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Subject:	Amended proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the implementation of the Single European Sky (recast) – *EESC opinion*

Delegates will find attached the opinion of the EESC on the above mentioned proposal.

ANNEX

European Economic and Social Committee

TEN/722
2020 Single European Sky 2+

OPINION

European Economic and Social Committee

Amended proposal for a Regulation of the European Parliament and of the Council on the implementation of the Single European Sky (recast)
and
Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1139 as regards the capacity of the European Union Aviation Safety Agency to act as Performance Review Body of the Single European Sky
[COM(2020) 577 and COM(2020) 579]

Rapporteur-general: **Dumitru FORNEA**

Referral	Council of the European Union, 26-27/10/2020 European Parliament, 26/10/2020
Legal basis	Article 100(2) and 304 of the Treaty on the Functioning of the European Union
Section responsible	Transport, Energy, Infrastructure and the Information Society
Bureau decision	28/10/2020
Adopted at plenary	02/12/2020
Plenary session No	556
Outcome of vote (for/against/abstentions)	198/21/34

1. Conclusions and recommendations

1.1 The European Economic and Social Committee values the efforts of the European Commission, the European Parliament and the specialised EU institutions to find new legal and administrative solutions that can ensure the sustainable development of the air transport system for the benefit of all citizens, airspace users and the environment. We all agree that it is necessary to ensure air traffic safety, to improve the overall performance, scalability and resilience of air traffic management and air navigation services (ATM/ANS), and also we support the aim of the Single European Sky (SES) for a coherent pan-European network and a progressively more integrated and technologically modernised ATM/ANS.

1.2 The European Commission's amended recast proposal for Single European Sky (SES) is generally welcomed by many stakeholders and it is considered to be necessary to achieve the goals set out by the Commission namely: reduction of CO_2-emissions, lesser delays on the ground (airports) and more cost efficiency in the ATM service provision. These goals also have the support from other reports such as the Wise Persons Group report on the future Single European Sky from 2019[1].

1.3 The Single European Sky amended recast proposal presented is an updated regulatory framework that attempts to achieve the original SES targets on reducing CO_2 emissions, reducing delays and improvements in the cost efficiency of the ATM service provision. However, even if the Commission's proposal is an improvement compared to the existing regulation, it remains unclear whether the draft is sufficient to achieve the original SES goals. Therefore, we suggest initiating a discussion to clarify the ambition of the new SES regulation.

1.4 The function of the network manager needs to be clarified. In particular, the overall scope and its impact on airline planning, capacity management, airspace design, the environment and the prioritisation of demands.

1.5 All stakeholders in aviation should be engaged in reaching major decisions. The principle of meaningful consultation needs to be part of the framework proposal.

1.6 There is concern that the ambition of this proposal is too broad, and therefore environmental measures should be given further thought and development outside this proposal. Such an additional policy should consider all relevant sustainability measures in aviation, including the introduction and integration of sustainable aviation fuels (SAFs). In these debates, the effectiveness of modulation of charges to incentivise environmental behaviour of airlines should be assessed.

1.7 While recognising that the ATM sector can contribute to the overall reduction of CO_2 emissions, the effective use of technology in a sustainable way can mitigate CO_2 emissions in aviation. This approach should be considered as a means to further reduce the aviation industry's footprint. It is recognised that technologies such as Sustainable Aviation Fuels (SAFs) can significantly reduce CO_2 emissions, considerably more than can be achieved through this proposal.

[1] https://www.sesarju.weu/node/3330

1.8 The proposal is lacking in its consideration for the dramatic impact of COVID-19 on the industry. Specifically, the proposal's encouragement of structural change has the potential to create further fragmentation and greater complexity at a time when the industry needs stability to recover. Therefore, further study and consideration is needed to give adequate consideration to the social and economic impact of the COVID-19 pandemic for both workers and service users. Additionally, the aim of the proposal to improve capacity in the ATM sector has become less relevant as traffic has reduced dramatically since the COVID-19 pandemic began. Current estimates from Eurocontrol show that a return to 2019 traffic is likely to take place in 2024[2].

1.9 In relation to the performance scheme, a top-down EASA led approach on performance review should take local conditions into account in a meaningful way. A structured social dialogue process around performance must take local conditions and factors into account.

1.10 The independence of a new economic regulator must be ensured and a clear demarcation between the regulation of and the application of services must be maintained. Therefore, the following amendments to the performance scheme should be made:

- The safety KPA should be developed at the same level as other KPA with EU metric targets and indicators.
- Mandatory consultation mechanisms should be introduced at local level to ensure appropriate involvement of staff representatives in the adoption of local performance plans.
- Interdependency between the different KPA should be acknowledged and appropriately mitigated.

1.11 It should be ensured that the structural separation of National Supervisory Authorities (NSAs) and National Competent Authorities (NCAs) avoids significant conflicts of interest, which could impact the efficiency and cost-effectiveness of the industry, workers' lives and the safety of the industry. The NSAs and NCAs must act independently from any industry, economic, social or political pressure and therefore, in line with standards in Members States, they should remain in the remit of the public sector. Rules laying down the selection of processes for NSA and NCA staff should not be in contradiction with the usual selection processes for Member States' civil servants.

1.12 The Function Airspace Blocks (FABs), which this proposal seeks to disband, have helped to create a common culture amongst all social partners, and have facilitated improved performance.

1.13 In reference to the provision of the support services (CNS, AIS, MET), we are concerned that the intention of the proposal aligns with the previous proposals, SES1, and SES2, to privatise and fragment the sector, both of which were denied between the initial Commission proposal and adoption of the various texts. While compromise was reached in the SES2 process, this current approach is not balanced, favouring the separation of support services and the application of market principles. The proposal should consider a balanced view, taking into account the negative socio-economic consequences of such an approach, the objective of creating an efficient and effective service, and the lack of political will that has been expressed in previous SES proposals.

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[2] Eurocontrol, Market Update [10 November 2020]. As presented by Eamonn Brennan at https://www.youtube.com/watch?v=-VSQe97wDmc

1.14 During the legislative procedure, it is recommended that due consideration is given to certain aspects of this proposal, in particular any proposal to unbundle or liberalise service provision. It is recognised that these factors have the potential to have a detrimental impact on workers and social partners should therefore be engaged during this process.

2. Background and general comments

2.1 European Commission's stated aim in adopting this legislative package

The Commission aims to improve the overall efficiency of the way in which European airspace is organised and managed by reforming the monopoly of air traffic service providers. The package is long overdue and SES legislation has not been updated for more than 10 years. Changes in the evolution of air traffic management have been taken into account and the European ATM Network has to be reformed to cope both with sustained air traffic growth over the last decade and with significant unforeseen traffic variations, such as those caused by the current COVID-19 pandemic. This requires changes allowing operations to take place under the safest, most cost-effective, flight-efficient and environmentally-friendly conditions, as well as measures contributing to the reduction of aviation emissions, in accordance with the objectives of the European Green Deal. This means continuing to defragment European airspace, to reduce delays, to increase safety standards and flight efficiency to reduce the aviation environmental footprint, and to regulate charges related to monopolistic service provision.

The efficiency of flight routes can be increased by adopting new digital technology solutions. This can be implemented through cooperation and confidence building between European Union nations and industry stakeholders.

2.2 Social license to operate and the relationship with organised civil society

2.2.1 This SES2+ proposal is in part, a recasting of a previous SES2+ proposal on which discussions stalled due to a bilateral disagreement between two Member States. Given the similarity of the content to previous unsuccessful SES proposals, the possibility that a political consensus will not be reached still remains. The Member States' concerns have traditionally included political concerns, sovereignty concerns, socio-economic factors, liberalisation of national airspace and forced privatisation. During the legislative procedure, it is recommended to give due consideration to these concerns.

2.2.2 The European Commission claims that social issues were taken into account in the 2013 Impact Assessment on the SES2+ initial proposal. There is an ongoing study on ATCO and ATSEP working conditions that will be taken into account during the development of secondary legislation once the SES proposal is adopted. However, the social background has heavily evolved since then. The study on ATCO and ATSEP working conditions is focusing mainly on the current situation and the feedback of the social partners is not that positive with regard to the future scenarios.

2.2.3 A number of issues from the feedback provided by stakeholders in previous discussions have not been taken into account. These include the series of roundtables that led to the high-level declaration on the Digital European Sky, and existing consultation tools, such as the ATM Sectoral Social Dialogue, the Wise Persons Group and the SES Expert Group on the Human Dimension. Given this, there remain a number of outstanding socio-economic concerns including the implementation of new technologies and an initiative taken by the ATM social partners to develop a social and human dimension roadmap for the SES.

2.2.4 Leading aviation stakeholders support the continued cooperation between Member States, ANSPs, and the network manager. The work of the SES initiative supports such cross-border engagement, and should continue to develop means in which operational safety, efficiency and cost-effectiveness can be improved, including through access to staff training programs on which the achievement of the "Single European Sky" depends.

2.2.5 More frequent working meetings between military air traffic administrations in the Member States and ongoing dialogue between civilian and military air traffic administrations can lead to more efficient flight routes, both economically and especially from the ecological perspective and the benefits to passengers/consumers.

2.2.6 The environmental performance setting will need to be more driven by concrete parameters than the cost itself. A reform is needed to reinforce the importance of the greening of the flights and thus service to be offered by ANSP and Network Manager, as well as the best use of the network by the airspace users.

2.3 **Consideration of the COVID-19 pandemic**

2.3.1 Notably, the aviation industry has suffered most from the economic crash following the COVID-19 crisis. International estimates are for a return to 2019 traffic levels by 2024 at the earliest, provided that a COVID-19 vaccine is successfully introduced in the first half of 2021. Given the increasing pressure placed on the industry to recover some form of normal operations, the impact of this proposal must be fully understood, considering the significant structural amendments to the European ATM industry that it proposes. The proposal should not inhibit the ability of ATM or other sectors of aviation to restart normal operations.

2.3.2 There is a noted lack of adaptations to the proposal in light of the COVID-19 crisis, which serves to highlight the concern expressed that the proposal is out of touch with the factors concerning the aviation industry in the post-COVID-19 world. It would seem that all assessments of the impact of the proposal have been done pre-COVID-19 and therefore would no longer be relevant.

2.3.3 The COVID-19 crisis has had a dramatic effect on the workforce in aviation, where tens of thousands of workers have already lost their jobs in Europe. The "support functions" of the ATM industry such as CNS, AIS, and MET might lead to further negative social consequences due to this proposal's efforts to unbundle services. This must be recognised, and the proposal should be cognizant of the socio-economic impact of the pandemic on these workers and the volatility of the sector in the current climate.

2.3.4 As the future of the industry remains unclear, it is hard to prepare legislation that will provide an effective remedy to the concerns addressed in the aim of the proposal. Additionally, the social and economic impacts of the crisis are not yet fully clear, and it is premature to make assessments or conclusions based on current projections, which are changing rapidly as the pandemic develops.

2.4 **Application of market principles**

2.4.1 The Commission is calling for financial robustness, but the ANSPs might perceive the new proposed institutional architecture as quite bureaucratic, with new costs introduced that are not necessarily related to the operative work. Another aspect that may raise questions is the appeal body, which, in the proposed format, might not be totally independent from the PRB, even if the Commission's intention in this regard is quite clear, namely, the creation of a body that can solve cases through a non-judicial procedure, and not only at the European Court of Justice.

2.4.2 Unlike other sectors of the industry, the ATM sector must remain at a high level of operational capacity regardless of demand in commercial air traffic. The sector and its workforce have continued to work regardless of the pandemic and have provided necessary services to essential traffic such as air cargo, medical and military flights.

2.4.3 From a socio-economic perspective, there is a concern that the application of market principles to the Aerodrome Air Traffic Services could lead to labour instability and reduce the standards of work in the sector to the detriment of the workforce and the community as a whole. This would hinder the objective of achieving an increase in operational efficiency and is therefore unlikely to bring the cost of services down. It could also reduce the number of aerodromes where ATS is provided and have a direct impact on safety at such aerodromes.

2.4.4 In the ATM sector, there has traditionally been a high-level of industrial unrest with previous attempts to liberalise the sector. Indeed, much of this unrest has specifically focused on previous SES proposals. It is possible that this proposal in its current form will lead to further social unrest and labour disputes given its aim to achieve greater industry liberalisation and to open up to further privatisation and fragmentation of the ATM sector, in particular in the so-called "support functions".

2.5 **Separation of the supervisory authority and service provision**

Following the SES1 regulation, there is mandatory separation between supervisory and service provision roles, at least at function level. Consideration should be given to this amendment in SES2+, as experience built through the functional separation processes has shown that performance can be maintained at the same level as a sector that is structurally separated. Likewise, further clarity would be welcome on the overall scope of the proposal in this regard.

Brussels, 2 December 2020

Christa SCHWENG
The president of the European Economic and Social Committee

N.B.: Appendix overleaf.

APPENDIX
TO THE OPINION
of the
European Economic and Social Committee

The following sections of the draft opinion were amended to reflect amendments adopted by the assembly but received more than one quarter of the votes cast (Rule 54(4) of the Rules of Procedure):

a) **Point 1.14**

1.14 ~~A Social Impact Assessment should be conducted on~~ During the legislative procedure, it is recommended that due consideration is given to certain aspects of this proposal, in particular any proposal to unbundle or liberalise service provision. It is recognised that these factors have the potential to have a detrimental impact on workers and social partners should therefore be engaged during this process.

Outcome of the vote on the amendment:

Votes in favour: 119
Votes against: 104
Abstentions: 26

b) **Point 2.2.1**

2.2.1 This SES2+ proposal is in part, a recasting of a previous SES2+ proposal on which discussions stalled due to a bilateral disagreement between two Member States. Given the similarity of the content to previous unsuccessful SES proposals, the possibility that a political consensus will not be reached still remains. The Member States' concerns have traditionally included political concerns, sovereignty concerns, socio-economic factors, liberalisation of national airspace and forced privatisation. ~~A thorough series of impact assessments would help in identifying and mitigating these concerns.~~ During the legislative procedure, it is recommended to give due consideration to these concerns.

Outcome of the vote on the amendment:

Votes in favour: 113
Votes against: 113
Abstentions: 23

According to Rule 61 of the Rules of Procedure, as the vote was a tie (an equal number of votes for and against), the president had the casting vote in favour of the amendment.