EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION

EUROCONTROL

- Decisions of the Permanent Commission -

DECISION No. 129

concerning the taking of decisions on measures of an operational, technical, financial or budgetary nature, including on investments, as well as the mandate of Director MUAC to arrange support services, required for the operation of MUAC

THE PERMANENT COMMISSION,

Having regard to the EUROCONTROL International Convention relating to Co-operation for the Safety of Air Navigation, as amended by the Protocol signed at Brussels on 12 February 1981 ("amended Convention"), and in particular Articles 2.2 (b) and 7.1 thereof;

Having regard to the Agreement relating to the Provision and Operation of Air Traffic Services and Facilities by EUROCONTROL at the Maastricht Area Control Centre (hereinafter referred to as MUAC) signed on 25 November 1986 (hereinafter referred to as the Maastricht Agreement), and in particular Articles 5 and 12 thereof and Article 8 of Annex III (Financial Protocol) thereto;

Having regard to the Declaration dated 19.4.2016 of the National Contracting Parties to the Maastricht Agreement concerning the financing, on a temporary basis, of the compensation for national tax levied on pensions and of ancillary benefits paid by the Organisation to former staff members who were assigned to MUAC and the costs of the support services required for the operation of MUAC (hereinafter referred to as the Declaration);

Having regard to the Decision of the Permanent Commission dated 9.12.2015 concerning the implementation of an Agency-wide cost allocation methodology and the allocation on a permanent basis of the cost of support services for the operation of the Maastricht UAC and the cost of the compensation for national tax levied on pensions and of ancillary benefits paid by the Organisation to former staff members which were assigned to MUAC (hereinafter referred to as Permanent Commission Decision No. 128);

Considering the desire to provide cost transparency regarding the costs of MUAC and to use a Special Annex under Part IV of the Agency budget to finance, on a temporary basis, the costs of support services and the costs of the compensation for national tax levied on pensions and of ancillary benefits paid by the Organisation to former staff members who were assigned to MUAC and currently charged to Part I of the Agency budget;

Considering that pursuant to the current provisions of the Maastricht Agreement these costs are financed from Part I of the Agency budget;
Considering the request of the National Contracting Parties to the Maastricht Agreement to take all decisions with regard to MUAC on measures of an operational, technical, financial or budgetary nature, including decisions on investments;

Considering that it is necessary, in order to improve the ability to achieve the operational and cost-efficiency performance targets by MUAC, that the Director MUAC has the mandate to arrange the support services which MUAC requires;

Considering that it is necessary to amend the legal instruments in order to fully implement these objectives on a permanent basis and have the amendments entered into force before 31 December 2019;

Considering that the acceptance by the National Contracting Parties to the Maastricht Agreement to finance the support costs and tax compensation for pensions and of ancillary benefits on a temporary basis through a Special Annex to the Agency budget and on a permanent basis through Part III of the Agency budget is made in consideration of the agreement by the Permanent Commission that it will facilitate the taking of decisions by the National Contracting Parties to the Maastricht Agreement with regard to MUAC pursuant to the measures in the present Decision;

On the proposal of the Provisional Council,

HEREBY TAKES THE FOLLOWING DECISION:

**Article 1**

Mandate of Director MUAC to arrange support services

1. From January 2017 onwards Director MUAC shall have a mandate to arrange the support services which MUAC requires from other Agency units by using service level agreements between MUAC and the other units.

2. From January 2018 onwards Director MUAC shall have the mandate allowing him to seek support services from third parties or through other means. Should MUAC seek support services from third parties or through other means before 1 January 2018 this shall be done in consensus with the Director General. Director MUAC as well as the Director General shall provide a solid justification for a decision.

3. The mandate for the Director MUAC shall be duly reflected in the legal framework on a permanent basis.

4. As temporary measures, the mandate referred to in paragraph 1 of the present Article shall apply, in a first period, until 31.12.2017, and the measure referred to in paragraph 2 of the present Article shall apply until 31.12.2019.

5. When the Permanent Commission has approved the permanent measures mentioned in Article 4 of the present Decision, the mandate referred to in paragraph 1 of the present Article shall continue to apply until entry into force of the permanent measures or until 31.12.2019 at the latest.
Article 2

Decision making on MUAC matters – temporary measures

1. The Member States in the Permanent Commission confirm their existing practice to accept proposals made by the National Contracting Parties to the Maastricht Agreement as agreed in the Maastricht Coordination Group (MCG) on measures of an operational, technical, financial or budgetary nature, including on investments, required for the operation of MUAC as long as these decisions do not impact Part I of the Agency budget or do not significantly alter the obligations and liabilities of the Organisation.

2. The proposals shall be presented together with a cost-benefit analysis and legal analysis of the liability for the Organisation.


4. When the Permanent Commission has approved the permanent measures mentioned in Article 4 of the present Decision, the temporary measures of the present Article shall continue to apply until entry into force of the permanent measures or until 31.12.2019 at the latest.

Article 3

Declaration of the National Contracting Parties to the Maastricht Agreement

The provisions concerning the mandate of the Director MUAC and decision making of Articles 1 and 2 of the present Decision are also made in consideration of the Declaration of the National Contracting Parties to the Maastricht Agreement as well as Permanent Commission Decision No. 128.

Article 4

Decision making on MUAC matters and mandate to Director MUAC - permanent measures

1. The Organisation shall take the necessary measures to implement a modification of the legal instruments with a view to:

   a. making it possible, on a permanent basis, for the National Contracting Parties to the Maastricht Agreement to take all decisions on measures of an operational, technical, financial or budgetary nature required for the operation of MUAC, including the decisions on investments without prejudice to the residual decision making power of the Permanent Commission;

   b. determining that the National Contracting Parties to the Maastricht Agreement take responsibility for the consequences on Part I of the Agency budget of decisions taken by them on the basis of the measures adopted pursuant to paragraph a. as well as of actions taken by Director MUAC pursuant to his mandate to arrange the support services which MUAC requires, and carry any liability stemming from such decisions and actions in case the Organisation is held liable under the amended Convention as a direct result of such decisions and actions;
c. determining that the responsibility for the investments in respect of facilities for the provision of en-route air traffic services and assets of MUAC shall remain with the National Contracting Parties to the Maastricht Agreement;

d. giving the mandate to Director MUAC to arrange the support services for MUAC.

2. The Agency shall present the relevant amendments of the legal instruments to the Permanent Commission before the end of 2016, with a view to obtaining the Permanent Commission's approval before the end of 2017 in order to achieve their entry into force by 31 December 2019.

Article 5

The present decision shall come into effect on the day of its signature.

Done at Brussels on 9.12.2015

D. RATKOVICA
President of the Commission