



European Economic and Social Committee

TEN/530
Recast of the Single
European Sky Regulation

Brussels, 11 December 2013

OPINION

of the

European Economic and Social Committee

on the

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services and the Proposal for a Regulation of the European Parliament and of the Council on the implementation of the Single European Sky (recast) and the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Accelerating the implementation of the Single European Sky

COM(2013) 408 final - COM(2013) 409 final – 2013/0187 (COD) and COM(2013) 410 final – 2013/0186 (COD)

Rapporteur: **Mr McDonogh**

On 1 July 2013 the European Parliament and on 17 July 2013 the Council of the European Union decided to consult the European Economic and Social Committee, under Articles 100 and 304 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services and the Proposal for a Regulation of the European Parliament and of the Council on the implementation of the Single European Sky (recast) and the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Accelerating the implementation of the Single European Sky
COM(2013) 408 final – COM(2013) 409 final – 2013/0187 (COD) and COM(2013) 410 final – 2013/0186 (COD).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 19 November 2013.

At its 494th plenary session, held on 10 and 11 December 2013 (meeting of 11 December), the European Economic and Social Committee adopted the following opinion by 180 votes to 1 with 2 abstentions.

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1. **Conclusions and recommendations**

- 1.1 Achieving the Single European Sky (SES) remains a key priority in European aviation policy, with the as yet unrealised potential to deliver savings and improvements in quality, safety, environmental impact and capacity for the aviation sector and indeed the European Economy as a whole. The European Economic and Social Committee (EESC) has continuously raised the voice of civil society in the debate on SES over the past years and has adopted several thematic opinions¹ to which the broad range of aviation stakeholders have substantially contributed. In all of these opinions, the EESC has given strong support to the SES project.
- 1.2 The legislative proposals represent evolution, not revolution, and build on, and do not supplant, previous reforms. But they should significantly contribute to turning the European ATM system into a more efficient, integrated operating airspace in the coming years, building upon the results already achieved since 2004.

¹ [OJ C 182, 4.8.2009, pp. 50-55](#); [OJ C 376, 22.12.2011, pp. 38-43](#); [OJ C 198, 10.7.2013, pp. 9-13](#).

- 1.3 The EESC calls upon Member States to show courage and political will for rapidly creating the SES, and upon the European Commission to assume full leadership of the implementation process.
- 1.4 Key to driving the essential and long-overdue reform of European airspace is a comprehensive Performance Scheme. The under-delivery of the cost-effectiveness targets in the first reference period (RP1) makes it the more vital that the targets set for RP2 have the effect of driving the formation of real, functioning Functional Airspace Blocks (FABs), realising synergies as well as eliminating the current areas of duplication between the 37 separate Air Navigation Service Providers (ANSPs).
- 1.5 The realisation of a true SES, while presenting initial challenges, will drive the continued growth of European air traffic, creating significant new opportunities for employment and the prospect of a European career structure for controllers.
- 1.6 Full-scale social dialogue has to be put in practice without further delay. Only a comprehensive HR partnership in European aviation can ensure the necessary uniform commitment on all sides and a harmonised approach to the realisation of a true SES, to the benefit of employment in all parts of the aviation value chain, the environment and, not least, European consumers.
- 1.7 The amalgamation and consolidation of FABs and the reduction in numbers should be processed as soon as possible. The concept of the virtual centres represents a technical innovation compatible with SESAR and at the same time makes an ongoing and socially acceptable transition possible. To this end, the introduction of SESAR will need ATM reform. The standardisation of ATM equipment across the EU should be pursued.
- 1.8 The boundaries of the FABs should also be reviewed to ensure that they are of the right shape and size to serve the purpose they are set up for. Traffic flows, service provision synergies and potential performance improvements should be the proper determinant of FAB composition rather than mere geographic proximity or political/cultural affiliation.
- 1.9 The proposed strengthening of the Network Manager function, giving precedence to the European network benefit over the narrower national interest is strongly welcomed.
- 1.10 The Committee acknowledges the initiative to unbundle ancillary ATM services, thereby opening them up to greater competition. It insists that before such measures are applied the Commission organises without any further delay the preparation of an independent impact study about the effects, in particular relating to social and employment aspects, of these².

² Cf. [OJ C 198, 10.7.2013, pp. 9-13](#) (point 4.7).

- 1.11 Defining objectives that enhance efficiency while maintaining the quality of working conditions and improving aviation safety.
- 1.12 The airspace users need to be more involved in policy formulation.

2. **Introduction**

- 2.1 The European aviation industry plays a vital role in the European economy, by promoting trade and tourism and acting as a vehicle for employment growth. Air traffic control is a key factor in the value chain of the aviation industry. It should ensure the safe, expeditious and cost-efficient flow of air traffic, thereby minimising fuel usage, carbon emissions and flying times.
- 2.2 However, European air navigation services have historically evolved primarily within national borders, with each Member State establishing its own ATM system, leading to the costly and inefficient structural fragmentation of Europe's airspace and a persistent lack of responsiveness to the requirements of its users – the airlines, and ultimately, the paying customers.
- 2.3 The implementation of the SES and the associated reform of the European ATM system must be accelerated, helping our airspace users in a tough global competitive environment, which includes emerging aviation powers such as Ukraine and Turkey in the immediate neighbourhood of the EU³ and facilitating future economic growth. The SES I and SES II legislative packages having yielded disappointing results to date, the Commission is proposing a carefully-targeted further legislative proposal⁴ to facilitate an early implementation of the SES. This latest legislative package, SES II+, consists of the recast of the four regulations that created the Single European Sky⁵ and the amendment of the regulation establishing the European Aviation Safety Agency⁶.

3. **General comments**

- 3.1 The SES initiative aims to improve the overall efficiency of the way in which the European airspace is organised and managed.

3 [OJ C 198, 10.7.2013, pp. 51-55.](#)

4 Idem.

5 COM(2013) 410 final.

6 COM(2013) 409 final.

- 3.2 Based on analysis contained in the present Communication⁷ and the associated impact assessment⁸, the Commission proposes a legislative package (SES2+)⁹ to consolidate and, where possible, accelerate the process of reform of Air Traffic Management (ATM) in Europe, by further improving quality, efficiencies, safety and environmental impact in the provision of Air Navigation Services (ANS) and by continuing to drive towards the consolidation of the European ATM system. Eurocontrol's Performance Review Unit reports showed that these inefficiencies and the fragmentation of the system were responsible for over EUR 4 billion of avoidable cost in 2010 alone.
- 3.3 The first problem area addressed in the SES2+ impact assessment is the lack of efficiency and cost-effectiveness in the ANS provision in Europe. It remains very inefficient in terms of cost- and flight efficiency as well as capacity. The extent of this is clear when compared with the United States, which covers airspace of a similar size. In the US, the airspace is controlled by a single service provider, as opposed to 38 en-route service providers in Europe. The US service provider controls almost 70% more flights with 38% fewer staff. The main causes for this difference in efficiency and productivity are the resistance by EU Member States to sufficiently stretching cost-effectiveness targets in RP1 of the performance scheme, the under-delivery of even those modest targets, ineffective oversight and enforcement by supervisory authorities and the disproportionately high number of support staff working for the service providers.
- 3.4 60% of total ATM charges in Europe are generated by 5 providers¹⁰. The key question is to examine why these big operators with economies of scale represent double and occasionally quadruple the cost of their smaller counterparts. This is the case despite all economic theories saying the opposite. The overall value at issue, from direct and indirect costs for the reference period 2015-2019 is estimated by Eurocontrol's Performance Review Unit to be in excess of EUR 70 billion.

With the SES Performance Scheme setting EU-level targets for RP2, to which individual EU Member States' national plans must make commensurate contribution, it is clear that the achievement of overall EU cost-effectiveness targets is critically dependent on the countries that generate most charges, delivering their share of the improvement required. This was not forthcoming from them in RP1.

- 3.5 The second key problem to be addressed is that of a fragmented ATM system. The European ATM system consists of 28 national authorities overseeing over a hundred ANSPs, each

7 COM(2013) 408 final.

8 SWD(2013) 206 final.

9 COM(2013) 409 and 410 final.

10 See for reference: Overview table "Calculation of 2014 Unit Rates - Adjustments and revenues"; in: Information Paper "Initial Estimates of the Route Charges Cost-Bases and Unit Rates" issued by the Enlarged Committee for Route Charges of Eurocontrol on 16 July 2013 (page 6); http://www.eurocontrol.int/sites/default/files/content/documents/route-charges/operation-reports/cer-99-2013-3452-fin_item_2-en.pdf.

overseen by a separate national regulator, with the expected differences in systems, rules and procedures. There are many additional costs, caused by Europe having a large number of service providers, each deciding on its own capital investment programme, separately procuring and maintaining their respective systems, which are often not compatible with those of other ANSP¹¹. The problems are compounded by separate training of staff, the creation of distinct operating procedures, and service provision being limited to a small airspace. Collectively the 38 major national ANSPs disbursed some EUR 1 billion each year in capital equipment, none of which has been coordinated or scrutinised for fit for total network benefit.

3.6 The SES 2+ initiative aims to bring about greater coordination of such currently-separate decision-making and foster greater network benefit and cooperation.

4. **Evolution of the performance of air navigation services**

4.1 At the end of the 1990s, Europe faced major delay and inefficiency in the provision of air traffic control services. More than a decade later, fragmentation of the European airspace remains high.

4.2 In 2011, the total direct and indirect costs for air traffic control in Europe amounted to some EUR 14 billion. The direct costs alone (levied in the form of user charges) account for more than 20% of the total operating costs, excluding fuel, of the most efficient airlines. Unlike other transport modes, all of this cost is recovered from users, therefore consumers.

4.3 While productivity (measured in air traffic controller-hours) has increased by some 18% in the last decade, the overall employment costs for air traffic controllers have risen faster (by almost 40%). Controllers, however, remain only a third of total staff employed by ANSPs, indicating a very high number of support staff (around 30 000 in 2011).

5. **Enhancing the efficiency of SES**

5.1 Experience shows that Member States that are either sole or majority owners of service providers have a strong tendency to focus on healthy revenue streams from the user-financed system of air traffic control services. They can be reluctant, therefore, to endorse fundamental change towards a more integrated operating airspace which could impose restrictions on current routings through national airspace, preferred by states/ANSPs, possibly with a view to revenue generation.

5.2 A more cohesive network approach to route planning could reduce average flight lengths through European airspace by some 10 minutes, reducing fuel burn and resultant emissions of CO₂. While the current inefficiency has no real downside for ANSPs or states, the cost burden is borne by the airline customers and, inevitably, passed through to consumers.

¹¹ Cf. EUROCONTROL report on U.S./Europe Comparison of ATM-Related Operational Performance, 2010.

- 5.3 Under the current system, Member States in the Single Sky Committee (SSC) have the ultimate say on targets, the adoption of performance plans and the acceptance of corrective measures in the event targets are not reached. As indicated in an earlier opinion of the EESC¹², users and ANSPs should be able to attend meetings of the SSC, if necessary, as observers. The Committee acknowledges that the Commission has made some efforts for a better consultation of non-state SES stakeholders, namely by establishing a separate Industry Consultation Body¹³, but considers that efficient SES implementation requires meaningful dialogue between and full participation of all stakeholders and states.
- 5.4 In its new legislative package, the Commission is proposing to strengthen control and sanction mechanisms. The Commission being the custodian of, and bearing ultimate responsibility for the Performance Scheme, the EESC strongly supports the Commission's proposal that members of the Performance Review Body be directly nominated by the Commission to safeguard independence.

6. Specific comments

- 6.1 The best regulator is competition, but this is totally absent in the provision of core ATM service. Realistically, it would not be feasible to consider introducing competition in all ATM services in the short to medium term. The Commission's analysis indicates that the core air traffic control services are natural monopolies at least under current technology. With the absence of competition, it is the more vital that there be strong and effective economic regulation of such monopoly providers, to serve as a proxy for competition. The EESC therefore supports the proposal, implicit in SES II+, that the Commission be the effective European Economic Regulator of ATM.
- 6.2 The first SES package of 2004 aimed to introduce market mechanisms for the provision of support services, in order to improve their efficiency. Little in practice has been achieved although in the two cases where such measures have been taken – in Sweden and the UK – the results have been positive (one of the ANSPs estimated the saving to be around 50% compared to the internalised provision of support services).
- 6.3 Support services, such as meteorology, aeronautical information, communication, navigation or surveillance services are more practical propositions. There are many companies inside and outside the ATM world who could offer such services. Their provision could be shared between several providers to maximise competition, or – as recently suggested by Eurocontrol

12 [OJ C 198, 10.7.2013, p. 9.](#)

13 The Industry Consultation Body (ICB) first met in 2004. According to the Commission website, it provides the "opportunity for all parts of industry to tell the European Commission what they expect from the Single European Sky and to give their views on options and timetables. The Commission intends to use the advice of the ICB to steer not only the legislative initiatives, but also the standardisation, research and infrastructure investments of the Commission." (http://ec.europa.eu/transport/modes/air/single_european_sky/consultation_body_en.htm).

in its analysis of the concept of "centralised services" – attributed to a single provider or a grouping of service providers that could support several core providers.

- 6.4 The Commission is of the opinion that market mechanisms should be introduced to increase efficiency in the provision of support services. In its legislative package the Commission proposes to pursue the separation and market opening of certain of these support services mentioned above. Most of the areas proposed in the initial list of candidate centralised services, proposed by Eurocontrol and revolving around data management, could be provided by parties from outside the world of ATM. Consideration should therefore be given to inviting tenders also from other than existing ANSPs in order to introduce some element of competition, in particular more competitive tendering.
- 6.5 A number of difficulties in the implementation of SES can be attributed to the difficulties encountered by the National Supervisory Authorities (NSAs): inadequate resources, a lack of expertise and of independence from both Governments and ANSPs. Failing to address these shortcomings will significantly put at risk the implementation of the SES. The multiplicity of national NSAs in Europe contrasts with the US, where there is a single Regulator. EU regulation on ATM - perhaps on a FAB basis – would improve both the consistency and the enforcement of SES implementation and would help reduce the cost of oversight, which is borne by the users, ultimately the consumers.

7. **Removing the fragmentation of the European ATM System**

- 7.1 The re-design of the Functional Airspace Blocks (FABs) is intended to combat the fragmentation of the airspace by establishing co-operation between ANSPs, optimising the organisation and use of airspace and of routes over larger areas, thus achieving overall synergies through economies of scale.
- 7.2 Whilst a lot of work by the Member States and their ANSPs has been done towards the creation of FABs, substantive progress has been disappointing. Nine FABs have been announced, but none of them are fully operational, and most seem intended to fulfil formal requirements, rather than developing synergies or economies of scale.
- 7.3 Real – as opposed to merely institutional – FAB developments have often been blocked, because of fears that the revenue stream from air navigation charges would fall, in some cases by over 30%, if these developments were to be implemented and services would be rationalised by e.g. shortening routes. Strong opposition from staff, defending their current staffing levels has been an additional issue for Member States to confront in that respect. While this insecurity is understandable, it is without foundation. More efficient Air Traffic Management through the creation of the Single European Sky in more than name, together with rapid advances in technology, will make the continued growth of air traffic in Europe more assured, safeguarding employment and conferring greater responsibility on controllers in a more managerial, overseeing role.

- 7.4 Furthermore, claims of national sovereignty problems have been used to protect existing monopolies, in the name of protection of military infrastructure, objectives and operations in European airspace. While genuine military needs are justifiably protected under the SES, the precise line between those valid needs and undue protection of national interests has often become blurred. Examples of delegated airspace exist and have not given rise to real sovereignty issues.

Within the domain of aviation, key national airports have been successfully privatised, with cross-border ownership. ATM is essentially an infrastructure service and there are many examples in Europe of existing or planned cross-border privatisations of key infrastructure services in the area of energy, including the sensitive area of nuclear power generation, telecommunications, water etc. One part-privatised European ANSP is, in fact, partly-owned by non-national interests.

- 7.5 The EESC acknowledges the Commission's intent to continue to pursue infringement cases against Member States in relation to the FABs, particularly those where progress towards reform is not demonstrated clearly in the coming months. While the coordinated SES implementation by all Member States under the leadership of the Commission is by far the preferred option, infringement proceedings need to be used firmly as a last resort against non-compliance with the rules. The Commission is also right to maintain its commitment to the adoption by FABs of organisational models suitable for a more integrated European network of operating airspace.
- 7.6 The EESC supports the Commission's proposal in this legislative package to further develop the FAB concept so that it becomes a more performance-driven and flexible tool for ANSPs, based on industrial partnerships, fit to achieve the targets set by the SES performance scheme.

8. **The role of Eurocontrol**

- 8.1 Eurocontrol continues to have a significant role to play in the implementation of the SES. Originally established to provide a collective air traffic control system in six European countries, it has taken on a host of other tasks over the years. With the advent of a Single European Sky, Eurocontrol should refocus on its core task of coordination of service provision.
- 8.2 To better coordinate their activities, the EU and Eurocontrol signed a high-level agreement¹⁴ in 2012 which recognises the contribution that Eurocontrol can make to the establishment of an efficient European ATM system by supporting the single EU-designated European regulator of ATM namely the Commission. In this respect Eurocontrol will continue to support & assist the Commission and EASA in the drafting of relevant rules and regulations.

14 <http://register.consilium.europa.eu/pdf/en/12/st13/st13792.en12.pdf>

- 8.3 Significant steps have already been taken, and the final part of the process of the reform of Eurocontrol has begun in 2013. It remains an intergovernmental organisation and its Constitution and decision-making bodies (such as the Provisional Council) do not yet reflect the outcome of recent reform changes. The Commission supports the on-going reform of Eurocontrol that will focus on the management and operation of the European ATM network. The particular importance of this role has already been recognised by the EU through a mandate to Eurocontrol to deliver the Network Management functions set up under SES legislation. This development should be promoted, in full consistency with the SES legal framework and SESAR deployment. Moreover, it cannot materialise without a shift in the governance of this organisation towards a more industry-led environment.
- 8.4 The Performance Scheme being pivotal to achievement of the SES, the responsibility for the review of the EU Member States' traffic and unit rate forecasts should pass from the Eurocontrol Enlarged Committee to the Performance Review Body, which should scrutinise these on behalf of the Commission. As the Enlarged Committee reports to the Eurocontrol Provisional Council, thus the EU Member States, the proposed transfer of the review of EU Member States' forecasts of traffic and unit rates to the Performance Review Body would be more logical in the context of the Performance Scheme and consistent with the Commission's proposed role as European Economic Regulator for ATM. The review of the traffic and unit rate forecasts of the non-EU members of Eurocontrol, which is also done with the SES Performance Scheme, should continue to be carried out by the Eurocontrol Enlarged Committee.
- 8.5 Eurocontrol has been designated by the Commission to perform the function of Network Manager, under the governance of the Network Manager Board. The Network Manager function is already demonstrating its worth.
- 8.6 The concept of an industrial partnership for improved service provision should be seen as an objective that would also fit with the further reform of Eurocontrol. To this end, the ANSPs and airspace users would participate in the Network Manager as a kind of joint venture. This model ensures the separation from regulatory bodies as it turns the Network Manager away from the role of an intergovernmental organisation, overseeing a patchwork of national airspace blocks and towards a more rational air navigation service coordination, focused on the creation of a more efficient and cost-effective European airspace network, worthy of the name – Single European Sky.
- 8.7 The EESC welcomes the Commission's proposal in this legislative package to reinforce the role of the Network Manager, based on streamlined governance that gives a more prominent role to the industry – ANSPs, airspace users and airports.

9. **The role of the European Aviation Safety Agency (EASA) in ATM**

- 9.1 EASA has been pivotal to EU aviation safety policy since 2002, with its objective being to achieve a high and uniform level of safety, while furthering the traditional EU goals of a level playing field, free movement, environmental protection, avoidance of regulatory duplication, promotion of ICAO¹⁵ rules etc.
- 9.2 The legislation invites the Commission to propose changes to remove the overlap once the corresponding EASA implementing rules have been established.
- 9.3 ATM was different in that a distinction was made between "safety" and "non-safety" rules, given the strong residual role played by Eurocontrol in non-safety issues.
- 9.4 With the SESAR project now getting close to deployment, the problem of aligning different technical rules risks getting worse, as all related technologies and concepts must be facilitated or mandated by the regulatory system. We need to move to a single regulatory strategy, rule structure and consultation process under the EASA umbrella.
- 9.5 The Commission proposes in this legislative package to eradicate the overlap between SES and EASA regulations and share work between the different institutions accordingly. The Commission should therefore focus on the key questions of economic regulation, whilst EASA ensures co-ordinated drafting and oversight of all technical rules, drawing on expertise from Eurocontrol.

10. **Social dialogue**

- 10.1 Social dialogue needs to be addressed with urgency and with all stakeholders in the aviation value chain, as stated in the recent EESC's exploratory opinion¹⁶ on SESII+. It is pivotal to the implementation of the SES.

15 International Civil Aviation Organization.

16 [OJ C 198, 10.7.2013, p. 9.](#)

- 10.2 In accordance with this, there should be moves towards drawing up EU-wide standards in order to safeguard jobs and quality in aviation. The fifth pillar of the Single European Sky therefore plays a crucial role in efforts to give proper consideration to challenges in the areas of employment, worker mobility, changes in staff management and further education. Social dialogue should therefore be strengthened and concern not only the air transport management sector, but should be open to other social partners beyond air navigation services and include discussions on the social impact for workers of air navigation services, aviation businesses and airports and the question of how jobs can be safeguarded in aviation as a whole.

Brussels, 11 December 2013.

The President
of the
European Economic and Social Committee

Henri Malosse
