

L.N. 386 of 2002**EUROCONTROL ACT
(CAP. 333)****Civil Aviation (Route Charges for Navigation Services)
Regulations, 2002**

IN exercise of the powers conferred by article 6 of the Eurocontrol Act, the Minister for Transport and Communications, with the concurrence of the Minister of Finance, has made the following regulations:

1. (1) The title of these regulations is the Civil Aviation (Route Charges for Navigation Services) Regulations, 2002. Citation and Commencement.

(2) These regulations shall come into force on the 1st January, 2003.

2. (1) In these regulations, unless the context otherwise requires: Interpretation

“FIR” means “Flight information Region”;

“Malta AIP” means a document in force in Malta at the date of the making of these regulations entitled “Malta Aeronautical Information Publication” or “Malta AIP” and published by the Department of Civil Aviation;

“Eurocontrol” has the same meaning assigned to it by the Eurocontrol Act;

“IFR” means Instrument Flight Rules;

“Specified Airspace” means the airspace of the Malta Flight Information Region as described in the Malta AIP.

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Charge to be paid to
Eurocontrol.

(2) Expressions used in these regulations shall, unless the context otherwise requires, have the same respective meanings as in the Air Navigation Order, 1990.

3. (1) Subject to the provisions of these regulations, the operator of an aircraft shall pay to Eurocontrol a route charge, hereinafter referred to as "the charge", in respect of IFR flights performed by his aircraft in the specified airspace in accordance with the procedures laid down in application of the Standards and Recommended Practices of the International Civil Aviation Organization.

(2) The charge shall constitute remuneration for the costs incurred by Malta Air Traffic Services Limited in respect of en route air navigation facilities and services and the operation of the Route Charges System, and for the costs incurred by EUROCONTROL in operating the System.

(3) EUROCONTROL shall assess and collect the charge due and reimburse Malta Air Traffic Services Limited in accordance with the applicable rules.

(4) If Eurocontrol is unable, after taking reasonable steps, to ascertain who is the operator, it may give notice to the owner of the aircraft that it will treat him as the operator until he establishes to the reasonable satisfaction of Eurocontrol that some other person is the operator; and from the time when the notice is given Eurocontrol shall be entitled, for so long as the owner is unable to establish as aforesaid that some other person is the operator, to treat the owner as if he were the operator, and for that purpose the provisions of these regulations other than this sub-regulation, shall apply to the owner of the aircraft.

Calculation of the
charge.

4. (1) The charge shall be calculated in Euro according to the following formula:-

$$r = n \times u$$

where r is the charge for the flight, n is the number of service units relating to that flight and u is the appropriate unit rate specified in column 3 of the First Schedule to these regulations. The unit rate of charge shall be re-calculated monthly by applying the average monthly rate of exchange between the Euro and the national currency for the month preceding the month during which the flight takes place. The exchange rate applied shall be the monthly average of the "Closing Cross Rate" calculated by Reuters based on daily BID rate.

(2) For the purpose of the preceding sub-regulation, the number of Service units relating to a flight shall be calculated in accordance with the the following formula:-

$$n = d \times p$$

where d is the distance factor for the flight in the specified airspace and p is the weight factor for the aircraft concerned.

(3) For the purposes of the preceding sub-regulation, the distance factor (d) shall be obtained by dividing by one hundred (100) the number of kilometres in the great circle distance between:

- the aerodrome of departure within, or the point of entry into, the specified airspace

and

- the aerodrome of first destination within, or the point of exit from, that airspace.

The aforesaid entry and exit points shall be the points at which the lateral limits of the specified airspace are crossed by the route described in the flight plan. This flight plan incorporates any changes made by the operator to the flight plan initially filed as well as any changes approved by the operator resulting from air traffic flow management measures.

However, for flights terminating at the aerodrome from which the aircraft has taken off and during which no intermediate landing has been made (circular flights), and for which the one most distant point from the aerodrome lies within the specified airspace, the distance factor shall be obtained by dividing by one hundred (100) the number of kilometres in the great circle distance between:

- the aerodrome within, or the point of entry into, the specified airspace,

and

- the most distant point from the aerodrome

plus

the number of kilometres in the great circle distance between:

- the most distant point from the aerodrome

and

- the aerodrome within, or the point of exit from, that airspace.

The distance to be taken into account shall be reduced by twenty (20) kilometres for each landing and take-off in the specified airspace and shall be expressed to two decimal places.

(4) For the purposes of the preceding sub-regulation, the weight factor (p) shall be the square root of the quotient obtained by dividing by fifty (50) the number of metric tons in the maximum certificated take-off weight of the aircraft as shown in the certificate of airworthiness, the flight manual or any other equivalent official document and shall be expressed to two decimal places.

Where the maximum certificated take-off weight of the aircraft is not known to the bodies responsible for the collection of the charge, the weight factor shall be calculated by taking the heaviest aircraft of the same type known to exist.

Where an aircraft has multiple certificated maximum take-off weights, the weight factor shall be established on the basis of the highest maximum take-off weight authorised for the aircraft by its State of registration.

Where an operator has indicated to the bodies for the collection of the charge that he operates two or more aircraft which are different versions of the same type, the average of the maximum take-off weights of all his aircraft of that type shall be taken for the calculation of the weight factor for each aircraft of that type. The calculation of this factor per aircraft type and per operator shall be effected at least once a year.

Payment.

5. (1) The amount of the charge shall be payable to Eurocontrol at its principal office in Brussels and shall be paid in Euro.

(2) The amount of the charge is due on the date of the performance of flight. The latest value date by which payment is to be received by Eurocontrol shall be shown on the bill and shall be 30 days from the date of the bill.

(3) Payment shall be deemed to have been received by Eurocontrol on the value date on which the amount due is credited into a designated account of Eurocontrol. The value date shall be the date on which Eurocontrol can use the funds.

(4) Any charge which has not been paid by the latest date for payment shall be increased by the addition thereto of interest at the rate specified in the Second Schedule to these regulations. Such interest, entitled Interest on Late Payment, shall be simple interest calculated from day to day on the unpaid overdue amount, and shall be calculated and billed in Euro.

(5) Where a charge remains unpaid, measures may be taken to enforce recovery.

(6) Without prejudice to any existing rule of law relating to the payment, under an order of the court, of a debt expressed in foreign currency, the equivalent of the charge may be recovered in Maltese Liri in any court of competent jurisdiction in Malta.

(7) EUROCONTROL shall consider payment into the accounts opened in its name with banking establishments in Malta designated by the competent bodies of the Route Charges System as a discharge of the payer's liability.

(8) Any aircraft operator who is a national of Malta may, whenever payment is made by him into a designated banking establishment situated in Malta, discharge the debt in Maltese currency.

(9) Where an aircraft operator avails himself of the facility referred to in the foregoing paragraph, the conversion into Maltese currency of the euro amount shall be effected at the daily exchange rate used in Malta for commercial transactions for the value date.

6. (1) Claims against bills must be submitted to Eurocontrol in writing or by an electronic medium previously approved by Eurocontrol. They must be detailed and should be accompanied by any relevant supporting evidence. Claims.

(2) The latest date by which claims must be received by Eurocontrol shall be shown on the bill and is sixty days from the date of the bill. The date of submission of claims shall be the date on which the claims are received by Eurocontrol.

(3) Submission of a claim by a user shall not entitle him to make any deduction from the relevant bill unless so authorised by Eurocontrol and no compensation payments shall be effected without Eurocontrol's prior agreement where Eurocontrol and a user are mutually debtor and creditor.

Exempt flights.

7. These regulations shall not apply to the following flights:-

(1) flights by military aircraft of any State;

(2) flights authorised by a competent Search and Rescue body for search and rescue operations;

(3) flights performed under Visual Flight Rules; mixed Visual Flight Rules/Instrument Flight Rules flights shall be exempted only if the part of the flight in the specified airspace is performed exclusively under Visual Flight Rules;

(4) flights performed exclusively for the transport, on official mission, of the reigning Monarch and his/her immediate family, Heads of State, Heads of Government, and Government Ministers. In all cases, this must be substantiated by the appropriate status indicator on the flight plan;

(5) training flights performed exclusively for the purpose of obtaining a licence, or a rating in the case of cockpit flight crew, and where this is substantiated by an appropriate remark on the flight plan. Flights must be performed solely within the specified airspace and must not serve for the transport of passengers and/or cargo, nor for positioning or ferrying of the aircraft;

(6) flights performed by aircraft of which the Maximum Take-Off Weight Authorised is less than two metric tons.

Revocation.

8. The Civil Aviation (Route Charges for Navigation Services) Regulations, 1989 shall be revoked.

FIRST SCHEDULE

(Regulation 4(1))

(1)	(2)	(3)	(4)
Country	Publication in which FIR is described	Unit rate in Euro	Established at the average November 2002 rate of exchange of
Malta	Malta AIP	36.60	EUR 1 = Lm0.411914

SECOND SCHEDULE

(Regulation 5(4))

The rate of interest on late payment shall be 8.43 per cent per annum.

