



*"[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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## **Feedback on "Aviation - COVID-19 response (Single European Sky, performance & charging, 3rd reference period)"**

ATCEUC recognises the attempts of the EC to protect the aviation sector in Europe but condemns its inability to consider all the aviation stakeholders in an equal and fair way.

ATCEUC observes that the EC is once again focusing only on the Airspace Users' financial stability. With this narrow-minded approach, it fails to protect all partners in the aviation sector equally, endangering the full recovery of the industry.

The proposed text is missing clarity and gives room for speculation regarding how certain measures shall be applied. For instance, Annex I 1.b mentions a breaking down process of a KPI that is not clearly defined, and Annex II words "does not substantially exceed" sound too vague to be taken seriously on a legal text. In addition, Article 6 of the proposed regulation will generate more bureaucracy and will increase administrative costs for the ANSPs just to meet reporting requirements of the EC. This would happen at a time when the very same EC urges the ANSPs to cut their costs. ATCEUC sees no coherence in this EC rationale.

During the recent Aviation Summit it was stated by nearly every speaker, that trust of the passengers needs to be regained. ATCEUC acknowledges that, adding that trust between the Social Partners at EU Level needs to be earned back as well. It is obvious that the EC actions and proposals lack social impact assessments or any mitigation measures to support the ATM community. As ATM is a safety-focused activity, ATCEUC is deeply worried of the impact the current EC actions might have on the future performance of the ATM system in all KPAs.

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ATCEUC condemns the attempt of the EC to control the cost-setting and the cost-saving of the ANSPs. According to Articles 25 and 29 of Regulation 2019/317, it is the right and the obligation of the Member States to do so. ATCEUC believes the NSAs were competent in the past and will continue to be competent in the future regarding the ability to control the costs of their ANSPs.

Furthermore, the desire of the EC to set cost targets for 2020 and 2021 retroactively is defying logic and reality. No ANSP can react retroactively and adapt to costs set artificially without taking into consideration the costs already incurred. At a time when the ATM system was essential to maintain the airspace open and available for repatriation, medical evacuation and medical cargo flights, the ANSPs were doing their utmost to reduce their cost. Some even used illegal procedures and did not properly consult with the Unions or PSOs. This crisis shows that when economic pressure is put on ANSPs, social dialogue is often too ignored. On top of this, with the EC pushing for retroactive adjustments over such a difficult period for the ANSPs, the EC is ignoring and missing its goal to enhance Social Dialogue. With this the EC shows it has not understood that ATM is part of the Pan-European essential infrastructure and not a business or commercial service.

ATCEUC is certain that the procedure of late adoption of the performance plan can only work when using the known current costs and current service units until the time of calculation, instead of artificially setting cost targets.

ATCEUC advocates that the 5-year plans are too long in normal circumstances and that planning until 2024 with no real, stable and reliable data, in the current situation dominated by the uncertainties created by COVID-19, will be nothing more than mere guessing. Therefore, ATCEUC urges the competent institutions to provide reliable data as soon as possible (knowing it might not be as soon as all the stakeholders involved would like to) and the EC to accept the effects of such uncertainty in the performance plan setting, in order to support the ANSPs with the revenues required to maintain their normal yet essential operations.

ATCEUC would like to point out that the financial stability of all ANSPs in Europe is endangered by the suspension of payments of the route and terminal charges. If the performance plans are not adopted by July 2021, much needed liquidity will not be available for the ANSPs on



time. The proposal is unclear in stating what shall be done if the performance plans are not adopted by July 2021.

While spreading the carryover over a 5- to 7- year period will help the Airspace Users, it will leave the ANSPs underfinanced over the same period. ATCEUC advises this might lead ANSPs to stop technological investments as well as their recruitment processes. This already happened in the course of RP2, and ATCEUC is deeply sorry that the EC keeps ignoring the lessons from the past and committing the same mistakes over and over. ATCEUC warns that this will hamper the recovery of the sector after 2024.

Regarding as well the suggested carryover spread, this will keep the revenue of the ANSPs below what they need to run their operations. It will lead to a calculation of route and terminal charges with several carryovers in the future. Considering this, ATCEUC suggests that from 2020 no carryovers are deducted from charges as long as the carryovers spread over 5 years are not completely recovered.

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