COMMISSION IMPLEMENTING DECISION (EU) 2016/420

of 18 March 2016

on the non-compliance of unit rates for charging zones for 2015 under Article 17 of Implementing Regulation (EU) No 391/2013

(notified under document C(2016) 1592)

(Only the Dutch, French and German texts are 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 550/2004 of the European Parliament and of the Council of 10 March 2004 on the provision of air navigation services in the Single European Sky (the service provision Regulation) ([1]), and in particular Article 16(1) thereof,

Having regard to Commission Implementing Regulation (EU) No 391/2013 of 3 May 2013 laying down a common charging scheme for air navigation services ([2]), and in particular Article 17(1)(e) thereof,

Whereas:

(1) Implementing Regulation (EU) No 391/2013 lays down a common charging scheme for air navigation services. The common charging scheme is an integral element in reaching the objectives of the performance scheme as established under Article 11 of Regulation (EC) No 549/2004 of the European Parliament and of the Council ([3]) and Commission Implementing Regulation (EU) No 390/2013 ([4]).

(2) Commission Implementing Decision 2014/132/EU ([5]) sets the Union-wide performance targets, including a cost-efficiency target for *en route* air navigation services expressed in determined unit costs for the provision of those services, for the second reference period, which covers the years 2015 to 2019 inclusive.

(3) Pursuant to Article 17(1)(c) and 17(2) of Implementing Regulation (EU) No 391/2013, the Commission is to assess the unit rates for charging zones for 2015 submitted by the Member States to the Commission following the revision of performance targets as a result of Commission Implementing Decision (EU) 2015/347 ([6]). The assessment concerns the compliance of those unit rates with Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013.

(4) The Commission has carried out its assessment of the unit rates with the support of the Performance Review Body, which is charged with assisting the Commission in the implementation of the performance scheme pursuant to Article 3 of Implementing Regulation (EU) No 390/2013, and Eurocontrol's Central Route Charges Office, using the data and additional information provided by the Member States by 1 June 2015 as well as relevant information submitted as part of the revised performance plans. The assessment also took into account the corrections by Member States to the unit rates following subsequent contacts between the Commission, the Performance Review Body and the Member States concerned. Furthermore, the assessment of the unit rates for 2015 took into account the report by the Performance Review Body on the revised performance plans for the second reference period, which was submitted to the Commission on 15 October 2015.

([1]) OJ L 96, 31.3.2004, p. 10.
([2]) OJ L 128, 9.5.2013, p. 31.
([3]) 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) (OJ L 96, 31.3.2004, p. 1).
([4]) Commission Implementing Regulation (EU) No 390/2013 of 3 May 2013 laying down a performance scheme for air navigation services and network functions (OJ L 128, 9.5.2013, p. 1).
([5]) Commission Implementing Decision 2014/132/EU of 11 March 2014 setting the Union-wide performance targets for the air traffic management network and alert thresholds for the second reference period 2015-19 (OJ L 71, 12.3.2014, p. 20).
([6]) Commission Implementing Decision (EU) 2015/347 of 2 March 2015 concerning the inconsistency of certain targets included in the national or functional airspace block plans submitted pursuant to Regulation (EC) No 549/2004 of the European Parliament and of the Council with the Union-wide performance targets for the second reference period and setting out recommendations for the revision of those targets (OJ L 60, 4.3.2015, p. 48).

(5) On the basis of that assessment, the Commission has found, in accordance with Article 17(1)(e) of Implementing Regulation (EU) No 391/2013, that the unit rates for charging zones for 2015 submitted by Belgium, Germany, France, Luxembourg and the Netherlands are not in compliance with Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013.

(6) Article 11(1) of Implementing Regulation (EU) No 390/2013 provides that the national supervisory authorities of the Member States are to draw up performance plans containing targets consistent with the Union-wide performance targets. Pursuant to Article 11(2) and Annex IV to Implementing Regulation (EU) No 391/2013, unit rates are calculated on the basis of the *en route* determined costs and the forecast service units specified in the performance plan of a Member State, i.e. the *en route* determined unit costs. Until the performance targets of Belgium, Germany, France, Luxembourg and the Netherlands are considered consistent with Union-wide targets, the unit rates calculated on their basis cannot be considered to be compliant with Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013.

(7) Pursuant to Article 17(1)(e) of Implementing Regulation (EU) No 391/2013, the Member States concerned should be notified of the Commission's findings.

(8) Given that the revised performance plans for the second reference period were not adopted before 1 November of the year preceding the second reference period, it is recalled that, in accordance with Article 17(2) of Implementing Regulation (EU) No 391/2013, the Member States are required to recalculate the unit rates for charging zones for 2015 where necessary on the basis of the final adopted performance plans and to carry over any difference due to the temporary application of the unit rates set out in this Decision in the calculation of the unit rates of the following year.

HAS ADOPTED THIS DECISION:

Article 1

The unit rates for charging zones for 2015 set out in the Annex are not in compliance with Implementing Regulations (EU) No 390/2013 and (EU) No 391/2013.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands.

Done at Brussels, 18 March 2016.

For the Commission
Violeta BULC
Member of the Commission

ANNEX

Submitted *en route* unit rates for charging zones for 2015 found not to be in compliance

	Charging zone	Submitted 2015 *en route* unit rate in national currency (*) (ISO Code)
1	Belgium-Luxembourg	68,76
2	France	69,34
3	Germany	88,22
4	Netherlands	66,57

(*) These unit rates do not include the administrative unit rate referred to in Article 18(1) of Implementing Regulation (EU) No 391/2013 and which apply to states party to Eurocontrol's Multilateral Agreement relating to route charges.