



*"[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).*

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ATCEUC position on EC proposal of exceptional measures on RP3

Brussels, 14 September 2020

It is with great disappointment that ATCEUC received the latest draft of the Commission Implementing Regulation on exceptional measures for the third reference period (2020-2024) of the Single European sky performance and charging scheme due to COVID – 19 pandemic.

The draft still ignores the fact, that the aviation sector is composed of at least three parts, Airlines, Airports and Air Traffic Management.

In point (10) the commission states, that it is important, "to alleviate the severe impact of the COVID-19 pandemic on the airspace users."

ATCEUC believes, it is equally important to alleviate the severe impact of the COVID-19 pandemic on the ANSPs. It will have a devastating effect on the performance and the capacity the ANSPs will be able to provide in the near future, if the financing of their costs is not guaranteed.

The draft still ignores the fact, that by the time, the performance plan is adopted, the ANSPs will have incurred costs. The retroactively setting of artificial targets whilst ignoring facts like costs already incurred and known actual traffic figures defies logic and reality.

ATCEUC demands that the Commission uses simple logic and accepts the incurred costs and actual flown traffic numbers until such time as the performance plan as a base for the calculation of charges is adopted.

ATCEUC does not understand, why the Commission wants to deviate from Article 29 (5) of the Implementing Regulation 2019/317 in the new Article 5 of this Regulation.

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The effect of adjusting the unit rates only in 2023 and 2024 and not in 2022 - as it is foreseen in Article 29(5) - will lead to a gross under financing of the ANSPs and in dangerously low unit rates in 2022. The carry overs from 2022 will be recovered in 2024 on top of the adjustments stemming from the years 2020 and 2021. This will negatively impact the level of service, the ANSPs will be able to provide at the time the aviation sector is expected to recover.

ATCEUC demands the retention of Article 29 (5) of the Implementing Regulation 2019/317 as it is.

In Article 6, the Commission is inducing additional costs on the ANSPs by implementing additional reporting while at the same time, giving the NSAs no time to do their work by ordering them to transmit this report “upon its receipt”.