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DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT

Directorate E - Aviation
E.3 - Single European Sky

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Via e-mail: StV-LF@bmvi.bund.de

Dear Ms Köster,

In response to your e-mail of 17 March 2021, we would like to clarify our understanding in relation to the extent to which drone detection costs can be taken into account when establishing ANSP's determined costs.

You have argued that according to Article 2(1) of Regulation (EU) 549/2004 air traffic control involves the prevention of collision between aircraft, and between aircraft and obstructions. You have also argued that in order to be able to prevent collision, ANSPs need to be able to determine the position of aircraft, including of drones. In your argument, drone detection is also covered by Article 2(38) of the same Regulation as a surveillance service. Consequently, the cost of drone detection should be part of ANSP's overall costs of providing air navigation services. As such, these cost should be included in ANSP's determined costs for air navigation services as provided for in Article 10(2)(b) of Regulation (EU) 2019/317 and should be shared among airspace users as provided for in Article 15(2)(a) of Regulation (EU) 550/2004.

We share your view, that it is the job of ANSPs to prevent collision between aircraft including between drones and other aircraft. We also agree with you that when fulfilling this job ANSPs incur costs in relation to the detection of drones in the terminal area.

However, it is also clear that the detection of unauthorized, non-cooperative drones within the boundary or in the vicinity of an airport (i.e. areas where drone flights are prohibited) will not only serve to reduce the risk of airborne collisions between unauthorized drones and arriving/departing aircraft, but will also have a broader public security purpose of countering and, if necessary, neutralizing any unlawful drone incursion which could disrupt or endanger airport operations. It will also facilitate the identification and prosecution by law enforcement authorities of the authors of malicious or criminal acts targeting persons or infrastructure in the airport area.

Consequently, it is important to clarify which share of the drone detection costs should be attributed to entities responsible for maintaining public order, and, to collision prevention, as an air navigation service, when determining ANSPs' costs. In our view, the later should only cover the costs of new equipment and operations or incremental costs of upgrades of existing equipment and operations without which the ANSPs concerned would not be in the position to determine respective position of drones and in consequence would not be able to prevent collision between drones and arriving/departing aircraft.

In this context, it is also important to clarify which cost should, in our view, not be part of ANSPs' determined costs. These costs include cost of equipment and operations which are necessary to deter drones from getting in the way of aircraft, such as setting and policing the perimeter of no-fly zones for drones, including the cost of detecting drones for the purpose of preventing them from entering the no-drone-flight zone and action necessary to remove drones from those zones. In case ANSPs, when determining the position of drones to avoid collision with other aircraft, make use of equipment installed for the purposes of detecting drones to deter them from flying in no-drone-fly zones (such as radars), the involved costs should be split between ANSPs and entities responsible for deterring and policing unauthorized drones according to a transparent methodology approved by NSAs.

Yours faithfully,

(e-signed)
Christine BERG