



*"[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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## RP3 ATCEUC position paper

### Introduction

This publication delivers ATCEUC's position in the main areas of evolution for the Performance Scheme and specific analyses regarding performance objectives regarding RP3.

Firstly, ATCEUC does not consider the actual Performance Scheme regulation as an adequate enabler to deliver true performance improvements for the SES.

ATCEUC points out that performance regulation needs to be properly revised to repair the numerous damages caused by RP1 and RP2.

The decision making process has to change radically. Every step of this process has to be properly revised. The way decisions were made in the past is no longer a viable solution. The future of the European ATM network is at stake and imposing unrealistic aspirational political goals can only further endanger it.

ATCEUC, in the present document, will start by analysing the results of RP1 and RP2 and will continue by setting out its views on a number of key structural and social considerations.

### 1. Mend it or change it?

ATCEUC would like first to insist on the fact that it considers RP1 and RP2 as complete failures. They have created important long-term disorders all over Europe in the ATM industry. The future of our business is now compromised due to this regulation.

The question ATCEUC is asking is "does the SES need a mended regulation based on RP1 and RP2 to possibly come back to a sustainable situation or does the SES deserve a complete fresh start?"

ATCEUC is fully convinced that a complete change in the spirit of this regulation is the only way to proceed. The EC should not desperately try to fix the RP2 regulation. The future of the SES is at stake and the European approach could be put in danger as a whole.

Some of the airlines associations have already reached the conclusion that the European level is not the right one for the SES, and thus have approached directly some



States. ATCEUC is opposed to this, and remains committed to the SES and the European level. Even after the numerous wrong decisions made by the EC and the PRB regarding performance regulations, ATCEUC still thinks that a European approach is possible. The urgency is to change the method and to recognise that mistakes have been made. This new regulation will have to be based on trust, dialogue, and common analysis amongst the real partners of the ATM industry.

RP3 should no longer be based on EU binding targets and penalties, putting as such this industry in a corner and blaming it for imaginary reasons. The ATM industry is very complex, with strong local specificities and interdependencies, and an obligation to continuously adapt with constant concern to prepare the mid and long term future.

Another priority is not to know who is going to have the power to drive the EU ATM performance, but rather how to which tools and procedures would allow this industry to take the right decisions at the right time.

ATCEUC calls to abandon EU wide targets, EU top-down approach, one size fit all EU decisions, financial penalties. A new start based on the principles described below is the only possible alternative to prepare a sustainable future for the ATM industry.

## 2. Improvements during RP1 and RP2

Even if the performance regulation is considered by ATCEUC members as having a strong negative impact, staff and management remain fully committed to deliver an efficient service.

Traffic has undergone numerous and various changes between 2012 and 2016, and staff and ANSPs have continuously managed to find adequate solutions to the evolution of traffic.

During these 4 years, both had to face strong evolutions:

- Lower volumes of traffic than expected during RP1
- Important geopolitical changes influencing traffic patterns
- Stronger seasonality
- Strong increase of traffic during peak hours
- Strong increase of traffic in some specific areas

All staff was fully committed to find or elaborate new solutions. ATCEUC is very proud of the professionalism of the entire ANS community. It has proven its ability to adapt to this continuously changing environment and the added value of the combination of the skills of



this community. This is the core of the success of the performance of the European Sky; the high level of training of staff has to be preserved and the value of these professionals should be unanimously recognised.

This ability to adapt should be absolutely preserved in order to maintain a high level of Safety of the European network, of paramount importance to the ANS community. The level of knowledge, the variety and the quality of the ATM workers' skills, the ability to invest, to develop new concepts are the cornerstone of Safety and the performance of the European network, as they allow it to be able adapt to an ever-evolving environment.

ANSPs and staff have significantly increased their collaboration with each other, civil and military airspace users, airports and with the air transport industry in general.

### 3. The importance of involving trade unions and professional associations

To date, the actual performance regulation is not supported by ATCEUC and by the wide community of ATCOs.

Regarding performance, ATCEUC and other trade unions have not been adequately involved in the decision making process.

From the beginning and at the decision making level, Trade Unions and professional associations have to be deeply involved in developments concerning ATM and ANS.

Engaging the staff is key to the success and effectiveness of the SES Programme.

### 4. Long term consequences of cost reduction not taken into account

ATM workers are the basis of European ATM. It goes from operational staff, at the front line, to the highest levels of management. These resources are scarce.

In fact, ANSPs experience strong difficulties to find candidate ATCOs in one of the busiest and most complex areas of the world. When ANSPs have some, how many have the real ability to find solutions to extremely difficult situations and the ability to offer a long-term resistance to highly stressful situations?



Regarding these scarce resources, RP1 and RP2 have created a vicious circle. By placing disastrous financial pressure on ANSPs, these resources are now becoming even scarcer. The ATCO population is older than ever, creating an urgent situation regarding today's performance of the network, but also an answer-less situation concerning the necessity of launching massive recruitment.

Furthermore, during the past few years, some European ATCOs were recruited by ANSPs from the Middle East, offering to these mainly young ATCOs very good working conditions.

RP1 and RP2 financial pressure has also led to the closure of various training centres. The knowledge necessary to train new ATCOs is now at a critical stage. ANSPs therefore need to be able to invest in training in order not to come to a point of no return in staffing levels.

## 5. Recognition of local specificities / Top down and one size fits all approaches

For RP1 and RP2, two aspects of the regulatory framework have had strong negative effects on the European network. One is the use of a top-down methodology to define EU-wide targets. This methodology has completely ignored any local circumstances and has not permitted to identify an adequate contribution for individual ANSPs.

The second aspect is that the EC falsely and strongly believes that the economic, technological, social situation of ATM actors is homogeneous across Europe. This false analysis of the situation has led the EC to consider that one size could fit all. This error was made not only during the target setting process, but also during the assessment procedures.

Neither the EU target-setting, nor the assessment approaches, took local circumstances adequately into consideration such as:

- legal set-up,
- ANSP investment cycle
- national economic situation
- national tax system
- local requirements
- local interdependencies between KPAs
- hub airports and airline requirements



ATCEUC's opinion is that a strong review of the effectiveness of the current SES performance framework is required. Recognition of national/local specificities have to be fully taken into consideration in order to improve the system. Top down and one size fits all approaches should be completely abandoned.

## 6. Performance scheme and other SES regulatory requirements

The performance contributions of ANSPs are influenced by multiple legislative acts and regulatory instruments (ATM MP, PCP, SERA, EASA IR 340/2015, EASA safety regulation and technical interoperability regulations). In the past ten years, only poor and partial performance impact assessments have supported a considerable number of EU legislative requirements but no impact assessment of the interactions between all these legislative acts was done.

The new IR 340/2015 (with important changes in the medical part of the licencing) has just started to be implemented and it is already one of the best examples of the administrative burden imposed to staff and ANSPs without sufficient analysis of the added value of this regulation.

A much deeper analysis is now needed in order to measure performance impacts from legislative requirements to improvements in Safety, capacity, environment and cost efficiency.

Taking into consideration the amount of immature objectives in the PCP and the entirely aspirational nature of goals defined in the ATM Master Plan, the potential achievability of all these elements has yet to be proven. Potential technical solutions and industry structure assumptions remain immature and yet to be validated.

Furthermore, ATCEUC considers that the allocation of EU funds and the charging scheme need to ensure a fair sharing of the real benefits of these funds, taking into consideration the contributions of all involved stakeholders. The actual charging regulation does not allow the adequate handling of EU funds. The risks borne by ANSPs and the time consuming paperwork linked to this regulation has to be adequately taken into consideration.

## 7. The ambiguous role of the European Commission

The overarching principle of separation of powers is not respected in the performance regulation. ATCEUC strongly denounces this unbalanced situation.



First of all, the European Commission is acting at the legislative level with the proposal of regulations on the performance scheme, at the executive level by approving performance plans and at the very end the EC can impose corrective measures to member States.

The situation cannot remain unchanged, and ATCEUC will propose solutions in the coming chapters.

## 8. From EU binding targets to EU indicators

The focus for RP3 should be on simplifying the performance framework. The number of EU binding and non-binding targets creates important difficulties and does not adequately create good behaviours for the future of ATM. ATCEUC is in favour of replacing these binding and non-binding targets by indicators.

RP3 should be strictly focused on the most important indicators.

**ATCEUC strongly rejects the supposed added value of EU binding targets.** The binding aspects of cost efficiency targets have created huge disorders since 2012, which consequences can be clearly seen today already.

Furthermore, **ATCEUC does not support the current incentive scheme regarding capacity.** This mechanism should be abandoned. A capacity indicator could continue to be established at a EU level, capacity should only be monitored at a EU level.

Collaborative decision making processes have been put in place in Europe to define commonly agreed preferred solutions. These kinds of solutions must be promoted. The use of EU binding targets disconnected from local situations/solutions has proven to be counter-productive.

Considering the negative effect of en-route cost efficiency targets, **ATCEUC is opposed to extending the performance regulation with EU-wide targets to Terminal ANS.**

Furthermore, nearly all requirements on air navigation services in the terminal area originate from local airports and local circumstances. Consequently, the future targets on terminal cost efficiency should continue to be set locally. National and local constraints can no longer be ignored!

Performance Plans should be developed and assessed in the context of local constraints affecting ANSPs; in particular: different legal frameworks, local environmental constraints, specific and diverse civil/military arrangements, scope of ANS provision obligations.





The set of assessment criteria for RP1 and RP2 are in ATCEUC's view neither sufficient to take into consideration the different individual situations of States, nor do they recognise the diverse local interdependencies between KPAs.

**Considering the fundamental role of local circumstances, the overwhelming role of the EC is no longer a viable solution to drive the European ATM performance.**

The most important responsibilities should be shifted to the national regulators, as they are best qualified to establish an adequate economic regulation, assess and monitor the performance plans and supervise their ANSPs. ATCEUC strongly believes that these national regulators should enjoy the main decision making powers.

The European Commission could continue to be in charge of defining longer-term ambitions, aspirational goals and have a key role in the monitoring of the European ATM performance.

## 9. The major role of interdependencies should be recognised

Full understanding of interdependencies is key to setting appropriate and coherent performance targets across the KPAs. Not enough has been done during RP2 to understand this aspect, thus putting some ANSPs at risk by imposing unrealistic expectations.

Current performance assessments aim primarily at reducing the ANS cost-base and do not recognize interdependencies between different KPAs. This continuous cost reduction drives the focus of ANSPs towards internal optimisation at the expense of investments and recruitment of qualified personnel. As a result, the long term future of ATM is now in danger.

At a local level, specific targets defined in a comprehensive bottom-up approach should be the rule. It is the only way to make sense of local interdependencies and have an efficient and sustainable European ATM.

In fact, local regulators are the entities which could be best placed to consider the balance of the targets and assess interdependencies at ANSP, national and local levels.

**ATCEUC favours a more holistic approach of the Performance Scheme.** ATM stakeholders such as airspace users, the military, and airport operators should now truly and directly be targeted by the scheme to improve performance at all levels.

ANSPs' ability to meet performance targets is influenced by actions from AUs, the military and airport operators. These interactions should be better considered/recognized. Are



ANSPs involved in the decision making process regarding decisions such as airport expansion plans, airlines flight planning decisions, airlines scheduling intensity and turnaround? The answer is No! ANSPs are in best cases just informed of the decisions made by these stakeholders.

The aspects described above clearly affect ANSPs' ability to meet targets, with damaging and unforeseen impacts on Safety performance.

## 10. Flexibility of the performance framework

The Performance Scheme does not sufficiently take into consideration the differences between the long ANSP financial planning horizons and unforeseen events such as changes in traffic, economic and social parameters.

These deviations have had drastic consequences that can even put the long term future of the entities concerned at risk.

The current charging and performance schemes are not flexible enough to allow ANSPs to maintain sustainable conditions.

The existing alert mechanism provisions should be improved in order to ensure that appropriate performance plan revisions can be made without delay. The States and ANSPs concerned by this deviation ought to have full ability to introduce changes in the scheme.





To summarise, **the Performance Scheme needs a completely new, more holistic approach** taking into consideration the long-term consequences of cost reduction, local specificities and interdependencies at local and global level.

Considering the fundamental role of these three elements and the impossibility to implement one-size-fits-all solutions at EU level, **the overwhelming role of the EC is no longer a viable solution** to drive the European ATM performance.

**A regulation based on bottom up approaches, empowered local regulators and a better involvement of ANSPs and staff** in the performance decision making process should be put in place.

**EU-wide binding targets should be replaced by EU Performance Indicators.**

**These necessary evolutions toward a more accurate, flexible, pragmatic and realistic regulation is the only way to ensure the Sustainability, the Performance and the Safety of the European ATM system.**