

PRB assessment of the draft final performance plans including corrective measures

Belgium and Luxembourg

ANNEX - Detailed analysis

December 2023

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1 INTRODUCTION

- 1 This report is the Annex to the PRB assessment of the draft final performance plans including corrective measures of Belgium and Luxembourg and provides the detailed analysis underlying this assessment. This Annex provides:
 - The detailed analysis of the revised cost-efficiency targets for the en route charging zone of Belgium and Luxembourg;
 - The detailed analysis of the revised cost-efficiency targets for the terminal charging zones of Belgium and Luxembourg;
 - The detailed analysis of the corrective measures defined by Belgium and Luxembourg;
 - The replies of Belgium and Luxembourg addressing the specific issues raised by the Commission in the Decision on corrective measures.

2 DETAILED ASSESSMENT OF THE REVISED EN ROUTE COST-EFFICIENCY TARGETS

2 This section provides the details of the assessment of the en route cost-efficiency.

2.1 En route traffic forecasts overview

- 3 The draft final performance plans including corrective measures updated the en route traffic forecast for both IFR movements and service units to the STATFOR March 2023 base forecast (i.e. the latest available).
- 4 In terms of en route IFR movements, the values included in the draft final performance plans including corrective measures decreased from 1,173 thousand to 1,160 in 2023 (-1.1%), while increased from 1,214 thousand to 1,244 in 2024 (+2.5%).
- 5 In terms of en route service units, the values included in the draft final performance plans including corrective measures decreased from 2,445 thousand to 2,404 in 2023 (-1.7%), while increased from 2,542 thousand to 2,560 in 2024 (+0.7%).
- 6 No major issues have been identified in the traffic forecast selection.

2.2 En route costs overview

7 This section analyses the en route planned real and nominal total costs submitted in the draft final performance plans including corrective measures, comparing them with the submission included in the FABEC draft revised plan of 2022. A summary is shown in Table 1. The inflation assumptions have been revised to take into account the latest IMF forecast. The inflation reported for the years

2023 and 2024 is in line with the forecast of average Consumer Price Index percentage change published by the IMF in April 2023, which is higher than previously reported (2023: 4.68% vs 3.40%, 2024: 2.14% vs 1.90%). The inflation rates included in the performance plans seem justified. Moreover, the inflation index has been correctly revised taking into account the updated inflation rates for 2023 and 2024, and the actual inflation rates for the years 2020, 2021, and 2022.

- 8 The nominal en route costs are unchanged for the years 2020-2022, while decrease by -2.7% in 2023 (-7.4M€) and by -7.2% in 2024 (-20M€). The real en route costs are unchanged for the years 2020-2022, while decrease by -5.7% in 2023 (-13M€₂₀₁₇) and by -10% in 2024 (-23M€₂₀₁₇). One third of the real decrease of the cost base for the years 2023 and 2024 in the draft final performance plan including corrective measures can be attributed to the updated inflation rates.
- 9 In nominal terms, when considering the draft revised plan of 2022, the total costs were planned to increase by +36% (+72M€) between 2019 actuals and planned 2024. In the draft final performance plans including corrective measures the nominal costs are planned to increase by +26% (+53M€) between 2019 actuals and planned 2024. In real terms, when considering the draft revised performance plan of 2022, the total costs were planned to increase by +18% (+35M€₂₀₁₇) between 2019 actuals and planned 2024, while when considering the draft final performance plans including corrective measures, the total costs are planned to increase by +6.1% (+12M€₂₀₁₇).

	2020/2021D	2022D	2023D	2024D
Draft final performance plan including corrective measures ('000€ nominal)	442,198	250,216	262,100	252,086
Draft revised plan total costs ('000€ nominal)	442,198	250,216	269,472	271,694
<i>% Difference between draft final and draft revised</i>	<i>0.0%</i>	<i>0.0%</i>	<i>-2.7%</i>	<i>-7.2%</i>
Draft final performance plan including corrective measures ('000€ ₂₀₁₇)	424,900	220,165	217,183	205,456
Revised plan total costs ('000€ ₂₀₁₇)	424,900	220,165	230,239	228,482
<i>% Difference between draft final and draft revised</i>	<i>0.0%</i>	<i>0.0%</i>	<i>-5.7%</i>	<i>-10%</i>

Table 1 – Nominal and real total costs comparison between draft final performance plan including corrective measures and draft revised plan submitted in 2022.

10 When analysing total costs at entity level, the following can be observed:

- Skeyes costs were planned to increase by +16% (+18M€₂₀₁₇) between 2019 actuals and planned 2024 in the draft revised plan submitted in 2022. In the draft final performance plans including corrective measures the total costs are planned to increase by +8.3% (+9.6M€₂₀₁₇) between 2019 actuals and planned 2024. The difference between the plans is caused by a change in the nominal values and in the inflation rates applied.
- ANA Luxembourg costs were planned to decrease by -1.8% (-0.1M€₂₀₁₇) in the draft revised plan between 2019 actuals and planned 2024. In the draft final performance plans including corrective measures the total costs are planned to decrease by -4.9% (-0.3M€₂₀₁₇) between 2019 actuals and planned 2024. The difference between the plans is caused solely by the updated in the inflation rates applied.
- MUAC BE costs were planned to increase by +31% (+17M€₂₀₁₇) in the draft revised plan between 2019 actuals and planned 2024. In the draft final performance plans including corrective measures the total costs are planned to increase by +6.3% (+3.5M€₂₀₁₇) between 2019 actuals and planned 2024. The difference between the plans is caused by a change in the nominal values and in the inflation rates applied.
- MUAC LUX costs were planned to increase by +31% (+0.5M€₂₀₁₇) in the draft revised plan between 2019 actuals and planned 2024. In the draft final performance plans including corrective measures the total costs are planned to increase by +6.3% (+0.1M€₂₀₁₇) between 2019 actuals and planned 2024. The difference between the plans is caused by both a change in the nominal values and in the inflation rates applied.
- NSA costs were planned to decrease by -8.5% (-1.1M€₂₀₁₇) in the draft revised plan between 2019 actuals and planned 2024. In the draft final performance plans including corrective measures the total costs are planned to decrease by -8.4% (-1.1M€₂₀₁₇) between 2019 actuals and planned 2024. The difference between the plans is minimal and caused by a change in the nominal values (inflation is not applied to NSAs).

2.3 *En route cost categories overview*

11 This section analyses the en route planned costs of the Belgium-Luxembourg charging zone by cost category submitted in the draft revised plan of 2022, in the draft final performance plans including corrective measures, and the differences. A summary is shown in Table 2 (next page).

Staff costs

- 12 In the draft final performance plans including corrective measures, the staff costs are planned to increase by +23% (+31M€₂₀₁₇) between 2019 actuals and planned 2024. Belgium and Luxembourg proposed to increase the level of ATCOs by +10.2 FTE in 2024 compared to 2019 in Brussels ACC, and by +18.2 FTE in Maastricht ACC.
- 13 Compared to the draft revised plan, staff costs decreased for the period 2023-2024 by -4.2% (-14M€₂₀₁₇).
- 14 No major issues have been identified.

Pension costs

- 15 In the draft final performance plans including corrective measures, the pension costs are planned to increase by +45% (+8.1M€₂₀₁₇) between 2020 actuals and planned 2024 (in the draft revised plan, the increase was +51%, +9.2M€₂₀₁₇). The increase in pensions costs is related to the increase in the number of staff.
- 16 No major issues have been identified. However, as highlighted for the draft revised plan of 2022, no information is provided in the performance plan regarding the main actuarial assumptions of skeyes' defined benefit scheme.

Other operating costs

- 17 In the draft final performance plans including corrective measures, other operating costs are planned to decrease in real terms by -1.3% (-0.6M€₂₀₁₇) between 2019 actuals and planned 2024. However, in nominal terms, they are planned to increase. The draft final plan does not specify the reasons (the draft revised plan specified that the increase was due to external project management and maintenance associated with new investments). The other operating costs decreased for the period 2023-2024 in the draft final performance plan compared to the draft revised plan by -6.8% (-6.5M€₂₀₁₇). The difference is the result of i) a decrease in 2023 and 2024 from

skeyes resulting from cost savings efforts (e.g. utilities, maintenance), ii) a decrease from MUAC based on the reassessment of 2023 costs, and iii) an increase from MUAC in 2024 for contracts with external parties.

18 No major issues have been identified.

Depreciation costs

19 In the in the draft final performance plan including corrective measures, depreciation costs are planned to increase by +19% (+2.2M€₂₀₁₇) between 2019 actuals and planned 2024. This increase is explained by the fact that the net book value of fixed assets is expected to increase by +54% over the same period.

20 The depreciation costs for the period 2022-2024 in the draft final performance plan compared to the revised one decreased by -3.3% (-0.9M€₂₀₁₇).

21 There is a large difference between the draft final performance plan including corrective measures and the draft revised plan in the depreciation and cost of capital related to other new investments and existing investments for 2024. The 2024 costs related to other new investment decreased by -80% (-5.1M€₂₀₁₇), while the 2024 costs related to the existing investments increased by +42% (+4.4M€₂₀₁₇). The reasons of these changes are unclear.

Cost of capital

22 In the draft final performance plans, the cost of capital is planned to decrease by -11% (-0.4M€₂₀₁₇) between 2019 actuals and 2024 planned. In the draft revised plan submitted in 2022, the cost of capital was planned to increase by +3.7% (+0.1M€₂₀₁₇).

23 The cost of capital for the period 2022-2024 in the draft final performance plan compared to the revised one decreased by -17% (-1.1M€₂₀₁₇).

24 The reasons of the changes are the decrease in the net book value of fixed assets of skeyes and MUAC, in line with the changes in the investment plans.

25 No major issues have been identified.

Exceptional items

26 The final draft performance plans including corrective measures include -20M€₂₀₁₇ exceptional items for 2024. The components of the exceptional items are:

- Skeyes. A total of -11M€₂₀₁₇ composed by: (i) -6.3M€₂₀₁₇ stemming from the difference between determined and actual costs for the year 2021, excluding the amounts reimbursed through the cost exempt mechanism; (ii) -0.1M€₂₀₁₇ stemming from the difference between determined and actual costs for the year 2022, excluding the amounts reimbursed through the cost exempt mechanism; (iii) -4.4M€₂₀₁₇ stemming from unspent amounts related to RP2 investments.
- MUAC (BE+LUX). A total of -9.2M€₂₀₁₇ composed by: (i) -7.6M€₂₀₁₇ stemming from the difference between determined and actual costs for the year 2022, excluding the amounts reimbursed through the cost exempt mechanism; (ii) -1.6M€₂₀₁₇ stemming from unspent amounts related to RP2 investments.

	Draft revised plan of 2022 ('000€ ₂₀₁₇)		Draft final performance plans including corrective measures ('000€ ₂₀₁₇) / Difference (%)	
	2023	2024	2023	2024
Staff costs	166,222	170,450	156,937 (-5.6%)	165,683 (-2.8%)
Of which pension	26,613	27,370	24,992 (-6.1%)	26,244 (-4.1%)
Other operating costs	48,959	46,494	46,038 (-6.0%)	42,895 (-7.7%)
Depreciation costs	12,192	14,608	11,900 (-2.4%)	14,026 (-4.0%)
Cost of capital	2,865	3,762	2,307 (-19%)	3,215 (-15%)
Exceptional costs	0	-6,833	0	-20,364 (+198%)
VFR exempted	0	0	0	0
Total costs	230,239	228,482	217,183 (-5.7%)	205,456 (-10%)

Table 2 – En route planned costs from the draft revised plan of 2022, the draft final performance plans including corrective measures, and differences by cost category for the years 2023-2024.

2.4 Methodology for cost allocation between en route and terminal

- 27 In the final draft performance plans including corrective measures, the cost allocation between en route and terminal has not been changed compared to the draft revised plan submitted in 2022.
- 28 The cost allocation between en route and terminal was subject of a Commission finding, and it is described in detail in the Annex.

2.5 Determined unit cost (DUC) baselines

- 29 In the final draft performance plans including corrective measures, the 2014 and 2019 traffic baselines have not been modified compared to the draft revised plan submitted in 2022:
 - 2014 and 2019 traffic baselines are adjusted by the M2/M3 CRCO 12-months coefficient. No major issues have been identified.
 - Several adjustments are made to the 2014 and 2019 cost baselines, the main one being linked to a change in the cost allocation methodology resulting in a transfer of costs from the terminal charging zones to the en route charging zone.

- 30 The determined unit cost baseline as included in the revised performance plan and final draft performance plan are:

- 81.78€₂₀₁₇ for the 2014 baseline;
- 83.26€₂₀₁₇ for the 2009 baseline.

2.6 Determined unit cost (DUC) evolution

- 31 The evolution of the unit cost (from 2014 baseline to 2024 planned) is shown in Figure 1. Regarding the cost-efficiency consistency criteria:

- The DUC is planned to decrease on average by -0.9% between 2019 and 2024, which is better than the RP3 Union-wide trend (+1.0%).
- The DUC is planned to decrease by -0.2% between 2014 and 2024, which is worse than the long-term Union-wide trend (-1.3%).
- The 2019 DUC level is +13.2% higher than the average of the comparator group.

- 32 The estimated deviation from the Union-wide DUC long-term trend has been reduced from 43.7M€₂₀₁₇ in the draft revised plan submitted in 2022 to 19.4M€₂₀₁₇ in the draft final performance plans including corrective measures.

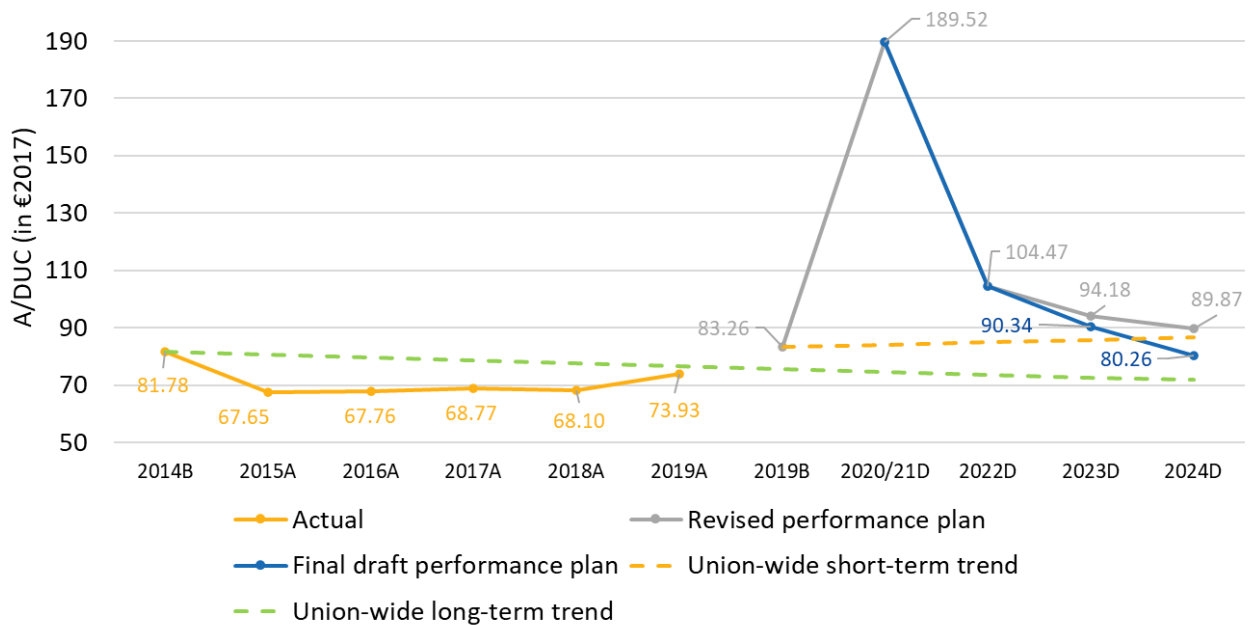


Figure 1 – Evolution of the unit cost from 2014 baseline to 2024 DUC for the Belgium-Luxembourg en route charging zone.

2.7 Justifications for a deviation to achieve the RP3 capacity targets

33 Belgium-Luxembourg present seven measures to justify the deviations from Union-wide cost-efficiency trends necessary to achieve the capacity targets for a total of 67.2M€₂₀₁₇ over RP3 (Table 3).

#	Presented in the draft final performance plans (M€ ₂₀₁₇)	Considered justified further to PRB assessment (M€ ₂₀₁₇)
1	28.6	24.6
2	5.7	0.9
3	13.0	13.0
4	0.9	0.9
5	14.0	14.0
6	4.3	4.3
7	0.8	0.8
Total	67.2	58.4

Table 3 – Costs of seven measures reported by Belgium-Luxembourg to justify the deviations from Union-wide cost-efficiency trends for the achievement of capacity targets.

34 These measures and associated nominal costs are the same as in the draft revised performance plan submitted in 2022, except for the costs of measures 1 and 2.

35 The PRB has reviewed the modification to measures 1 and 2 and concludes that:

- The additional amount of +2.4M€ for measure 1 is eligible for a capacity deviation and can be added to the amounts that were found justified in the Decision on corrective measures (recitals 69 to 123).
- The modifications to measure 2 made during the update of the draft final performance plan following the completeness review are not eligible for a capacity deviation. Therefore, the amounts that were found justified in the Decision on corrective measures (recitals 69 to 123) remain valid.

36 As a result, the PRB finds that 58.4M€₂₀₁₇ relating to the seven measures are justified both individually and together as a contribution to the achievement of capacity targets.

37 Therefore, the costs of the seven measures found as justified (individually and together) cover the deviation observed from the long-term Union-wide trend (19.4M€₂₀₁₇) by an equivalent amount of 19.5M€₂₀₁₇.

3 DETAILED ASSESSMENT OF THE REVISED TERMINAL COST-EFFICIENCY TARGETS

3.1 Cost-efficiency terminal Belgium

38 The targets for the terminal cost-efficiency submitted by Belgium within the draft final performance plan including corrective measures have been revised downwards compared to the revised draft performance plan submitted in 2022.

39 The review of the revised targets indicates that:

- The terminal RP3 DUC trend is +3.1%, which is worse than the en route RP3 DUC trend of -0.9%.
- The terminal RP3 DUC trend is +3.1%, which is worse than the terminal RP2 DUC trend of +0.5%.
- Brussels airport, the only airport included in the scope of the performance plan, had a DUC +61.4% higher than the average of its comparator group over RP2. The difference is expected to become +52.8% over RP3.

40 The PRB notes that, in past years, annual subsidies covering +/- 25% of the unit rate have been granted via a royal decree for the EBBR charging zone. However, as the subsidies are decided on an annual basis, it is unclear whether these subsidies will be pursued in the medium/long term.

Terminal traffic forecasts overview

41 As for en route, the draft final performance plan including corrective measures updated the terminal traffic forecast for both IFR movements and service units to the STATFOR March 2023 base forecast (i.e. the latest available).

42 In terms of terminal service units, the values included in the draft final performance plan including corrective measures decreased from 154K to 146K in 2023 (-4.9%), while increased from 159K to 161K in 2024 (+1.2%).

43 No major issues have been identified in the traffic forecast selection.

Terminal costs overview

44 The nominal terminal costs are unchanged for the years 2020-2022, while decrease by -1.8% in 2023 (-0.8M€) and by -0.4% in 2024 (-0.2M€). The real terminal costs are unchanged for the years 2020-2022, while decrease by -4.8% in 2023 (-

1.8M€₂₀₁₇) and by -3.8% in 2024 (-1.4M€₂₀₁₇). Most of the real decrease of the cost base for the years 2023 and 2024 in the final performance plan including corrective measures can be attributed to the updated inflation rates.

45 In nominal terms, when considering the draft revised plan of 2022, the total costs were planned to increase by +17% (+6.2M€) between 2019 actuals and planned 2024. In the draft final performance plans including corrective measures the nominal costs are planned to increase by +16% (+6.1M€) between 2019 actuals and planned 2024. In real terms, when considering the draft revised plan of 2022, the total costs were planned to increase by +1.6% (+0.6M€₂₀₁₇) between 2019 actuals and planned 2024, while when considering the draft final performance plans including corrective measures, the total costs are planned to decrease by -2.3% (-0.8M€₂₀₁₇).

46 When analysing at entity level, skeyes decrease its nominal costs by -1.1% (-1.0M€) compared to the revised draft performance plan in the years 2023-2024, while increased NSA costs by +1.3% (+0.02M€).

47 At cost category level, staff costs increase in nominal terms by +2.2% (+1.4M€) compared to the revised draft performance plan in the years 2023-2024, while decreased for other operating costs (-8.6%, or -1.4M€), depreciation (-8.0%, or -0.5M€), and cost of capital (-15%, or -0.4M€).

48 The reasons of the changes in depreciation and cost of capital are the decrease in the net book value of fixed assets (-22% for the years 2023-2024), in line with the changes in the investment plans.

49 No major issues have been identified.

Determined unit cost (DUC) baselines

50 The 2019 cost baseline has been adjusted following a change in the cost allocation between terminal and en route, for both the draft revised performance plan of 2022 and the draft final performance plan including corrective measures (the values are unchanged).

51 The cost allocation between en route and terminal was subject of a Commission finding, and it is described more in detail in section 5.4 of this Annex.

3.2 Cost-efficiency terminal Luxembourg

52 The targets for the terminal cost-efficiency targets submitted by Luxembourg within the draft final performance plan including corrective measures have been revised downwards compared to the revised draft performance plan submitted in 2022:

- The terminal RP3 DUC trend is -2.3%, which is better than the en route RP3 DUC trend of -0.9%. The en route charging zone mentioned in this analysis is the Belgium-Luxembourg charging zone.
- The terminal RP3 DUC trend is -2.3%, which is worse than the terminal RP2 DUC trend of -5.2%.
- Luxembourg airport, the only airport included in the scope of the performance plan, had a DUC -61.7% lower than the average of its comparator group over RP2. The difference is expected to become -67.7% over RP3.

Terminal traffic forecasts overview

53 The draft final performance plan including corrective measures updated the terminal traffic forecast to the STATFOR March 2023 base forecast (i.e. the latest available).

54 In terms of terminal service units, the values included in the draft final performance plan decreased from 57.1K to 56.7K in 2023 (-0.7%), and increased from 59K to 60K in 2024 (+2.6%).

55 No major issues have been identified in the traffic forecast selection.

Terminal costs overview

56 The nominal terminal costs are unchanged in the draft final performance plan compared to the revised draft performance plan submitted in 2022.

57 The real terminal costs are unchanged for the years 2020-2022, while decrease by -0.6% in 2023 (-76K€₂₀₁₇) and by -1.5% in 2024 (-206K€₂₀₁₇). The decrease of the cost base in real terms for the years 2023 and 2024 in the draft final performance plan including corrective measures can be fully attributed to the updated inflation rates.

58 In real terms, when considering the draft revised plan of 2022, the total costs were planned to

increase by +4.0% (+0.5M€₂₀₁₇) between 2019 actuals and planned 2024, while when considering the draft final performance plans including corrective measures, the total costs are planned to increase by +2.4% (+0.3M€₂₀₁₇).

59 No major issues have been identified.

Determined unit cost (DUC) baselines

60 The 2019 cost baseline has been adjusted following a change in the cost allocation between terminal and en route, for both the draft revised performance plan of 2022 and the draft final performance plan including corrective measures (the values are unchanged)

4 DETAILED ASSESSMENT OF THE CORRECTIVE MEASURES

61 The PRB assessed the corrective measures defined by Belgium and Luxembourg in their draft final performance plans. This section:

- Presents a summary of the corrective measures defined by Belgium and Luxembourg;
- Presents a summary of the results of the compliance review, including the potential adjustments it identified to the cost base for the en route charging zone of Belgium and Luxembourg and for the terminal charging zone of Belgium;
- Assesses each of the corrective measures defined by Belgium and Luxembourg and whether these adequately take into account the results of the compliance review; and
- Presents the impact of the corrective measures of skeyes and MUAC compared to the draft revised plan of 2022 and verifies if the corrective measures lead to the reduction of the operating costs of both skeyes and MUAC.

4.1 Overview of the corrective measures for skeyes and MUAC for RP3

62 Belgium and Luxembourg have jointly set out corrective measures in the draft final performance

plan, resulting in revised cost-efficiency performance targets for the Belgium-Luxembourg *en route* charging zone.

- 63 Belgium and Luxembourg provided a common section 3.4.7 in their respective draft final performance plans including corrective measures, as well as a common Annex Z in which they provided a table with an overview of the cost reductions (“savings”) included for the en route charging zone (Table 4).
- 64 These reflect nine measures for skeyes and MUAC, including:
- The effects of the revision of traffic and inflation;
 - The revision of the determined costs for 2023 and 2024; and
 - The reimbursement to airspace users through negative exceptional items in the 2024 determined costs.

	2023		2024		RP4	
	M€	M€ ₂₀₁₇	M€	M€ ₂₀₁₇	M€	
1	Traffic and inflation	-7.3	-5.9	-14.2	-11.4	
2	MUAC inflation 2022			-9.6	-7.6	
3	MUAC inflation 2023	-7.0	-5.8			
4	Non executed investments skeyes – RP2 vs RP3			-5.6	-5.6	
5	Non executed investments MUAC – RP2 vs RP3			-2.1	-2.1	
6	Review of MUAC cost base 2024			-2.9	-2.4	
7	Review of MUAC sharing keys					-9.4
8	Review of skeyes cost base 2023 and 2024	-0.4	-4.6	0.7	-4.3	
9	Difference determined vs actual skeyes cost base 2022			-0.2	-0.12	
Total for the en route charging zone of Belgium-Luxembourg		-14.7	-16.3	-33.9	-33.5	-9.4

Table 4 – Corrective measures for the Belgium-Luxembourg en route charging zone as presented in Annex Z of the draft final performance plans including corrective measures of Belgium and Luxembourg.

4.2 Overview of the results of the compliance review for skeyes and MUAC

- 65 Belgium commissioned a compliance review of the performance of skeyes and MUAC. The review was carried out during the summer period of 2023, completed on 7th September 2023 and shared with the Commission.
- 66 The results of the review were then intended to be used by the NSAs to support the drafting of the revised draft final performance plans containing corrective measures.
- 67 The compliance review report presents 15 potential adjustments for the en route charging zone of Belgium-Luxembourg, eight for skeyes, and seven for MUAC (Table 5). The report also investigates the allocation of the approach costs between en route and terminal ANS for skeyes.

		2023		2024		RP4
		M€	M€ ₂₀₁₇	M€	M€ ₂₀₁₇	M€
Potential adjustments for MUAC						
1	Applied inflation for MUAC in 2022			-9.9	-8.1	
2	Applied inflation for MUAC in 2023			-6.4	-5.2	
3	Mechanical recovery between planned inflation and actual inflation			-1.8	-1.5	
4	Depreciation costs of investments RP2 to RP3			-2.0	-2.0	
5	Review of the cost base 2024			-2.6	-2.1	
6	MUAC cost sharing key revision					-9.1
7	Delegated airspace costs for France and Germany					-X.X
	MUAC total			-22.6	-18.9	-XX.X
Potential adjustments for skeyes						
8	Review of the cost base 2024	-5.5	-4.6	-5.2	-4.3	
9	Difference between determined cost 2022 and actual cost 2022			-0.4	-0.4	
10	Mechanical recovery between planned inflation and actual inflation			-3.1	-2.5	
11	Depreciation costs of investments RP2 to RP3			-5.1	-5.1	
12	Depreciation costs of investments RP2 to RP3 - Buffer			-0.5	-0.5	
13	Correction on capacity measure ATM Next Generation					
14	HR costs			-1.3	-1.1	
15	Costs of wages of ATCO in ab initio training			-2.2	-1.8	
	Skeyes total	-5.5	-4.6	-17.9	-15.7	-
Total for the en route charging zone of Belgium-Luxembourg		-5.5	-4.6	-40.5	-34.6	-XX.X

Table 5 – Potential adjustments for skeyes and MUAC proposed in the compliance review for the Belgium-Luxembourg en route charging zone as presented in Annex Z of the draft final performance plans including corrective measures of Belgium and Luxembourg.

4.3 Assessment of the corrective measures for skeyes and MUAC for RP3

68 The draft final performance plan presents nine corrective measures for the en route charging zone of Belgium-Luxembourg. This section provides, for each corrective measure as defined by Belgium and Luxembourg:

- The details of the figures and rationale as provided by Belgium and Luxembourg;
- The correspondence, if any, with potential adjustments presented in the compliance review report; and
- The PRB assessment of the measure.

Corrective measure 1 – Traffic and inflation

69 Belgium and Luxembourg explain in Annex Z to the draft final performance plan, that this item reflects the impact of the revision of the traffic forecast based on STATFOR March 2023 forecast, and of the inflation forecast based on the IMF April 2023 on the draft final performance plan compared to the draft revised plan submitted in 2022 (Table 6).

70 This item was not part of the potential adjustments listed in the compliance review report.

	2023		2024		RP4
	M€	M€ ₂₀₁₇	M€	M€ ₂₀₁₇	M€
C.M. #1	-7.3	-5.9	-14.3	-11.4	

Table 6 – Corrective measure 1 (C.M. #1) from Annex Z to the draft final performance plan including corrective measures.

71 The PRB considers that the update of the service units forecast and of the inflation forecast are not corrective measures *per se* as these updates constitute regulatory requirements to be applied when revising the cost-efficiency targets. Nevertheless, the PRB agrees that these updates contribute to improve the cost-efficiency targets for RP3 compared to the draft revised plan submitted in 2022.

72 The PRB was not able to verify the amounts presented in this measure by Belgium and Luxembourg, and has made its own computations for the effects on skeyes and MUAC (Table 7) and for the en route charging zone as a whole (including ANA and NSA/Eurocontrol, Table 8). The results are in both cases lower than those presented by Belgium and Luxembourg.

	2023		2024	
	M€	M€ ₂₀₁₇	M€	M€ ₂₀₁₇
Inflation effect	-8.4	-6.7	-9.0	-7.1
Traffic effect	4.3	3.5	-1.8	-1.5
Combined effect	-4.1	-3.3	-10.8	-8.5

Table 7 – Traffic and inflation effects for skeyes and MUAC (Source: PRB computation).

	2023		2024	
	M€	M€ ₂₀₁₇	M€	M€ ₂₀₁₇
Inflation effect	-8.6	-6.9	-9.2	-7.3
Traffic effect	4.7	3.8	-2.0	-1.6
Combined effect	-3.9	-3.1	-11.2	-8.9

Table 8 – Traffic and inflation effects for the en route charging zone, including ANA and NSA/Eurocontrol (Source: PRB computation).

Corrective measure 2 – MUAC inflation 2022

73 Belgium and Luxembourg explain in Annex Z to the draft final performance plan including corrective measures, that “when revising the performance plan in 2022, the MUAC cost base in nominal terms was adjusted to the inflation scenario used. As the amounts in the end were not necessary, they will be included in the 2024 cost base, excluding the elements subject to cost-exempt as an exceptional cost (minus)” (Table 9).

74 This measure is linked to potential adjustment #1 from the compliance review report.

	2023		2024		RP4
	M€	M€ ₂₀₁₇	M€	M€ ₂₀₁₇	M€
C.M. #2			-9.6	-7.6	
P.A. #1			-9.9	-8.1	

Table 9 – Corrective measure 2 (C.M. #2) from Annex Z to the draft final performance plan including corrective measures, potential adjustment (P.A. #1) from the compliance review report.

75 The compliance review report presents, in potential adjustment #1, the total difference between the actual and determined costs for MUAC in 2022 (which is mainly due to overestimated inflation) and suggests reimbursing this difference to airspace users through an exceptional cost reduction of the 2024 determined costs.

76 Corrective measure #2 presents slightly lower amounts than potential adjustment #1. The difference is due to the exclusion of the difference in

investment costs in measure #2, as this difference is already reimbursed to airspace users in the context of the costs exempt from cost-sharing for 2022. The PRB agrees with this correction made to avoid double-counting.

- 77 The PRB considers this measure appropriate and notes that its rationale is in line with the additional measures proposed by the Commission in annex to the Decision.
- 78 The PRB notes however that the 2022 inflation adjustment on the difference between actual and determined staff and other operating costs has not been considered by Belgium and Luxembourg as part of measure #2, although proposed as potential adjustment #3 from the compliance review report.
- 79 In the context of 2022 determined costs having been charged based on a non-consistent performance plan, the PRB considers that it would have been appropriate to reimburse airspace users also with the part of the 2022 inflation adjustment relating to the difference between the determined and actual costs for 2022.

Corrective measure 3 – MUAC inflation 2023

- 80 Belgium and Luxembourg explain in Annex Z to the draft final performance plan including corrective measures, that *“when revising the performance plan in 2022, the MUAC cost base in nominal terms was adjusted to the inflation scenario used. Based upon further assessment, the adjustment was overestimated. The 2023 cost base will correspondingly adjusted”* (Table 10).
- 81 This measure is linked to potential adjustment #2 from the compliance review report.

	2023		2024		RP4
	M€	M€ ₂₀₁₇	M€	M€ ₂₀₁₇	M€
C.M. #3	-7.0	-5.8			
P.A. #2			-6.4	-5.2	

Table 10 – Corrective measure 3 (C.M. #3) from Annex Z to the draft final performance plan including corrective measures, potential adjustment (P.A. #2) from the compliance review report.

- 82 During the compliance review, MUAC has provided the revised estimated costs figures for 2023 based on the actual costs recorded for the first semester of 2023. These revised costs are significantly lower than the determined costs presented by MUAC in the draft performance plan submitted

in 2022. The compliance review reports that the difference is due to an overestimation of the impact of inflation in the revised draft performance plan submitted in 2022 and proposes to deduct this difference from the 2024 determined costs.

- 83 In respect of the differences between corrective measure #3 and potential adjustment #2, the PRB considers that any downwards revision of the 2023 costs estimates should lead to a corresponding revision of the 2023 determined costs as proposed by Belgium and Luxembourg in corrective measure #3 instead of a reduction to the 2024 determined costs as considered in the compliance review as potential adjustment #2. The PRB observes that the difference in 2023 determined costs presented in measure #3 is larger than the figure computed by the compliance review in potential adjustment #2. The PRB also notes that the revised determined costs 2023 in nominal terms for MUAC are below the amounts reported in the MUAC budget dating from September 2022 because the draft final performance plan with corrective measures *“took into account savings identified during 2023 execution of the budget”*.

Corrective measure 4 – Non executed investments skeyes – RP2 vs RP3

- 84 Belgium and Luxembourg indicate in Annex Z to the draft final performance plan including corrective measures, that this measure addresses the specific issues b) raised by the Commission in the findings and conclusions contained in the Decision on corrective measures in respect of skeyes. They explain that *“on the basis of the results of the compliance review, it was found that some of the amounts included in the cost base for charging investments in RP3 were already provided for in RP2 (and not carried out or only partially carried out during RP2). In order to avoid double charging these amounts are being included in the 2024 determined cost base as a negative exceptional cost”*.
- 85 For skeyes, an amount of 5.1 M€ was identified, which could be reconciled with skeyes’ accounts. *“In addition, a buffer of 0.5M€ to cover potential higher costs related to depreciation and cost of capital during RP2 was identified. At that moment in time with the then applicable legislation the existence of this buffer was justified. However, since this buffer was not used, it was considered by the*

Belgian NSA that this amount should also be deducted from the 2024 cost base” (Table 11).

- 86 This measure is linked to potential adjustments #11 and #12 from the compliance review report.

	2023		2024		RP4
	M€	M€ ₂₀₁₇	M€	M€ ₂₀₁₇	M€
C.M. #4			-5.6	-5.6	
P.A. #11			-5.1	-5.1	
P.A. #12			-0.5	-0.5	

Table 11 – Corrective measure 4 (C.M. #4) from Annex Z to the draft final performance plan including corrective measures, potential adjustments (P.A. #11 and #12) from the compliance review report.

- 87 The PRB notes that the rationale for corrective measure #4 is in line with the additional measures proposed by the Commission in annex to the Decision and that the amounts presented in corrective measure #4 are the same as those reported in the compliance review as the sum potential adjustments #11 and #12.
- 88 However, the PRB observes that the reported amounts are not in line with the Decision (recital 48) and the PRB advice on the detailed examination of the performance targets of Belgium-Luxembourg.¹
- 89 In particular, the PRB observes that the amounts reported for corrective measure #4 reflect a much lower difference in depreciation costs than recorded in the en route reporting tables and does not include any cost of capital related to the fixed assets.
- 90 The PRB understands that the investments which were planned for RP2 but have been cancelled are not considered in corrective measure #4. Should this be confirmed, airspace users were charged for these investments while not getting the expected benefits. The PRB considers that further verifications should be made by the Belgian NSA in this respect and lead to a further reimbursement to airspace users if applicable.
- 91 The PRB also considers that, in order to avoid any double charging of the unrealised investment costs in RP2, the cost of capital charged to airspace users in relation to the investments delayed

or postponed to RP3, as well as the inflation adjustment incurred in RP2 on both the depreciation and cost of capital relating to these investments should also be reflected in the amounts to be reimbursed to airspace users. The PRB considers that further verifications should be made by the Belgian NSA in this respect and lead to a further reimbursement to airspace users if applicable.

- 92 Finally, skyes included a buffer for the depreciation costs in RP2 in case the investment is higher than expected. It is not clear whether this buffer of 0.5M€ was include in each year of RP2 or as a total over the five years of RP2. The PRB considers that further verifications should be made by the Belgian NSA in this respect and lead to a further reimbursement to airspace users if applicable.

Corrective measure 5 – Non executed investments MUAC – RP2 vs RP4

- 93 Belgium and Luxembourg indicate in Annex Z to the draft final performance plans including corrective measures, that this measure addresses the specific issues b) raised by the Commission in the findings and conclusions contained in the Decision on corrective, as is the case for skyes (corrective measure 4). They explain that, for MUAC related to Belgium according to the used sharing keys, an amount of 2.0M€ was identified, which could be reconciled with their accounts. The amount identified for MUAC Luxembourg is 0.1M€ (Table 12).
- 94 This measure is linked to potential adjustments #4 from the compliance review report.

	2023		2024		RP4
	M€	M€ ₂₀₁₇	M€	M€ ₂₀₁₇	M€
C.M. #5			-2.1	-2.1	
P.A. #4			-2.0	-2.0	

Table 12 – Corrective measure 5 (C.M. #5) from Annex Z to the draft final performance plan including corrective measures, potential adjustment (P.A. #4) from the compliance review report.

- 95 In respect of the amounts of measure #5, the difference with the potential adjustment #4 from the compliance review report is due to the fact that the compliance review only considered the costs for MUAC Belgium and omitted to consider the costs for MUAC Luxembourg

¹ PRB advice on the detailed examination of the performance targets in the revised draft performance plan of Belgium-Luxembourg (en route cost-efficiency targets)

96 The rationale for corrective measure #5 is in line with the additional measures proposed by the Commission in annex to the Decision and the PRB observes that the reported amounts are in line with the Decision (recital 48) and the PRB advice on the detailed examination of the performance targets of Belgium-Luxembourg.

97 The PRB considers however that, in order to avoid any double-charging of the unrealised investment costs in RP2, the inflation adjustment incurred in RP2 on both the depreciation and cost of capital relating to these investments should be reflected in the amounts to be reimbursed to airspace users. The PRB considers that further verifications should be made in this respect by the NSAs concerned and lead to a further reimbursement to airspace users if applicable.

Corrective measure 6 – Review of MUAC cost base 2024

98 Belgium and Luxembourg indicate in Annex Z to the draft final performance plan including corrective measures for corrective measure #6 that, “based upon further assessment, the cost base of MUAC was revised downwards” (Table 13).

99 This measure is linked to potential adjustment #5 from the compliance review report.

	2023		2024		RP4
	M€	M€ ₂₀₁₇	M€	M€ ₂₀₁₇	M€
C.M. #6			-2.9	-2.4	
P.A. #5			-2.6	-2.1	

Table 13 – Corrective measure 6 (C.M. #6) from Annex Z to the revised draft performance plan, potential adjustment (P.A. #5) from the compliance review report.

100 During the compliance review, MUAC has provided revised estimated costs figures for 2024. These revised costs were lower than the determined costs presented by MUAC in the revised draft performance plan submitted in 2022. The difference was due to an overestimation of the impact of inflation in the revised draft performance plan submitted in 2022 and it was proposed to deduct this difference from the 2024 determined costs.

101 The difference in 2024 determined costs presented in measure #6 is larger than the figure computed by the compliance review in potential adjustment #5. The PRB notes that, for 2024, the revised amounts in nominal terms reflect exactly

the amounts included in the latest available MUAC budget prepared in September 2023.

Corrective measure 7 – Review of MUAC sharing keys

102 Belgium and Luxembourg indicate in Annex Z to the draft final performance plan including corrective measures for corrective measure #6 that “an agreement in principle was concluded on the revision of the sharing key in relation to the costs of MUAC. This agreement will enter into force after RP3 and therefore has no effect on the RP3 cost base. The amount included is the application of the newly estimated sharing key (based upon 2019 data) and gives an accurate estimate on the effect of the sharing key” (Table 14).

103 This measure is linked to potential adjustments #6 from the compliance review report.

	2023		2024		RP4
	M€	M€ ₂₀₁₇	M€	M€ ₂₀₁₇	M€
C.M. #7					-9.4
P.A. #6					-9.1

Table 14 – Corrective measure 7 (C.M. #7) from Annex Z to the draft final performance plan including corrective measures, potential adjustment (P.A. #6) from the compliance review report.

104 The amount reported by the compliance review reflects an estimated impact of the revised keys on the RP4 costs for the Belgium-Luxembourg en route charging zone but presents only the amounts in respect of MUAC Belgium (and not MUAC Luxembourg).

105 The PRB notes that discussions are still on-going in respect of the MUAC allocation keys and that the revision will not result in changes in costs for MUAC overall but is likely to lead to a lower proportion of the MUAC costs being allocated to the Belgium-Luxembourg en route charging zone beyond RP3.

Corrective measure 8 – Review of skeyes cost base 2023 and 2024

106 Belgium and Luxembourg indicate in Annex Z to the draft final performance plan including corrective measures for corrective measure #8 that, “based upon further assessment, the cost base of skeyes was revised downwards”. They further explain that “there is a rise in nominal terms due to automatic indexation of wages. In real terms though a decrease can be identified” (Table 15).

107 This measure is linked to potential adjustment #8 from the compliance review report.

	2023		2024		RP4
	M€	M€ ₂₀₁₇	M€	M€ ₂₀₁₇	M€
C.M. #8	-0.4	-4.6	+0.7	-4.3	
P.A. #8	-5.5	-4.6	-5.2	-4.3	

Table 15 – Corrective measure 8 (C.M. #8) from Annex Z to the draft final performance plan including corrective measures, potential adjustment (P.A. #8) from the compliance review report.

108 The PRB observes that potential adjustment #8 includes values for both 2023 and 2024, although referencing only 2024.

109 The PRB considers that any downwards revision of the 2023 and 2024 costs estimates should indeed lead to a corresponding revision of the determined costs of the respective years.

110 The PRB understands that the difference between the values in nominal terms for corrective measure #8 and potential adjustment #8 is due to an incorrect conversion of the real term values into nominal values in potential adjustment #8.

Corrective measure 9 – Difference determined vs actual skyes cost base 2022

111 Belgium and Luxembourg explain in Annex Z to the draft final performance plan including corrective measures, that “the difference between the 2022 determined and actual costs excluding the elements subject to cost-exempt will be included in the 2024 cost base as an exceptional cost (minus)” (Table 16).

112 This measure is linked to potential adjustment #9 from the compliance review report.

	2023		2024		RP4
	M€	M€ ₂₀₁₇	M€	M€ ₂₀₁₇	M€
C.M. #9			-0.2	-0.1	
P.A. #9			-0.4	-0.4	

Table 16 – Corrective measure 9 (C.M. #9) from Annex Z to the draft final performance plan including corrective measures, potential adjustment (P.A. #9) from the compliance review report.

113 The compliance review report presents the total difference between the actual and determined costs for skyes in 2022 and suggests reimbursing this difference to airspace users through an

exceptional cost reduction of the 2024 determined costs.

114 In respect of the amounts of measure #9, the difference with the potential adjustment #9 from the compliance review report is due to the exclusion of the difference in investment costs in measure #9, as this difference is already reimbursed to airspace users in the context of the costs exempt from cost-sharing for 2022. The PRB agrees with this correction made to avoid double-counting.

115 The PRB considers this measure appropriate and notes that its rationale is in line with the additional measures proposed by the Commission in annex to the Decision.

116 The PRB notes, however, that the 2022 inflation adjustment on the difference between actual and determined staff and other operating costs has not been considered by Belgium and Luxembourg as part of measure #9, although proposed as potential adjustment #10 from the compliance review report.

117 In the context of 2022 determined costs having been charged on the basis of a non-consistent performance plan, the PRB finds that it would have been appropriate to reimburse airspace users also with the part of the 2022 inflation adjustment relating to the difference between the determined and actual costs for 2022.

Potential adjustments identified in the compliance review which are not considered in the corrective measures defined by Belgium and Luxembourg

118 The following potential adjustments from the compliance review report have not been considered in the corrective measures defined by Belgium and Luxembourg in their final draft performance plans including corrective measures:

- Potential adjustment #3 – Mechanical recovery between planned inflation and actual inflation for MUAC in 2022;
- Potential adjustment #7 - Delegated airspace costs for France and Germany for MUAC (effects from RP4);
- Potential adjustment #10 - Mechanical recovery between planned inflation and actual inflation for skyes in 2022;
- Potential adjustment #13 - Correction on capacity measure ATM Next Generation;
- Potential adjustment #14 - HR costs; and

- Potential adjustment #15 – Costs of wages of ATCO in ab initio training.
- 119 In respect of potential adjustments #3 and #10, the compliance review report suggests deducting the inflation adjustment incurred in 2022 for MUAC and skeyes from the 2024 determined costs.
- 120 The PRB considers that, in the context of 2022 determined costs having been charged on the basis of a non-consistent performance plan, it would be appropriate to reimburse airspace users with the part of the 2022 inflation adjustment which was calculated on determined costs which have not been realised (and not on the full inflation adjustment to avoid some double-countings with corrective measures #2 and #9).
- 121 In respect of potential adjustment #7, the compliance review gave estimates of the potential impact on the Belgium-Luxembourg en route cost base of financial agreements with France on the delegated ATS in the PINOT sector and with Germany on the delegated ATS in the BITBU and KOSIT sectors. The compliance review indicates that there is currently no agreement between MUAC and France and Germany on the matter, and that the likelihood of such an agreement being concluded before the end of RP3 is assessed by MUAC as small. In Annex Z, these amounts are not shared by Belgium and Luxembourg as “*subject to negotiation with other parties*”.
- 122 The PRB recommends that financing arrangements be concluded for the costs incurred for services provided in cross-border areas in line with the SES regulations.
- 123 In respect of potential adjustments #13 and #15, the compliance review identified two possible adjustments to ‘capacity-related measures’ that would justify a deviation of the cost-efficiency targets from the Union-wide targets.
- 124 Potential adjustments #13 relates to ‘capacity-related measure’ 2, however, the compliance review was not able to assess the information received from skeyes and therefore did not include any amount in the list of potential corrections. Belgium and Luxembourg indicate in Annex Z that the amounts of potential adjustment #13 are not shared because they are “*subject to negotiation with other parties*” but have nevertheless proposed a revision of the ‘capacity-related measure’ 2.
- 125 Potential adjustments #15 relates to ‘capacity-related measure’ 1, where the compliance review found that the salary costs of the ab initios (which receive compensation during their training) were not included although these costs are an essential part of the overall training costs. The compliance review proposed to add a difference of 2.2M€ to the costs of the ‘capacity-related measure’ 1. The PRB has reviewed the justifications provided and considers it appropriate to include the salaries of ab initio ATCOs in the training costs for new ATCOs. The upwards revision of the amounts relating to ‘capacity-related measure’ 1 reported in the draft final performance plan including corrective measures is slightly higher than that presented in potential adjustment #15 and amount to 2.4M€.
- 126 In respect of potential adjustment #14, Belgium and Luxembourg indicate in annex Z that it was not reflected in the draft final performance plan including corrective measures “given that this measure was subject to social negotiations with uncertain results”. The PRB considers that further verifications should be made by the Belgian NSA in respect of these “HR costs” and may lead to a further reimbursement to airspace users if applicable.
- 4.4 Impact of the corrective measures on the determined costs of skeyes and MUAC**
- 127 In summary, the corrective measures relating to skeyes and MUAC as assessed above include:
- A downwards revision of the en route cost bases for 2023 and 2024, including the effect of the revision of the inflation indexes;
 - Exceptional measures intended to further decrease the 2024 determined costs and to address specific issues from the findings; and
 - The impact of the revision of the traffic forecast.
- Skeyes**
- 128 According to the PRB analysis, the corrective measures defined for skeyes represent a decrease of -2.4M€₂₀₁₇, for 2023 (or -1.8%) compared to the revised draft performance plan submitted in 2022 and of -9.5M€₂₀₁₇ for 2024 (or -7.1%), Table 17.

- 129 The 2023 measures reflect a downward revision of the determined costs by -4.6M€₂₀₁₇ (-3.4%), partly compensated by the downwards revision of the service units forecast in line with STATFOR's base-line scenario of March 2023 of +2.2M€₂₀₁₇.
- 130 The 2024 measures reflect a downward revision of the determined costs by -8.6M€₂₀₁₇ (-6.4%), corresponding to a reduction of the existing cost-base by -4.0M€₂₀₁₇ (-3.0%) and new exceptional items representing -4.6M€₂₀₁₇. The traffic effect due to the upwards revision of the service units forecast in line with STATFOR's baseline scenario of March 2023 represents -0.9M€₂₀₁₇.
- 131 Within the cost base review, skeyes presents a decrease in en route determined operating costs by -4.3M€₂₀₁₇ in 2023 (-3.2%) and -3.5M€₂₀₁₇ in 2024 (-2.6%).

Skeyes	2023	2024
Total cost base review	-4.6	-4.0
<i>Of which Staff costs</i>	-2.3	0.2
<i>Other operating costs</i>	-2.0	-3.7
<i>Depreciation</i>	0.2	-0.1
<i>Cost of capital</i>	-0.5	-0.7
<i>Exceptional items</i>		0.2
New exceptional items		-4.6
<i>Of which RP2 unspent capex</i>		-4.4
<i>2022 regulatory result</i>		-0.1
Impact of the revision of determined costs	-4.6	-8.6
Impact of the revision of service units	2.2	-0.9
Total impact vs. the revised draft performance plan of 2022	-2.4	-9.5
Total impact in % of the determined costs from the revised draft performance plan of 2022	-1.8%	-7.1%

Table 17 – Impact of the corrective measures on the determined costs for skeyes in RP3 in M€₂₀₁₇ compared to the performance plan submitted in 2022 (PRB elaboration on the basis of the en route reporting tables).

MUAC

- 132 The corrective measures defined for MUAC represent a decrease of -7.0M€₂₀₁₇, for 2023 (or -9.4%)

compared to the revised draft performance plan submitted in 2022 and of -14.8M€₂₀₁₇ for 2024 (or -20%), Table 18.

- 133 The 2023 measures reflect a downward revision of the determined costs by -8.2M€₂₀₁₇ (-11%), partly compensated by the downwards revision of the service units forecast, in line with STATFOR's base-line scenario of March 2023 of +1.2M€₂₀₁₇.
- 134 The 2024 measures for MUAC reflect a downward revision of the determined costs by -14.2M€₂₀₁₇ (-19%), corresponding to a reduction of the existing cost-base by -5.0M€₂₀₁₇ (-6.7%) and new exceptional items representing 9.2M€₂₀₁₇. The traffic effect due to the upwards revision of the service units forecast, in line with STATFOR's baseline scenario of March 2023 represents -0.5M€₂₀₁₇.
- 135 Within the cost base review, MUAC presents a decrease in en route determined operating costs by -7.7M€₂₀₁₇ in 2023 (-10%) and -4.7M€₂₀₁₇ in 2024 (-6.2%).

MUAC	2023	2024
Total cost base review	-8.2	-5.0
<i>Of which Staff costs</i>	-6.9	-4.8
<i>Other operating costs</i>	-0.9	0.2
<i>Depreciation</i>	-0.5	-0.5
<i>Cost of capital</i>	-0.02	0.1
<i>Exceptional items</i>		
New exceptional items		-9.2
<i>Of which RP2 unspent capex</i>		-1.6
<i>2022 regulatory result</i>		-7.6
Impact of the revision of determined costs	-8.2	-14.2
Impact of the revision of service units	1.2	-0.5
Total impact vs. the revised draft performance plan of 2022	-7.0	-14.8
Total impact in % of the determined costs from the revised draft performance plan of 2022	-9.4%	-20%

Table 18 – Impact of the corrective measures on the determined costs for MUAC in RP3 in M€₂₀₁₇ compared to the performance plan submitted in 2022 (PRB elaboration on the basis of the en route reporting tables).

5 REPLIES OF BELGIUM AND LUXEMBOURG ADDRESSING THE SPECIFIC ISSUES RAISED BY THE COMMISSION

136 Belgium and Luxembourg provided replies addressing the specific issues raised by the Commission in the findings and conclusions contained in the Decision on corrective measures. These are provided at Annex Z of both national draft final performance plans including corrective measures.

137 Belgium and Luxembourg clarified that the results of the compliance review are taken into account in those replies.

138 This section presents a summary and quotes of the replies provided, as well as the PRB opinion on the topics.

5.1 *Incorrect application of the respective legal provisions governing traffic risk sharing, cost risk sharing and incentive schemes in respect of MUAC*

139 This topic refers to the findings described in recitals (46) and (47) of the Decision on corrective measures.

140 The replies from Belgium and Luxembourg indicate that both States “recognize that due to the nature of MUAC it is not possible to apply the traffic risk sharing, cost risk sharing and incentive mechanisms in a direct way”. They “do however consider that these effects can be enforced in an indirect way via the Member States who decide on the budget and strategies in the governing bodies of MUAC”. Belgium and Luxembourg further explain that, currently, “the contribution of MUAC is paid by skeyes who receives the corresponding charges in return from the CRCO”, based upon article 204 of the Belgian law of 29 December 1990 containing social provisions (text only available in French or Dutch).

141 Belgium and Luxembourg recognise that “the current arrangement might create unwanted effects on the cost base of skeyes” and indicate that “two directions are investigated today:

- A change at MUAC level requiring the agreement of the 4 MUAC states that might take some times
- A change at the national level

Belgium, which chairs the MDMB, will put this subject on the agenda of this organization with the target to plan the needed works.

At the national level, Belgium is taking the opportunity of the discussions with skeyes on the renewal of the management contract of skeyes with the Belgian state to investigate the different possibilities: A mechanism allowing to isolate the incentive bonus/malus of MUAC from skeyes cost base is studied. However, in the absence of changes at MUAC level, MUAC would remain exempt from traffic risk sharing and financial incentives”.

142 The PRB notes the replies from Belgium and Luxembourg and urges the MUAC States to address this issue as soon as possible, as the current arrangements lead to a situation where MUAC operates under a full cost recovery system and does not bear the financial risks and/or benefits stemming from the different incentives mechanisms of the Regulation. The arrangements between the MUAC Member States do not reflect the principles of the Regulation and may even lead to a situation contradictory to the objectives of performance and charging scheme.

5.2 *Requested verification by the NSAs that the costs charged in RP2 for the cancelled and delayed investments in fixed assets are not double-charged to airspace users in the event that those investments materialize at later stage*

143 This topic refers to the findings described in recitals (48) and (49) of the Decision on corrective measures.

144 The reply from Belgium and Luxembourg states that “on the basis of the results of the compliance review, it was found that some of the amounts included in the cost base for charging investments in RP3 were already provided for in RP2 (and not carried out or only partially carried out during RP2). In order to avoid double charging these amounts are being included in the 2024 determined cost base as a negative exceptional cost”.

145 The reply further clarifies that *“for skeyes, an amount of 5.120.957,02 euros was identified, which could be reconciled with their accounts. In addition, a buffer of 500.000 euros to cover potential higher costs related to depreciation and cost of capital during RP2 was identified. At that moment in time with the then applicable legislation the existence of this buffer was justified. However, since this buffer was not used, it was considered by the Belgian NSA that this amount should also be deducted from the 2024 cost base”*.

146 *“For the cost-efficiency-part of MUAC related to Belgium according to the then used sharing keys, an amount of 2.012.900 euros was identified, which could be reconciled with their accounts. The amount identified for MUAC Luxembourg is 62.262 euros”*.

147 The PRB notes that the corrective measures include reimbursements in respect of unspent amounts related to RP2 investments but observes that the amounts considered pose questions (measures 4 and 5, previous section).

148 The PRB also notes that no reimbursement of unspent amounts has been considered for skeyes in the terminal charging zone for Belgium.

149 The PRB considers that further verifications should be made in this respect by the NSAs concerned and lead to further reimbursements to air-space users if applicable.

5.3 *Incorrect financing arrangements for the costs incurred for services provided in cross-border areas*

150 This topic refers to the findings described in recitals (56) to (62) of the Decision on corrective measures.

151 The reply from Belgium and Luxembourg points out that *“it is not possible to resolve this item alone. International negotiations are needed and take time to come to an agreement. First steps have been initiated but will likely not be resolved before the end of RP3”*.

152 The PRB notes the reply from Belgium and Luxembourg and is concerned that it provides no details on the first steps which have been taken.

5.4 *Incorrect allocation of the approach costs between en route and terminal air navigation services in respect of skeyes*

153 This topic refers to the findings described in recitals (63) to (67) of the Decision on corrective measures.

154 Belgium and Luxembourg report that *“the cost allocation model was (again, after verification by an independent consultant on request of skeyes, as well as after verification of the Belgian NSA) verified during the compliance review. It was concluded that no inconsistencies which would be in contradiction with the applicable legislation were found and that the methodology was transparent, auditable and based upon principles which were consistently applied. Belgium therefore will not change the currently applied cost allocation methodology”*.

155 The PRB notes that the conclusions from the compliance review are essentially based on some sample analyses and on the conclusions from the previous audits, which would give no reason to believe that the allocation of costs would not be carried out in accordance with the rules in force. The Compliance review also pointed out that a detailed analysis should be carried out by independent experts with sufficient knowledge of ATS and able to assess the allocation of staff and systems for the end products en route and terminal. The compliance review also stated that the rationale for allocating approach costs to en route should be confirmed by independent experts, including the potential impact on the baseline values. In respect of the allocation of approach costs to en route, the compliance review noted that they were informed that the same reasoning is applied in four other Member States.

156 On the basis of the above, the PRB considers that further more in-depth analysis is needed on the topic.

5.5 *Lack of adequate justifications for excessive terminal cost-efficiency targets of Belgium*

157 This topic refers to the findings described in recitals (125), (126) and (127) of the Decision on corrective measures.

158 The replies from Belgium and Luxembourg state that *“based upon the revision of the performance plan, the cost base for Brussels Airport (EBBR*

Terminal Charging zone) will be revised downwards with 780K for 2023 and 185K for 2024. In addition, we want to reiterate that the finding of the Commission does not take into account annual subsidy of +/- 25% granted via Royal Decree to the EBBR terminal charging zone. While we recognize this is not a cost reduction, if this subsidy would be taken into account, the Determined Unit Cost would only be +/- 16% over the median, and not 55% as described in the decision of the Commission”.

- 159 The PRB notes that the determined costs for the terminal charging zone of Belgium (EBBR terminal charging zone) have been revised downwards in the draft final performance plain containing corrective measures.

5.6 *Incorrect level of the maximum financial disadvantages in the incentive schemes of Belgium and Luxembourg supporting the achievement of en route and terminal capacity targets*

- 160 This topic refers to the findings described in recitals (128) and (129) of the Decision on corrective measures.

- 161 Belgium and Luxembourg indicate in their replies that the performance and charging Regulation “allows for a maximum financial advantage which can be set at a lower level than 1%”, and that no written argumentation was provided to support the statement from the Commission that “the material impact on the revenue at risk is insufficient”. Belgium and Luxembourg “consider the current malus as having sufficient material impact based upon the fact that the current traffic situation is still not normalized and that the revision of the performance plan resulting in cost reductions put additional pressure on the cost base of the service providers subject to the incentive schemes”.

- 162 The PRB notes that Belgium and Luxembourg have not revised the level of the maximum financial disadvantages stemming from the incentive schemes in their draft final performance plans including corrective measures, which remains at 0.5% of the determined costs for both skeyes and MUAC.

- 163 In respect of the materiality of the level of the financial disadvantages, the PRB would like to point

out, as an example, that for the en route incentive scheme defined for skeyes in the draft final performance plan including corrective measures, the maximum penalty that skeyes would incur at the threshold amounts to 28€ per minute of additional delay in 2023, and to 27€ per minute in 2024². Considering that the cost of a minute of delay is estimated at 100€ per minute of delay, the PRB considers that such incentive scheme as defined by Belgium and Luxembourg shows a disbalance between the penalties incurred by the ANSP and those incurred by airspace users in case of ANSP poor capacity performance.

² Based on the forecast number of flights controlled by skeyes under the STAFOR March 2023 base forecast.