



*"[air navigation control, [...] is a task involving the exercise of public authority and is not of an economic nature, since that activity constitutes a service in the public interest which is intended to protect both the users of air transport and the populations affected by aircraft flying over them".  
(Extract of decision C.364/92 of the European Court of Justice).*

[www.atceuc.org](http://www.atceuc.org)    [secretariat@atceuc.org](mailto:secretariat@atceuc.org)

## **OPEN LETTER ON THE FUTURE OF THE SINGLE EUROPEAN SKY**

Dear European Commissioners

Dear Members of the TRAN Committee of the European Parliament

In its **Vision for the future of the Single European Sky** issued on July 2<sup>nd</sup> 2019, the Industrial Consultation Body (ICB) reports, as first principle to achieve the ambitious Vision:

*"Safety underpinned by Just Culture:*

*Safety will continue to be the industry's priority and will be underpinned by a Just Culture enabling a positive and proactive approach to safety, which will be integrated into how business is done".<sup>1</sup>*

This because: *"Safety and Just Culture are underlying principles of aviation and safety will always have primacy over all the other goals and principles. Safety is a core part of normal, every-day activities."<sup>2</sup>*

This is only the last official document where Just Culture is reported as a key enabler for the future European ATM system.

In **REGULATION (EU) No 376/2014** it is written that *"Experience has shown that accidents are often preceded by safety-related incidents and deficiencies revealing the existence of safety hazards. Safety information*

<sup>1</sup> ICB Vision for a Single European Sky (2nd edition), pag. 5.

<sup>2</sup> Ibid.

ATCEUC ASBL C/O MERITIUS, 431, Avenue Georges Henri, 1200 Brussels, Belgium (judicial area of Brussels)  
VAT number BE 0684.488.814

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ACV TRANSCOM / CSC TRANSCOM (Belgium) - AEROCNTR (Switzerland) - APTC (Switzerland) - ATCTUA (Ukraine) - ATCU (Serbia & Montenegro) - ATSR (Romania) - BATCU (Bulgaria) - BHATCU (Bosnia and Herzegovina) - BGATC (Belgium) - CATCU (Croatia) - CYATCU (Cyprus) - DATCA (Denmark) - FATCA (Finland) - GATCA (Greece) - GdF (Germany) - GLCCA (Luxembourg) - IATCA ATC Branch F6rsa (Ireland) - ICEATCA (Iceland) - ITUATC (Serbia) - LATCA (Lithuania) - MATCA (Malta) - MATCU (Republic of North Macedonia) - NATCA (Norway) - SKYCONTROL (Switzerland) - SINCTA (Portugal) - SNCTA (France) - SPKTA (Albania) - SSKL (Slovenia) - TUEM (EUROCONTROL) - UNICA (Italy) - UNICON (Kosovo) - USCA (Spain) - VLNG (The Netherlands) - ZZKRL (Poland)

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*is therefore an important resource for the detection of potential safety hazard.”<sup>3</sup>*

*To maintain and increase the safety “it is necessary to ensure that front-line aviation professionals (like Air Traffic Controllers, editor’s note) report occurrences that pose a significant risk to aviation safety. Voluntary reporting systems should complement the mandatory reporting systems, and both should allow individuals to report details of aviation safety-related occurrences”.*<sup>4</sup>

Trust is a fundamental aspect of Just Culture; front-line aviation professionals have to trust the competent National legal system in order to be encouraged in reporting. The interest of aviation safety, which involves both passengers and citizens who are overflown, is so high that Regulation 376/2014 suggest the States to retain the option of extending the prohibition on using occurrence reports as evidence against reporters in administrative and disciplinary proceedings to civil or criminal proceedings<sup>5</sup> except in case of gross negligence, wilful violations and destructive acts.<sup>6</sup>

Those were the expectations of the European Institutions when Just Culture was introduced in the European Aviation System. Sadly, the reality is different. While in most of the ECAC area States those principles are being slowly (too slowly in our opinion) transposed in the Legal system, what has happened in Switzerland, where the Federal Court has

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<sup>3</sup> REGULATION (EU) No 376/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, whereas (5).

<sup>4</sup> REGULATION (EU) No 376/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, whereas (8).

<sup>5</sup> REGULATION (EU) No 376/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, whereas (44).

<sup>6</sup> REGULATION (EU) No 376/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, Article 2 – Definitions: (12) ‘just culture’ means a culture in which front-line operators or other persons are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but in which gross negligence, wilful violations and destructive acts are not tolerated



confirmed the Judgment issued by the Bellinzona Federal Criminal Court to sentence an air traffic controller to a heavy fine for negligent disruption of public transport, is having an heavy impact not only on the Swiss ATCOs' community but on the whole European Aviation System too. The Swiss Air Navigation Service Provider Skyguide is now analysing the consequences of this decision on air navigation services operations in the future, stating that *"legal proceedings and convictions do not make aviation safer but endanger the continuous development of high safety standards in Swiss air traffic"*.<sup>7</sup>

This is the state of play in the European ATM system, several documents support a *"Human-centric approach"* but the reality is completely different.

Next September 11<sup>th</sup> and 12<sup>th</sup> an High-level Conference on the future of Single European Sky will be held in Brussels. In that meeting the *"Transition plan for the operational and technical dimensions of the AAS"* will be discussed. This plan has been drafted by SESAR JU to facilitate the implementation of the Airspace Architecture Study, the study delivered to the European Commission on February 5<sup>th</sup> 2019 and presented to the European Parliament on March 5<sup>th</sup> 2019 on which all the stakeholders have great expectations *"with the aim to progressively additional capacity in order to cope with the significant growth in traffic, while maintaining safety, improving flight efficiency and reducing environmental impact."*<sup>8</sup>

ATCEUC would simply like to point out that Single European Sky has no future until it gains the trust of all the front-line aviation professionals, ATCOs but not only ATCOs, in the commitment to maintain Safety as paramount, through a real Just Culture, will be restored.

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<sup>7</sup> Skyguide media release, 04 July 2019

<sup>8</sup> Airspace Architecture Study, Preamble, pag 4



ATCEUC, on behalf of its 34 Associated ATCOs' and ATSEPs' Unions from 29 different European Countries, firmly urges you to put the European Aviation safety and the Just Culture on top of your agenda, to draft and issue mandatory rules to introduce Just Culture Principles in all the EU Members States, to use all your political strength to persuade Switzerland in doing the same. The safety of the European citizens, safety that you have been elected to protect, demands it.

ATCEUC confirms it is completely at the disposal of all of the stakeholders involved and will offer the widest technical support it can.

Brussels, 09 July 2019

Volker Dick  
ATCEUC President