



"[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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Press Release

2020 SES 2+ Proposal: The New Serious Menace to the European Skies

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On September 2020, the European Commission published its new "Amended proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the implementation of the Single European Sky" through the COM(2020) 579 final. With legal procedures about to continue regarding this topic, ATCEUC urges the European Council to repeal the current proposal and any different wording that retains the principles highlighted in the following five ATCEUC remarks.

1 - The European Commission Does Not Recognize the Value of Safety

"This Regulation lays down rules for the creation and effective functioning of the Single European Sky in order to reinforce current air traffic safety standards"

(Article 1 - Subject Matter and Scope)

If this truly is the scope of the current proposal, we underline that it completely fails in every Article. In fact, this amended proposal ignores in every Article the value of safety. The current air traffic safety standards do not come easy and cheap, and the aviation industry as well as political decision makers stop thinking of it as being granted. ANSP's and its workers are highly specialized in their functions and within their geographical boundaries, taking into account the local / national conditions and legal framework while optimizing their operations.

With this in mind, we find it inconceivable to state the following:

"SES lacks resilience as service provision is hardly adjustable to traffic developments"

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"The rules proposed should make it possible to adapt the capacity quickly and efficiently to increases or decreases in demand or to varying geographical needs."

(1. Context of the Proposal - Reasons for and objectives of the proposal)

We urge the European Commission to consider that the apparent lack of market-biased resilience derives from the required specialization of the sector to perform safely. The idea of scalability within an infrastructural ATM service jeopardizes the overall safety performance of the European Skies and is a copy-paste idea from other sectors of the economy that are profit-driven and not an essential infrastructure.

2 - Green Deal for Europe or Great Deal for Airspace Users?

"This would also contribute to the objectives of the European Green Deal and more concretely to the reduction of CO2 emissions in the aviation sector, which is of key importance."

(1. Context of the Proposal - Reasons for and objectives of the proposal)

Make no mistake: Every ANSP has its own commitment to the environmental goals laid out in the acclaimed (and crucial) Green Deal. In fact, many initiatives can be found across the EU Member States, with the installation of greener energy sources for the ATM technical infrastructure (lower CO2 emissions), the full digitalization of aeronautical information (lower physical resources' consumption) as well as the implementation of Free Route Airspace (FRA) in many airspace blocks. The full spread of this kind of approach is desirable, and this is the way forward.

Instead, the EC follows a bizarre vision for the ATM system, suggesting the following:

"In order to incentivize airspace users to fly the shortest route, in particular in times of congestion, it should be possible to establish a common unit rate for en route services across the Single European Sky airspace."

(Recital 30)

From an infrastructural approach, ANSPs should focus on ways to maximize horizontal efficiency of the airspace design under their jurisdiction, and FRA is the optimal solution. Any additional consideration regarding horizontal efficiency should be aimed at the airspace users.

Are airspace users taking the environment into account in their route decisions?

From Recital 30 it becomes clear that the EC considers that airspace users find much more relevant the price of unit rates throughout their routes than the route design itself. We urge the EC to address horizontal efficiency



towards the airspace users, especially in those sectors where FRA is fully operational.

3 - Air Data Service Providers - Monetizing the Safety of European Skies... At What Cost?

“Availability of relevant operational data is essential for enabling the flexible provision of air traffic data services, on cross-border and on Union-wide bases. Therefore, such data should be made available to relevant stakeholders, including to prospective new providers of air traffic data services.”

(Recital 35)

Apart from being obviously irrelevant and useless due to licensing and competency EASA requirements, sharing operational data with institutions outside the current scope of essential service providers raises serious security concerns, not only with the usage of such data but with the required cyber-security of the ATM systems as well. It is important to notice that ATM operational data is also part of its essential infrastructure, not a profit-based market.

Recital 35 also lacks a basic rationale behind: to make available such operational data requires investment on the digital systems that cannot be neglected, especially when taking into consideration the aforementioned cyber-security concerns. This additional cost will have a direct effect on the unit rates EU-wide. Are airspace users willing and ready to pay for it in the years to come?

4 - Economic Certification - A Necessary Approach with a Terrible Timing

“Air navigation service providers shall, in addition to the certificates they are required to hold pursuant to Article 41 of Regulation (EU) No 2018/1139, hold an economic certificate. This economic certificate shall be issued upon application, when the applicant has demonstrated sufficient financial robustness and has obtained appropriate liability and insurance cover.”

(Article 6, Paragraph 1)

The current crisis has demonstrated how crucial financial robustness is for the ATM system to cope with the severe traffic downturn observed in 2020 and 2021. However, pivotal questions arise on this topic, considering the timing of it: How can ANSPs create and subsidize their financial funds to document and prove the desired robustness? How will the creation of these funds impact the unit rate calculation scheme? Are airspace users willing and ready to pay for these funds in the years to come?



Although our focus should be towards the future, it is important to mention that in the past, during RP1 and RP2, ANSPs were legally bound to return the additional observed income, based on increasing traffic numbers. How useful would it have been if, back then, the EC thought of this economic certificate, instead of focusing on the blind cost-cutting of the ATM sector for the good of the already profitable airlines...

5- PRB - From "Performance Review Body" to "Performance Reviewer & Bully"

"Where performance targets are not reached or the performance plan is not correctly implemented, the Agency acting as PRB shall issue decisions requiring corrective measures to be implemented by the air traffic service providers. These corrective measures may include, where objectively necessary, a requirement for an air traffic service provider to delegate the provision of the relevant services to another air traffic service provider."

(Article 13, Paragraph 11)

This Paragraph allows the PRB to determine which ANSP provides which service within a specific airspace, based on PRB's own assessment of the performance targets or plans. Such totalitarianism ("*objectively necessary*"!) contradicts the fundamental roots of the EU and the ICAO Convention. Due to that, ATCEUC urges the European Institutions and Social Stakeholders to address and question the authors of this unlawful suggestion.

With these five remarks, ATCEUC urges the European Council to repeal the "Amended proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the implementation of the Single European Sky" that was made public under the COM(2020) 579 final, from the European Commission.

Air Traffic Controllers European Unions Coordination (ATCEUC) was created in 1989 and is currently composed of 34 professional and autonomous trade unions representing more than 14000 Air Traffic Controllers (ATCOs) and Air Traffic Safety Electronics Personnel (ATSEPs) throughout Europe. ATCEUC is part of the "European Union Sectoral Social Dialogue - Civil Aviation" in the air traffic management field and it is recognised as a full member of the ICB. ATCEUC with its experts participates in every work group where the voice of its Members can and have to be expressed: SESAR JU, TSG, EGHD, EASA STeB, EASC, ASPReT, ATM Partners and other workshops or programmes within the framework of EUROCONTROL and the European Commission.