

Memo			
090720 Comments to the SES II-FUA Report		Luogo	ENAC - SPN
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2. Background

This memo contains the Italian Comments to the EUROCONTROL Report on the SES Legislation Implementation

3. General Comments

Italy has been one of the Member States supporting from the outset the concept of the concentration of all SES reporting requirements in a single document with a defined format.

The outcome of the long and detailed work made by EUROCONTROL is considered a great achievement, since the data are collected with a common format, and therefore the quality of analysis is greatly improved.

In addition Member States, NSAs and ANSPs expect that the report is stabilised in both format and content, so that the workload needed to fill it will gradually decrease, while maintaining a high degree of accuracy.

With reference to the present edition, Italy believes that the draft of the report should be sent in advance to the Member States in order to give a chance to comment before the publication on the website.

Given the importance and the sensitivity of this document, it is believed that the risk of a brief delay is outweighed by the clarification of all possible misunderstandings in the interpretation of the data submitted within the LCIP –now LSSIP- reports by each Member State.

It is also to be noted that in various part of the report, the comments are expressed in a very generic way, so that it is impossible to understand the Member States to which the comments are addressed.

In addition Italy supports the organisation of an ad-hoc workshop to discuss the result of the present reports and the actions needed to overcome all identified problems in the implementation or enforcement of SES II legislation.

In the following paragraph are listed the detailed comments.

4. About ANSP designation

In many parts of the report Italy is told as having designated ATSPs without certification, and a clarification is sought.

5. Designation of Military ATS provider

At page 22 of the report Italy is requested to clarify the designation of the military ATSP, the Italian Air Force, which appears to be designated but not certified. It is to be noted that Italian air Force is indicated as ATSP, while it is a full ANSP.

It is well known from the LCIP, that before 1981 in Italy the provision of Air Navigation Services was entirely in the hands on the military provider.

The creation of the civil national ANSP, now ENAV SpA, led to the division of airspace between the civil and the military provider, with a specific law. The same law assigned each volume of the Italian Airspace to one of the two ANSPs, with the exception of some minor concession issued by the former Italian DGAC to small AFIS provider in private airports.

Such general arrangement has been confirmed by the article 691bis of 2005 amendment to the national Aviation Code .

Presently the Italian Air Force is providing services without certification under the provisions of article 7, comma 5 of service provision regulation. Therefore the Italian Air Force has not been certified according to regulation 2096/2005.

Although not certified, the Italian Air Force service provision structure has been audited and declared compliant with SES regulation by their internal Safety Oversight Unit, the *Ufficio Generale Spazio Aereo e Meteorologia (USAM)*, which is functionally separated from the service provision.

According to the Italian Arrangements (described in detail in LCIP), USAM provided a compliance report to ENAC, which in turn sent a communication to the Commission.

Italy in his report considered that the formal assignment of specific part of Italian Airspace is equivalent to a designation, although formally no certification exists. Such a situation is a direct consequence of the regulation.

Italy believes that the Commission should clarify if the ANSPs operating under the provisions of Article 7, comma 5 of Service Provision Regulation should have a formal designation, since they are exempted from the designation because they have no certification.

6. Designation of small AFIS

At page 22 of the report Italy is requested to clarify the designation of two ATSPs, the AFIS providers SOGEARTO and Aeroporto di Siena, which were not included among the list of certified service providers.

Both of them received the proper certification in the first half of 2009. At that time SOGEARTO was not operating, since the activity is limited to the summer opening of the private airport.

Presently all Italian designated civil ATSPs, are duly certified.

In the initial phase of implementation of SES regulation, all “independent” ATSPs (which means ATSPs different from ENAV SpA and Italian Air Force) which were providing services, were already duly listed in Italian AIP, as the result of agreements and certification signed well before 2004. Therefore no variation to Italian AIP has been introduced due to the fact that all of those ATSPs applied for a certification under regulation 2096/2005.

The safety oversight of those providers was originally done by ENAV, and it was gradually transferred to ENAC after its appointment as National Supervisory Authority, in November 2004.

In the perspective of pursuing the certification, it was agreed that this situation, with reference to the “consolidated” ATSPs (those already in service before 2004), didn’t require any further action about designation.

As a matter of fact the service providers, all AFIS considered small entities under the Common Requirements, weren’t required to have agreement with the Italian State, although some of them had, and have, service agreements with the local or regional communities. They were run on voluntary basis by the airport operators to allow different level of operations on small size private airports. In particular the publication of the name of the ATS Authority on the airport in the AIP Italy was felt as enough clear to serve as a designation act.

Italy convenes that the designation of the small ATSPs has not been formally communicated to the Commission. Nevertheless it has been assumed that the SES II report may be considered as a valid means of communication for the past designations.

Despite the efforts, not all of the ATSPs did reach the certification within the deadline set by the Common Requirements. Such a situation was mainly due to the inexperience of those small providers to deal with the certification process, and partially to the temporary lack of resources from ENAC, due to some difficulties to activate the agreement with the Italian Air Force.

In order to guarantee the continuity of services required by comma 7 of article 7 of the Service Provision regulation, and with few chance to locate a different service provider to replace the non-certified ANSPs, during this period of lack of certification ENAC adopted a pragmatic approach, based on a risk evaluation of the situation.

All of the ATSPs have been audited, with special attention to the operational side. The results have been good, and the shortcomings identified during the audit, if any, have been addressed by limiting the scope of operations (especially on the MET side, with specific NOTAMs).

With those safety safeguards in place, the certification process went on, leading to the satisfactory certification of all ATSPs.

This led to the condition that in some cases the designation remained valid even if the ATSPs was not providing services, generally because it was under restructuring in technical or financial domains.

In other cases the seasonal nature of the ATSPs, active during summer period only, led to the designation being maintained while the ATSPs was not actually providing services. This situation does not appear to be in contrast with the Service provision regulation.

Italy believes that the designation process should deserve a specific implementing rule, but as far as the ATSPs do not provide service without certification, and the area of responsibility is clearly defined to the public (for example in the national AIP), the requirements set forth in the Service Provision Regulation are complied with.

For those ATSPs which presently applies for certification, Italy has put in place a formal regulation which will lead to the emission of a specific “Certificate of Designation”.

7. Conclusions

It is believed that this memo clarifies the issues raised in the SES II – FUA Report. Nevertheless we keep ready to answer to any further request for clarification.

Best Regards
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