	0.662%	305,203	0.7%
France	1,317,167,742	17.307%	7,978,409	0.6%
Georgia	14,458,110	0.190%	87,576	0.4%
Germany	961,430,349	12.633%	5,823,620	0.6%
Greece	181,139,688	2.380%	1,097,208	0.6%
Hungary	94,778,295	1.245%	574,095	0.5%
Ireland	130,017,607	1.708%	787,549	0.6%
Italy	774,067,572	10.171%	4,688,718	0.7%
<i>Latvia</i>	<i>25,841,780</i>			
<i>Lithuania</i>	<i>26,379,834</i>			
Luxembourg	7,974,880	0.105%	48,306	0.4%
Malta	22,259,678	0.292%	134,832	0.6%
<i>Moldova</i>	<i>5,081,857</i>			
Montenegro	8,700,624	0.114%	52,702	0.5%
Netherlands	190,554,543	2.504%	1,154,236	0.5%
North Macedonia	17,886,029	0.235%	108,340	0.6%
Norway	104,060,182	1.367%	630,318	0.5%
<i>Poland</i>	<i>201,857,165</i>			
Portugal	152,663,524	2.006%	924,721	0.5%
Romania	151,495,588	1.991%	917,646	0.5%
Serbia	70,395,958	0.925%	426,406	0.5%
Slovak Republic	63,722,297	0.837%	385,982	0.6%
Slovenia	37,323,848	0.490%	226,080	0.6%
Spain	796,341,137	10.463%	4,823,634	0.7%
Sweden	191,544,047	2.517%	1,160,229	0.5%
Switzerland	168,697,494	2.217%	1,021,842	0.6%
Türkiye	397,311,482	5.220%	2,406,613	0.6%
<i>Ukraine</i>				
United Kingdom	736,586,331	9.678%	4,461,685	0.5%
Total	7,896,243,667	100.000%	46,100,000	0.6%

AGREEMENT

between

EUROCONTROL

and

[STATE]

**relating to the implementation of a Voluntary Temporary Solidarity
Fund**

AGREEMENT

between

EUROCONTROL

and

[STATE]

relating to the implementation of the Voluntary Temporary Solidarity Fund

EUROCONTROL¹, having its address at Rue de la Fusée 96, 1130 Brussels, Belgium, represented by its Director General, Mr Eamonn BRENNAN

hereinafter referred to as "EUROCONTROL",

and

[STATE] represented by

hereinafter referred to as "[.....]"

Hereinafter together referred to as the "Parties".

HAVING REGARD to Decision No. XX/XX of the Permanent Commission of XX/XX/XX entrusting the Organisation with the task of creating voluntary solidarity funds in support of one or more Member States in air traffic crisis situations;

HAVING REGARD to Directive No. XX/XX of the Permanent Commission of XX/XX requesting the Agency to establish and manage a Voluntary Temporary Solidarity Fund to support Estonia, Latvia, Lithuania and Poland in sustaining, for 2022 and 2023, staff/training costs and any other costs to ensure operational continuity;

HAVING REGARD to Articles 7.2 and 11 of the amended Convention;

CONSIDERING the current war situation in Ukraine and the resulting effects on the provision of air navigation services in neighbouring States and the consequential loss of revenues, impacting in particular the financing of staff and infrastructure which need to be maintained to ensure the provision of air navigation services;

HAVE AGREED AS FOLLOWS:

ARTICLE 1 – PURPOSE

The purpose of this Agreement is to define the use of the funds made available by the EUROCONTROL Member States through the establishment of the Voluntary Temporary Solidarity Fund and to set up the necessary administrative arrangements to ensure the payment out of the Fund to [STATE].

¹ The European Organisation for the Safety of Air Navigation.

ARTICLE 2 – USE OF THE FUNDS

- 2.1. [STATE] commits to use the funds received by EUROCONTROL for the sole purpose of financing the following costs for the years 2022 and 2023:
 - staff costs such as salaries of operational staff, related support staff costs and staff costs associated with system maintenance;
 - training costs;
 - any other costs to ensure operational continuity.
- 2.2. EUROCONTROL is empowered to refuse any payment whenever it has reasonable grounds to believe that the funds are not intended to finance the costs listed under 2.1.
- 2.3. Any misuse of funds already transferred by EUROCONTROL to [STATE] gives EUROCONTROL the right to terminate this Agreement with immediate effect and to recover from [STATE] any amount already paid.

ARTICLE 3 – PAYMENT

- 3.1 Any time [STATE] intends to make use of the Voluntary Temporary Solidarity Fund, it shall fill in a written request stating the amount required and the relevant use of the funds requested according to a template to be provided by the Agency. Such request shall be signed by the duly authorised representative of the State and addressed to the Director General of EUROCONTROL.
- 3.2 Upon receipt of the said request, the Agency shall review the formal validity of the same and check that (i) the requested amounts are available in the Fund and (ii) the Agency is not prevented from making any payment due to any reason beyond its control. If these conditions are fulfilled, the Agency, shall notify [STATE] accordingly and inform it of the payment term.
- 3.3 Until that notification from the Agency, no claim from [STATE] shall exist against EUROCONTROL with respect to the requested amounts.
- 3.4 [STATE] agrees that any fees for the transfer of the amounts into/from the Fund or any negative interest rate or exchange rate that may impact the amounts available in the Fund shall be covered by the Fund itself and reflected as appropriate in the payments made to [STATE].
- 3.5 [STATE] shall keep for a period of 5 (five) years all justifying documents needed for potential audit purposes and bear the costs of the audit.

ARTICLE 4 - REIMBURSEMENT

- 4.1 The full amounts transferred by each State that have contributed to the Voluntary Temporary Solidarity Fund shall be reimbursed without interest by [STATE] to a separate EUROCONTROL account as per the instructions of the Agency, starting on 1st January 2025 and over a 12 month period, every 1st day of each month in equal instalments. EUROCONTROL is empowered to set off the amounts due by [STATE] against the route charges collected during the year in 2025 in case no payment is received on the due dates.
- 4.2 EUROCONTROL will proceed, on a monthly basis as from 1st January 2025, with the reimbursement to the contributing States of the amounts transferred or retained from route charges from the beneficiary State.

ARTICLE 5 – SUSPENSION OF THE PAYMENT

If, despite the availability of funds, EUROCONTROL is prevented from making any payment due to reasons beyond its control to the beneficiary State, including any attachments on the funds from third parties, any payment shall be suspended until EUROCONTROL is again able to fulfil its obligations under this Agreement.

ARTICLE 6 – LIABILITY

Each Party shall exonerate the other from all civil liability arising from loss, damage or bodily injury suffered by it or its staff as a result of the performance of this Agreement, unless such loss, damage or bodily injury is due to gross negligence or deliberate omission or wrongful act on the part of the other Party or its staff.

ARTICLE 7 – PROCESSING OF PERSONAL DATA

- 7.1. EUROCONTROL processes the personal data it receives from [STATE] under this Agreement for the sole purpose of pursuing the objectives of this Agreement and in accordance with the EUROCONTROL Regulation on Personal Data Protection.
- 7.2. [STATE] processes the personal data it collects or receives from EUROCONTROL under this Agreement for the sole purpose of pursuing the objectives of this Agreement and in accordance with the data protection laws applicable to [STATE].
- 7.3. To protect the Personal Data shared under this Agreement, the Parties shall implement administrative, technical and organisational measures, which shall be kept up to date in accordance with generally accepted standards.

ARTICLE 8 - CONFIDENTIALITY

Except with the prior consent of the other Party, neither Party shall disclose any information acquired in connection with the implementation of this Agreement to any person other than a person employed or engaged by them, or to any persons other than those officially entitled to handle such information in so far as necessary for the purpose of this agreement.

ARTICLE 9 – ASSIGNMENT

No rights or obligations arising from this Agreement may be assigned or transferred in whole or in part, to any third party without the other Party's prior approval

ARTICLE 10 – ENTIRE AGREEMENT AND AMENDMENTS

- 10.1. The present Agreement, including CN Directive No. XX/XX, forms the entire agreement between the Parties on the provision of funds by EUROCONTROL to [STATE] in relation to the Voluntary Temporary Solidarity Fund.
- 10.2. This Agreement may be modified only by an instrument in writing signed by the representatives of both Parties.

ARTICLE 11 – DISPUTE SETTLEMENT

In the event of a dispute arising between the Parties to this Agreement concerning the interpretation, application or performance thereof which cannot be settled by direct negotiation

or by any other means, the provisions of Article 31 of the amended Convention shall apply *mutatis mutandis*.

ARTICLE 12 – ENTRY INTO FORCE – DURATION – TERMINATION - EXTENSION

- 12.1. This Agreement shall enter into force on the day of its signature by the representatives of both Parties.
- 12.2. Without prejudice to Article 2.3, this Agreement shall remain in force until the full amounts transferred by each State that have contributed to the Voluntary Temporary Solidarity Fund have been reimbursed by [STATE] to EUROCONTROL.
- 12.3. The Parties may extend the duration of this Agreement by a written instrument signed by the representatives of both Parties, subject to a Directive of the Permanent Commission extending the duration of the Fund.

Done in two originals in the English language.

For EUROCONTROL

For [STATE]

Date:

Date:

Signature: _____

Signature: _____

Eamonn Brennan
Director General