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*LIMITED*

**REPLIES OF THE COMMISSION TO THE SPECIAL REPORT OF THE  
EUROPEAN COURT OF AUDITORS**

**“THE EU’S REGULATION FOR THE MODERNISATION OF AIR TRAFFIC  
MANAGEMENT HAS ADDED VALUE – BUT THE FUNDING WAS LARGELY  
UNNECESSARY”**

## **REPLIES OF THE COMMISSION TO THE SPECIAL REPORT OF THE EUROPEAN COURT OF AUDITORS**

### **“THE EU’S REGULATION FOR THE MODERNISATION OF AIR TRAFFIC MANAGEMENT HAS ADDED VALUE – BUT THE FUNDING WAS LARGELY UNNECESSARY”**

#### **EXECUTIVE SUMMARY**

VII.

(a) The Commission considers that the priorities for the initial calls for proposals under the Connecting Europe Facility (CEF) were adequately defined in relation to the level of awareness, at that time, of the potential implementation projects that were needed to deploy the pilot common project. At that stage it was too early to have a full understanding of the potential deployment gaps that would require to focus funding on.

(c) The evaluation and awarding processes under the CEF are entirely run by the Commission and the Innovation and Networks Executive Agency (INEA), with no intervention by the applicants or the SESAR Deployment Manager.

VIII. The Commission understands this risk, which is not specific to SESAR deployment, and monitors the progress of projects with INEA. The Commission and INEA will intervene through the monitoring and review processes established in CEF and in the pilot common project.

The SESAR deployment manager has started the performance monitoring of the projects that have terminated.

IX.

(1) The Commission accepts this recommendation as indicated in its reply in the relevant section of the report.

(2) The Commission accepts this recommendation as indicated in its reply in the relevant section of the report.

(3) The Commission accepts this recommendation as indicated in its reply in the relevant section of the report.

(4) The Commission accepts this recommendation as indicated in its reply in the relevant section of the report.

(5) The Commission accepts this recommendation as indicated in its reply in the relevant section of the report.

## **OBSERVATIONS**

22. Commission Implementing Regulation (EU) No 409/2013 indicates that the contractual arrangements covering the implementation projects selected to receive Union funding should define penalties for non-execution of the deployment programme and of the projects. These arrangements are included in the Framework grant agreement that includes all implementing partners.

Implementing Regulations are directly applicable in the Member States and can be followed up by the Commission with infringement procedures. The Commission therefore considers that Regulation (EU) N° 409/2013 represents a robust enforcement mechanism.

As indicated above, the Commission can apply sanctions/penalties through the grant agreements governing EU funds awarded to the implementation projects.

### **Common Commission reply to paragraphs 26 to 28:**

The Commission stresses the fact that the PCP was a pilot exercise to launch the Common Project concept and test its implementation. The PCP represents the first attempt to deploy SESAR solutions in a coordinated manner through a framework partnership including a wide range of industrial stakeholders.

For this purpose, the PCP Regulation contains a review clause aiming to adjust the PCP based on the actual state implementation of the PCP ATM functionalities. The review clause allows reassessing, if necessary, their compliance with the essential criteria, the use of existing incentives, cost and benefits from the implementation of the PCP, the geographical scope, the targeted stakeholders and the target implementation dates.

Box 3. The Commission underlines that the 2017 CEF call for proposal (in the light of the experience of the first implementation projects) excluded projects with critical maturity issues by identifying, in the call, non-eligible families (in particular on Family 5.6.2 of the deployment programme relating to interoperability).

29. The Commission recognises that the industrialisation phase constitutes a gap between the development and deployment phases. For this purpose, the Commission supported the setup of and participates in the European ATM Standards Coordination Group (EASCG) to ensure a better coordination and monitoring of the activities affecting ATM standardisation. In particular, the EASCG updates the PCP “Indicative roadmap with respect to standardisation and regulation”. Moreover, the deployment framework requires the SESAR Deployment Manager (SDM) to coordinate with the manufacturing industry to address industrialisation issues. The SDM also cooperates with the European Union Aviation Safety Agency (EASA), the European Organisation for Civil Aviation Equipment (Eurocae) and the European Southern Observatory (ESO).

The Commission intends to assess possible means to further facilitate industrialisation/standardisation processes to ensure a seamless transition from the SESAR development phase to deployment.

30. The Commission points out that CEF funding has supported the deployment of mature components or pre-requisites of the mentioned technologies. The CEF programme indicates

that, under the SES-SESAR priority, actions may include prerequisites, preparatory activities (for example supporting industrialisation of ATM functionalities (AF) identified in the common projects) and additional validation activities that are either not covered by the SESAR Joint Undertaking or that are not already receiving financial support from the Union.

As a result, what was financed by the EU did meet the maturity criteria.

31. The Commission had assessed the need for synchronised deployment based on the criteria of Article 4(5). The need is explained for each ATM functionality in the Annex to the Commission Implementing Regulation (EU) No 716/2004.

The need for synchronisation is further described and justified for specific projects in the deployment programme.

In some cases, and notwithstanding their contribution to ATM performance, experience gained from the deployment of some PCP functionalities or sub-functionalities may put into question the actual need for their synchronised deployment. This assessment, based on monitoring of the deployment exercise by the SDM, is part of the PCP review process and does not put into question the overall interpretation of the provision.

#### Common Commission reply to paragraphs 32 and 33:

The Commission considers that a synchronised deployment was necessary and beneficial for the ATM functionalities 1 and 2 for the specific airports that had been identified in Regulation (EU) N° 716/2014.

These functionalities contribute to synchronising the investments of different stakeholders (air navigation service providers – ANSPs -, airports, air space users). Those projects increased safety and capacity in the airports and Terminal Manoeuvring Areas with a knock-on effect on the overall network.

The Commission also notes that even IPs conducted by individual stakeholders are coordinated by the SDM and – although with a reduced impact vis-à-vis the multi-stakeholder projects – benefit from the synchronisation activities.

#### Common Commission reply to paragraphs 35 to 39:

The Commission considers that EU deployment funding was necessary to accelerate investments.

Funding was awarded to PCP projects according to the rules and priorities set in the CEF programme and in accordance with a regular selection process comprising three levels of evaluation. The proposal for awarding grants was also approved by the Member States through the CEF coordination committee.

EU funding aimed to contribute to synchronising the deployment of functionalities and therefore incentivising stakeholders to coordinate their efforts and investments.

38.

(a) The Commission underlines that the first set of ATM functionalities stemming from the first programme of the SESAR development phase (2007-2013) targeted mostly ground stakeholders.

This approach was supported by airspace users, as they resulted as primary end beneficiaries from this initial round of ground investments.

The PCP does not represent the full scope of SESAR deployment, for which CEF earmarked EUR 2.5 billion.

(b) The Commission notes that the envisaged envelope was meant to cover also “other projects” and the programme support actions. There was no reason to reduce the envelope, also because other common projects had been envisaged.

For this reason, the Commission also considers that the risk of deadweight is not high.

39. See Commission reply to paragraph 38(a).

45. The Commission considers that the deployment framework and the related EU funding served the purpose of accelerating the deployment of SESAR solutions, stimulating coordination and ensuring an alignment of efforts and investments in accordance with the Deployment Programme.

The development of large scale infrastructure projects requires anticipated planning. It is therefore a common feature of CEF projects that the decision phase takes place prior to the calls for proposals.

Common Commission reply to paragraphs 46 and 47:

The Commission recalls that ANSPs are required to deduct EU grants from their cost base. This principle mitigates the risk of double funding. While the Commission acknowledges that not all ANSP currently deduct EU grants from the cost base, they will nevertheless be obliged to do so. Guidelines to this avail are prepared in cooperation with the Member States.

48. The Commission stresses that the deduction of revenues obtained from public authorities is a stated objective of the Charging Scheme.

The Commission considers that the deduction of funds from the cost base cannot be qualified as a “transfer of grants” to airspace users. The cost base for navigation charges should take into account the actual costs incurred by ANSPs. Any public funding received for ATM infrastructure reduces the actual costs borne by the ANSPs and this reduction should be reflected in the calculation of the charges.

The deduction from the costs basis aims to ensure that users are not paying twice for deployment investments. It is not a financial compensation and is not linked to airspace users compliance or not to PCP functionalities that ANSP are required to deploy.

50.

(a) The Commission recalls that the PCP is a pilot project that saw its inception in 2014.

The Deployment Manager was appointed on 5 December 2014 and on the same day a preliminary Deployment Programme was published.

(b) The Commission stresses that EU funding was awarded through a thorough selection process based on defined award criteria. The proposals were evaluated by external and internal experts like any other CEF proposal. In this respect, the size of the applicant was not a selection criteria.

(c) These projects stem from the PCP - Regulation (EU) N° 716/2014 – which also describes AF’s essential pre-requisites that are deemed necessary to implement the functionalities, although not explicitly listed as within the scope of the PCP. These prerequisite and other enablers are identified in deployment programme and therefore eligible for funding.

51. The Commission underlines that CEF funding aims to support SES and SESAR implementation in general. Funding “other projects” has supported the deployment of important technologies (such as 8.33 kHz equipage and performance-based navigation - PBN - capabilities) that contribute substantially to harmonising the European ATM network.

52. The need to focus on specific gaps became known only as the projects evolved and the SDM monitoring process progressed.

Whereas the further prioritisation in 2016-2017 generated an improvement in the effectiveness of CEF funding, this does not imply that the funding awarded in 2014 and 2015 was not effective as all projects submitted aimed to implement the PCP.

55. The “clustering of applications” is an optional administrative tool to facilitate of large multi-stakeholders grants awarded under CEF. It is not a requirement for the synchronisation of common projects defined in Regulation (EU) 409/2013.

(a) Regulation (EU) 409/2013 defines the framework for synchronising the deployment of common projects. It assigns the responsibility for developing and implementing a deployment programme to the SDM. The deployment programme includes a comprehensive work plan that organises all activities necessary for the implementation of common projects into “implementation projects” identifying, inter alia, the operational stakeholders responsible for their execution. Clustering SESAR implementation projects is an additional means, implemented by the SDM, to coordinate these projects in the framework of CEF grants. For example, one approach for clustering has been to group projects having a similar duration. This avoids that shorter projects would have to wait for the longer projects to finish before claiming their final payment.

(b) The Commission considers that fact that projects were implemented by single stakeholders is not detrimental to the coordination of the action. The

coordination/synchronisation required under Regulation 409 is mainly achieved through the Deployment Programme, the Framework Partnership Agreement arrangements and the monitoring and planning mechanisms established and implemented by the SDM.

The Commission points out that synchronisation of investments and deployment is not achieved through clustering. Grouping and associating projects into Action clusters is considered as the most effective and administratively-lean process.

(c) The projects are organised within Clusters under the Framework Partnership Agreement and all projects are coordinated by SDM in order to provide synchronised implementation.

While, in principle, these projects may benefit from a synchronised implementation under the CEF, not all similar initiatives need to be carried out as part of a multi-stakeholder project: depending on the specific technological elements to be deployed, the Commission considers that it is most suitable to proceed with individual initiatives, as long as they are coordinated under SDM.

56. The Commission considers that the level of details available in the applications is sufficient in order for the experts to evaluate the proposals, even if it is in a condensed manner.

(a) The Commission notes that 5 IPs out of a sample of 8. addressed one family, namely 3.2.1 "Upgrade of ATM systems to support Direct Routings and Free Route Airspace".

This family specifically supports ATM system upgrades in line with the deployment programme.

Furthermore, two of the sampled IPs do not address the renewal of their ATM system.

57. See Commission reply to paragraph 55.

60. The Commission stresses the fact that SDM only screens applications and can only advise potential applicants to revise their applications or to present them under "other projects".

(a) The SDM acts as coordinator of the implementation projects as indicated in the Framework Partnership Agreement.

(b) Notwithstanding the possibility to improve the recording of exchanges between the SESAR Deployment Alliance (SDA) and the applicants, SDA has put in place a comprehensive consultation process prior, during and after applications are presented.

The process results in the submission of signed and endorsed applications.

(d) The Commission notes that the redistribution was not decided unilaterally by the SDA. It was overseen by INEA to ensure compliance with CEF rules.

Box 6. As the Commission or INEA did not receive any complaints for exclusion of projects or parts of projects from candidates or the respective Member States, it considers that the final submission of applications was not contested. In any case SDM could only advise

potential candidates on the submission of their projects. Candidates may nevertheless submit their applications also under the “other project” category.

However, the Commission agrees that the SDM should keep a systematic record of the reasons for exclusion and the exchanges with the potential candidates.

68.

(c) The SDM is developing a tool to measure contributions to performance.

## **CONCLUSIONS AND RECOMMENDATIONS**

Common Commission reply to paragraphs 71 and 72:

Implementing Regulations are directly applicable in the Member States and can be followed up by the Commission with infringement procedures. The Commission therefore considers that Regulation (EU) N° 409/2013 represents a robust enforcement mechanism.

The Commission stresses that the PCP was a pilot exercise to launch the Common Project concept and test its implementation. The PCP represents the first attempt to deploy SESAR solutions in a coordinated manner through a framework partnership including a wide range of industrial stakeholders.

For this purpose, the PCP Regulation contains a review clause aiming to adjust the PCP based on the actual state implementation of the PCP ATM functionalities.

The Commission furthermore considers that EU funding to support SESAR deployment had demonstrated added value in generating significant leverage, bringing actors together to synchronise investments and efforts and to ensure continuity with the development phase.

### **Recommendation 1 – Improve the focus of common projects**

The Commission accepts the recommendation that the focus of common projects should be improved. The on-going PCP review exercise will allow to better calibrate the PCP to the requirements of Regulation 409.

Such action can however not be completed before end 2021 as it requires a modification of existing legislation.

### **Recommendation 2 – Reinforce the effectiveness of Common Projects**

The Commission accepts the recommendation.

The Commission intends to propose a mandatory modulation of charges as an incentive mechanism within Implementing Regulation (EU) 2019/317.

73. The Commission considers that the deployment framework and the related EU funding served the purpose of accelerating the deployment of SESAR solutions, stimulating

coordination and ensuring an alignment of efforts and investments in accordance with the Deployment Programme.

Funding was awarded to PCP projects according to the rules and priorities set in the CEF programme and in accordance with a thorough selection process.

The targeting of ground stakeholders in the PCP was a direct consequence of the urgent need to update ground infrastructure. This approach was supported by airspace users.

The deduction of revenues obtained from public authorities is a stated objective of the Charging Scheme and aims to ensure that users are not paying twice for deployment investments.

### **Recommendation 3 – Review the EU’s financial support for ATM modernisation**

(a) The Commission accepts the recommendation.

It will implement the second bullet point in the case of a possible last CEF call for proposals under the 2014-2020 financial framework.

(b) The Commission accepts the recommendation.

It has already proposed to continue funding SESAR deployment under CEF2. However, the continuation and future budget allocation are not ultimately decided by the Commission, but by the budgetary authority. Detailed justifications will be included in the multi-annual work programmes as appropriate.

74.

(a) The Commission recalls that the PCP is a pilot project that saw its inception in 2014. PCP ATM functionalities were the identified priorities already in the 2014 call.

The need to focus on specific gaps became known only as the projects evolved and the SDM monitoring process progressed.

Whereas the further prioritisation in 2016-2017 generated an improvement in the effectiveness of CEF funding, this does not imply that the funding awarded in 2014 and 2015 was not effective as all projects submitted aimed to implement the PCP.

(b) The “clustering of applications” is an optional administrative tool to facilitate of large multi-stakeholders grants awarded under CEF. It is not a requirement for the synchronisation of common projects.

(c) The deployment manager only screens applications and advises potential applicants. Whereas the recording of exchanges between the SDM and applicants could be improved, a comprehensive consultation process is in place, prior, during and after the submission of applications.

**Recommendation 4 – Review and formalise the preparation and submission of applications for funding**

(a) The Commission accepts the recommendation.

(b) The Commission accepts the recommendation.

75. The Commission recalls that the PCP Regulation contains a review clause aiming to adjust the PCP based on the actual state implementation of the PCP ATM functionalities. The Commission initiated this review in 2018.

**Recommendation 5 – Ensure appropriate monitoring of performance benefits delivered by ATM modernisation**

The Commission accepts the recommendation. While it can ensure that appropriate monitoring is performed, it cannot ensure that modernisation delivers the intended benefits, as this falls under the remit of the economic operators.

The SDM has started to monitor performance benefits from completed projects. Realisation and measurement of benefits will require more time and any link to the performance scheme for benefits at network level would be relevant only for the next reference period.