

Single European Sky 2+ package

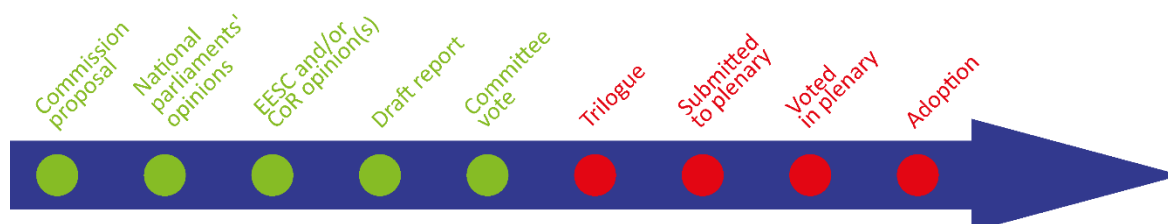
Amended Commission proposal

OVERVIEW

The Single European Sky (SES) initiative aims to make EU airspace less fragmented and to improve air traffic management in terms of safety, capacity, cost-efficiency and the environment. Its current regulatory framework is based on two legislative packages: SES I (adopted in 2004), which set the principal legal framework, and SES II (adopted in 2009), which aimed to tackle substantial air traffic growth, increase safety, and reduce costs and delays and the impact of air traffic on the environment. Nonetheless, European airspace remains fragmented, costly and inefficient.

The European Commission presented a revision of the SES in 2013 (the SES 2+ package). While the Parliament adopted its first-reading position in March 2014, in December 2014 the Council agreed only a partial general approach, owing to disagreement between the UK and Spain over the application of the text to Gibraltar airport. With Brexit having removed this blockage, the Commission has amended its initial proposal. The Council and the Parliament have both adopted their positions on the revised proposal, and can thus start trilogue negotiations.

Amended proposal for a regulation of the European Parliament and of the Council on the implementation of the Single European Sky (recast)		
<i>Committee responsible:</i>	Transport and Tourism (TRAN)	COM(2020) 579 22.9.2020
<i>Rapporteur:</i>	Marian-Jean Marinescu (EPP, Romania)	2013/0186(COD)
<i>Shadow rapporteurs:</i>	Bogusław Liberadzki (S&D, Poland) Jan-Christoph Oetjen (Renew, Germany) Marco Campomenosi (ID, Italy) Karima Delli (Greens/EFA, France) Kosma Złotowski (ECR, Poland) João Ferreira (The Left, Portugal)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Trilogue negotiations	



List of main acronyms used

ANSP: air navigation service provider

ATM: air traffic management

EASA: European Aviation Safety Agency

ECA: European Court of Auditors

FAB: functional airspace block

NCA: national competent authority

NSA: national supervisory authority

PRB: performance review body

SES: Single European Sky

Introduction

The EU [aviation sector](#) is strategically important: it provides jobs to almost 5 million people in the EU and contributes €300 billion, or 2.1 %, to EU gross domestic product. According to [Eurostat](#), 1.1 billion passengers were transported by air in the EU in 2018 (up by 6 % compared with 2017 and by 43 % compared with 2010). Although air traffic dropped sharply in 2020 and in 2021 due to the [Covid-19 pandemic](#), in the [longer term](#) it is expected to increase again. On 21 May 2021, [Eurocontrol](#) forecast that in the most optimistic scenario, air traffic would return to 2019 levels by 2024.

[European airspace](#) faces delays, caused by various factors such as strikes, weather and technical issues. There are also multiple reasons why aircraft usually do not take the shortest route to a destination, among them the need to avoid overflying military zones and states with higher en route charges, as well as congestion and meteorological issues. This in turn results in higher levels of aircraft fuel consumption and CO₂ emissions, and causes extra delays.

The [SES](#) initiative was launched in 2004 with the aim to make European airspace less fragmented and to improve the performance of air traffic management (ATM)¹ in terms of safety, capacity, cost-efficiency and the environment. The SES attempts to replace the EU Member States' national airspace management systems with an organisationally and technologically integrated pan-European system. So far, however, the outcome has not matched the level of initial ambition.

Existing situation

The [SES](#) regulatory framework is based on two legislative packages. The SES I package (adopted in 2004) set the principal legal framework, and the SES II package (adopted in 2009) aimed at tackling substantial air traffic growth, increasing safety, reducing costs and delays and the impact of air traffic on the environment. In addition, a number of implementing rules and technical standards have been adopted over the years.

The SES packages sought to create functional airspace blocks (FABs) that restructure European airspace according to air traffic flows rather than national boundaries, while also strengthening cooperation (through improved airspace management, optimised route network and economy of scale) and encouraging mergers between air navigation service providers (ANSPs) across national borders, to lower the costs of air navigation services.²

In addition, the first [SES package](#) separated regulatory functions from service provision (by means of creating national supervisory authorities – NSAs); brought flexibility in the civil and military use of airspace; harmonised the classification of the upper airspace; introduced a common charging scheme for air navigation services; and set common licensing requirements for air traffic controllers.

The second SES package established a performance scheme with EU-wide performance targets in the areas of safety, cost efficiency, capacity and the environment. The scheme included the creation of a 'performance review body' (PRB) to monitor and assess the performance of the system, and to propose EU-wide targets for decreasing delays, cutting costs and optimising routes. The package also gave increased responsibilities to the European Aviation Safety Agency (EASA) (regarding aerodromes, ATM and air navigation services) and established a network manager function (currently Eurocontrol).

In 2007, the SESAR (Single European Sky ATM Research) Joint Undertaking was set up to manage the technological and industrial dimension of the SES, i.e. the development and deployment of the new European ATM system.

Despite these changes, the [Commission](#) was of the opinion that ATM in the EU is still fragmented, costly and inefficient. There are significant delays in the achievement of performance targets and the deployment of FABs, and most FABs are not functioning effectively. Instead, most of them fulfil only formal requirements instead of delivering the expected synergies and economies of scale. The function of the network manager – Eurocontrol – is too weak, namely, it cannot impose its decisions on the Member States, which means in practice that ANSPs may choose to disregard it in their actions. There is also a problem with the independence, expertise and resources of NSAs.

To address the above shortcomings, in 2013 the European Commission presented a [proposal](#) for a revision of the SES (known as the SES 2+ package). The European Parliament adopted [its first-reading position](#) on the package in March 2014 and the Council agreed a [partial general approach](#) in December 2014. Due to disagreement between the United Kingdom and Spain on whether the text should apply to Gibraltar airport, the Council could not agree a complete position.

Meanwhile, the situation has changed. First, Brexit has removed the barrier that blocked the negotiations in the Council on the 2013 SES2+ proposal. Second, with the adoption of the Paris Agreement and the European Green Deal, there is an ever more urgent need to cut CO₂ emissions from aviation. Third, there has been an advance in the relevant EU legislation and technology since 2013, notably with the entry into force of the amended [EASA Basic Regulation](#) in 2018 and the wider use of unmanned aircraft. To align the SES regulatory framework with these developments, in September 2020 the [Commission](#) proposed to upgrade it.

Parliament's starting position

The Parliament has repeatedly called for completing the SES. In its [resolution](#) of 16 February 2017 on an aviation strategy for Europe, it recalled that any fragmentation resulting from the 'inefficient use [of airspace], as well as diverging national practices (concerning, for instance, operational procedures, taxes, levies, etc.), causes longer flight times, delays, extra fuel burn, and higher levels of CO₂ emissions, in addition to negatively impacting the rest of the market and hampering the EU's competitiveness'. The Parliament urged the Council (Member States) to make swift progress on the revision of the SES2+ package.

In particular, the Parliament has criticised the delays in the effective implementation of the FABs. In its [resolution](#) of 23 October 2012 on the implementation of the SES legislation, it stressed its concern 'that the creation of FABs across Europe is not only behind schedule but also lacks substance'. In its March 2014 [first-reading position](#) on the proposal for a revision of the SES, the Parliament proposed to set EU-wide performance targets with a view to ensuring that each FAB retained sufficient flexibility to achieve the best results.

The Parliament has also insisted on the need for close cooperation between the civil and military sectors. In its [resolution](#) of 23 October 2012, the Parliament reaffirmed 'that the safe, efficient and flexible use of airspace can only be achieved through close cooperation and coordination between civil and military users of airspace'. In addition, the Parliament has emphasised the need for stepping

up cooperation and coordination with neighbouring countries, with a view to extending the SES initiative beyond EU borders.

The Parliament has also stressed the importance of safeguarding the independence of the NSAs. In its above-mentioned first-reading position on the proposal for a revision of the SES, the Parliament confirmed that NSAs should be legally distinct and independent, in particular in organisational, hierarchical and decision-making terms, and added that they should also have separate annual budget allocations. Their staff should not be seconded from ANSPs or companies under the control of ANSPs.

In addition, Members of the European Parliament (MEPs) suggested some changes to the definition of support services and added that there should be no statutory impediments to providers of support services that would prevent their ability to compete within the EU. The Parliament proposed that ANSPs, when drawing up their business plans, should call for offers from different support services providers, with a view to choosing the financially and qualitatively most beneficial provider.

Furthermore, the Parliament suggested that the PRB should be 'functionally and legally separate from any service provider, whether at national or pan-European level', and that it should function as a European economic regulator under the supervision of the European Commission.

Council starting position

In December 2014, the Council agreed on a [partial general approach](#) on the Commission's 2014 proposal, somewhat lowering its level of ambition. In particular, the Council introduced more flexibility into the process of setting EU-wide and local performance plans and into the way in which FABs are introduced. The Council suggested that opening support services to competition should remain voluntary and that ANSPs could keep on bundling support services with core air navigation services. The Member States' ministers agreed with the Parliament that NSAs should be independent and functionally separated from ANSPs, in terms of organisation, hierarchy and decision-making. Due to disagreement between the UK and Spain, the Council did not decide on whether the text should apply to Gibraltar airport.

In December 2019, the Council held a [policy debate](#) on the future of the SES. The ministers agreed on the need to quickly resolve the problem of airspace congestion but had diverging views on what legislative steps should be taken. A majority preferred working on the basis of the SES 2+ [draft text](#) presented by the Commission in 2014 and a complementary analysis by the Commission on proposals for new measures.

Preparation of the proposal

In the initial [impact assessment](#) published in 2013, the Commission analysed various policy options, ranging from simply continuing to implement the existing SES framework to making more ambitious changes that could lead to more political opposition. Finally, the Commission chose this latter option. It proposed changes such as structural separation of support services; institutional separation of NSAs from ANSPs; reduced Member State involvement in target-setting; creation of a more flexible and performance-driven FAB model; and a more centralised approach to the network manager.

The Commission set up a 'wise-persons' group composed of 15 experts in the field, who issued a [report](#) on the future of the SES in April 2019. At the same time, the Parliament commissioned a pilot project on the future architecture of the European airspace, which resulted in a [report](#) in March 2019. In addition, a high-level [conference](#) on the future of the SES was held in September 2019, resulting in a signed joint stakeholder [declaration](#). The declaration called the EU institutions to simplify the regulatory framework and institutional setup to respond to the current and future needs of European ATM.

The European Court of Auditors (ECA) has also published several reports on SES revision, the most recent ones being a 2017 [special report on the Single European Sky](#), and a 2019 [special report on the regulation of ATM modernisation in the EU](#). In summary, the ECA finds that European airspace management remains fragmented. Navigation charges are high and ineffective ATM still causes many delays. Therefore, it deems the SES reform necessary.

EPRS carried out an [initial appraisal](#) of the Commission's impact assessment accompanying the original proposal. It identified some shortcomings such as the fact the impact assessment makes no reference to the consultancy used. It also noted that the Commission's preferred policy scenario was opposed by many ANSPs and Member States.

The Commission did not consider it necessary to carry out a new impact assessment of the [amended proposal](#) of September 2020, pointing out that the main objectives and preferred options had not changed significantly and that the potential economic, environmental and social impacts of the recast proposal do not differ significantly from those linked to the initial SES 2+ proposal.

The changes the proposal would bring

On 22 September 2020, the Commission proposed an [upgrade of the SES regulatory framework](#), on which negotiations in the Council had been stalled since 2015. The update consists of an [amended proposal](#) on the implementation of the SES and a [proposal](#) for a regulation amending the EASA Basic Regulation, accompanied by a Commission [staff working document](#), entitled 'A fresh look at the Single European Sky'. The Commission proposes to merge the existing SES regulations into a single regulation and to remove overlaps with the [EASA Basic Regulation](#).

The objectives of the initiative have broadly remained the same: to modernise the management of European airspace and to make flightpaths more sustainable and efficient. According to the Commission, updating the SES regulatory framework could help to reduce up to 10 % of air transport emissions. However, some priorities have been revised to take into account recent developments, such as the adoption of the Paris Agreement and the European Green Deal, and the greater use of unmanned aircraft. The new text also tries to address the controversial points on which the initial proposal had remained stalled since 2013.

In particular, the Commission addresses the question of mandatory separation of en route air navigation services³ from other air navigation services, such as air traffic data services, communication services and meteorological services. This idea was politically unacceptable for Member States in the initial discussions. Departing from the 2013 proposal, the Commission now proposes that en route air navigation services should, on a voluntary basis, be organisationally separated from other air navigation services. However, the Commission retains the obligation to keep accounts of these services separated. This means that providers can decide to continue providing all the services in an integrated manner, but they cannot prevent other providers from offering competing services.

The Commission also proposes to modify the rules regarding the availability of and access to air traffic data, so as to facilitate the provision of air traffic data services on a cross-border and EU-wide market. In addition, the Commission suggests that new entrants to the data market should have access to the relevant operational data even before certification.

In addition, the Commission's updated text proposes that air navigation charges would be modulated according to the environmental footprint of the airspace user. The Commission also gives the possibility of introducing a common unit rate for en route air navigation services across the SES airspace, when congestion causes significant network problems. Currently, these rates – which define what a company will pay per kilometre flown in a given area – vary from country to country. The aim would be to incentivise airspace users to fly the shortest possible routes.

The Commission has kept its proposal to strengthen the independence, expertise and resources of NSAs. The text makes clear that NSAs should be independent from the service providers they

oversee. Their tasks should be clearly distinguished from those of the national competent authorities (NCAs). NSAs would be responsible for the issuance of economic certificates (that show the financial robustness of ANSPs), for monitoring the procurement of air navigation services as well as for applying the performance and charging schemes. NCAs would remain in charge of tasks such as safety certification and oversight. However, Member States could still attribute both sets of tasks to one national-level entity, provided that the independence requirements are respected.

The Commission takes into account the emergence of unmanned aircraft, by proposing that common information services⁴ could be used to ensure the safety of unmanned air traffic. The Commission also proposes to regulate the pricing of such services.

The amended proposal no longer contains provisions on the mandatory use of FABs, which may however continue if Member States so wish. Namely, the Commission considers that FABs have failed to address the problem of airspace fragmentation, which was their original objective.

The Commission also proposes a new approach to the performance scheme. Firstly, the Commission suggests that the responsibility of drafting performance plans, which include binding performance targets, should be shifted away from the NSAs to the ANSPs. Secondly, the Commission proposes to integrate a separate EU body – the PRB – into the European Aviation Safety Agency (EASA), and to entrust it with assessing and approving the performance plans and performance targets for en route air navigation services. The NSAs would assess and approve the performance plans for terminal air navigation services.⁵ Finally, the amended text removes provisions that are already in the updated EASA Basic Regulation.

Advisory committees

The advisory committees have actively supported the full and swift implementation of the SES in numerous opinions on the matter. In its [opinion](#) of April 2013, the European Economic and Social Committee (EESC) called to add stronger top-down components to the current inefficient bottom-up approach, define penalties for non-compliance, open up ancillary ATM services to competition, and better involve airspace users. The EESC also stressed the importance of safeguarding the independence of the EU PRB and calls for detaching its activities from those of Eurocontrol and for incorporating it into a full EU body under the Commission's responsibility. In its [opinion](#) of December 2013, the EESC welcomed in particular the Commission proposals to strengthen the function of the network manager and to unbundle ancillary ATM services, thereby opening them up to greater competition. The [European Committee of the Regions](#) has also emphasised the importance of taking into account the national and/or regional operating context and specificities of airports in setting Europe-wide performance targets.

National parliaments

The [deadline](#) for the subsidiarity check in the Member States' national parliaments for the amended Commission proposal was 17 December 2020. When the Commission presented its initial proposal on the revision of the SES regulatory framework in 2013, the Maltese Parliament presented a [reasoned opinion](#), considering that the Commission proposal failed to comply with the subsidiarity principle. It considered that the Commission did not provide clear evidence that legislative action at the EU level was necessary. On 2 December 2020, the Maltese Parliament sent another [reasoned opinion](#), whereby it maintains that the amended Commission proposal also fails to comply with the subsidiarity principle. It also criticises the amended proposal for not addressing the ongoing Covid-19 crisis and its impact on the aviation sector.

Some other national parliaments have also voiced criticism. For example, the [Czech Senate](#) considered that the SES reform proposed in 2013 was premature, and social partners had not been sufficiently consulted. It warned that the establishment of new institutions may raise the price of air transport and considered that delegated powers attributed to the Commission were too broad.

Stakeholder views⁶

One of the reasons why the completion of SES reform has been so difficult is that stakeholders have very [divergent interests](#). The main players pushing for the completion of the SES are airspace users who pay the price for the system's inefficiency. In February 2013, the International Air Transport Association, the Association of European Airlines and the European Regions Airline Association published a [blueprint](#) for the SES in which they recalled all the benefits that the SES should bring. In particular, they called for the creation of a binding performance system, for the rationalisation of air traffic institutional structures and for the modernisation of ATM systems. They also considered that it is necessary to establish an independent economic regulator.

Associations representing airlines have welcomed the Commission 2020 regulatory proposal to re-energise the SES. However, [Airlines for Europe](#) considered that the proposal did not go far enough. In particular, Airlines for Europe expected further improvements and clarifications regarding the network management function and the idea of integrating the PRB into EASA. It also did not support the idea of modulating air navigation charges according to the environmental footprint of the airspace user, as the use of sustainable aviation fuels does not have a direct impact on airspace efficiency and it is not currently available to all airlines. In June 2021, [Airlines for Europe](#) called for the swift adoption of the SES 2+ package, and criticised Member States for not supporting a more ambitious reform of SES.

Associations representing air traffic controllers have been very critical of the SES+ package. The [European Transport Workers' Federation](#) regards the Commission 2020 updated proposal as a missed opportunity to improve the functioning of ATM. It fears that focusing on reducing costs of ATM and bringing more competition to the sector will worsen the working conditions of ATM workers. The [Air Traffic Controllers European Unions Coordination](#) (ATCEUC) shares this opinion, considering that the updated proposal is in some aspects even worse than the one from 2013. In March 2021, ATCEUC published a very critical [opinion](#) on the amended Commission proposal, urging it to repeal it.

The [Functional Airspace Block Europe Central](#) thinks that the criticism of ATM is often overstated and oversimplified. It is of the opinion that ANSPs have no influence over several causes of longer flight paths and delays, such as weather, and that they need to keep aircraft separated. It also questions the way the European system is often compared with the US ATM system without taking into account numerous differences between the two (e.g. different working conditions and methods, a different traffic mix, etc.).

Legislative process

The Commission published the amended proposal on the implementation of the SES and the amendment of the Regulation on the European Aviation Safety Agency (EASA), accompanied by a communication entitled 'A fresh look at the Single European Sky', on 22 September 2020. On 8 October 2020, the Commission presented the updated SES proposal to EU [transport ministers](#).

In the Parliament, the updated SES proposal was assigned to the [Committee on Transport and Tourism](#) (TRAN), which discussed it with the EU Transport Commissioner, Adina Vălean, on 12 October 2020. MEPs generally welcomed the Commission proposal, considering it necessary for modernising the EU ATM system. Several MEPs emphasised that the Parliament had been waiting for years for this reform and hoped to arrive quickly at an agreement on the file. Several others asked how the 10 % reduction in air transport emissions was expected to be achieved. MEPs also shared similar views on the file during the TRAN committee [meeting](#) on 1 December 2020.

At the beginning of February 2021, the TRAN committee published a number of [amendments](#) to the Commission proposal. In particular, several TRAN committee members proposed changes to the structure and functioning of the PRB. On 17 June 2021, the TRAN [committee](#) adopted (39 votes in favour, 7 against and 2 abstentions) its mandate for negotiations with the Council. Members call for

a rationalisation of the airspace management system. They support setting up independent NSAs, responsible for issuing ANSPs and airport operators with economic licences. According to the committee, charges levied on airspace users for the provision of air navigation services should be scaled by emissions. Finally, Members are also in favour of the proposal to create a separate EU body – PRB – within the EASA.

The Council adopted its [general approach](#) on 3 June 2021, rejecting several provisions in the amended Commission proposal. The Council wants Member States to remain responsible for the performance planning of ANSPs. It does not want any new structure to be created within the EASA. However, the Commission may designate a PRB 'to advise and assist the Commission as well as the national supervisory authorities in the implementation of the performance and charging schemes'. Although the Council agrees that NSAs must be independent from ANSPs, it wants to keep the possibility for Member States to merge economic and safety oversight functions in the same administrative entity. Furthermore, the Council does not want to change the system of en route charges for air navigation services. It wants Member States to continue setting their national unit rates. Member States can also implement variable charges in order to encourage better environmental performance. Finally, the Council agrees with the Commission that FABs should not be mandatory.

The co-legislators can now start negotiations since the TRAN committee position was announced, and not contested, during the Parliament's July 2021 plenary session. Given that the positions of the Parliament and the Council are very [different](#), it will probably not be easy to reach a compromise.

EP SUPPORTING ANALYSIS

Davies A., [European Commission proposal on the Single European Sky - SES II+](#), initial appraisal of a Commission impact assessment, EPRS, European Parliament, January 2014.

Debyser A., [Single European Sky](#), briefing, EPRS, European Parliament, 2015.

Debyser A., [Single European Sky – State of play](#), plenary at a glance, EPRS, European Parliament, 2014.

OTHER SOURCES

[Implementation of the Single European Sky. Recast](#), European Parliament, Legislative Observatory (OEIL).

Motyka A. and Tchouamou Njoya E., '[Single European Sky: The progress so Far](#)', *Journal of Aerospace Technology and Management*, Vol. 12, August 2020.

ENDNOTES

- ¹ '[Air traffic management](#)' means 'the aggregation of the airborne and ground-based functions or services (air traffic services, airspace management and air traffic flow management) required to ensure the safe and efficient movement of aircraft during all phases of operations'.
- ² '[Air navigation services](#)' are 'air traffic services; communication, navigation and surveillance services; meteorological services; aeronautical information services; and air traffic data services'.
- ³ '[En route air navigation services](#)' are 'air traffic services related to control of an aircraft from the end of the take off and initial climb phase to the commencement of the approach and landing phase and the underlying air navigation services necessary to provide en route air traffic services'.
- ⁴ '[Common information service](#)' is 'a service consisting in the collection of static and dynamic data and their dissemination to enable the provision of services for the management of traffic of unmanned aircraft'.
- ⁵ '[Terminal air navigation services](#)' are 'aerodrome control services or aerodrome flight information services which include air traffic advisory services and alerting services, air traffic services related to the approach and departure of aircraft within a distance from the airport concerned necessary to meet operational requirements and the necessary underlying air navigation services'.
- ⁶ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'EP supporting analysis'.

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