



Galerie Agora,
Rue du Marché aux Herbes 105, Bte 11
B-1000 Brussels
Telephone +32 2 285 46 60
Fax +32 2 280 08 17
Email: etf@etf-europe.org
www.etf-europe.org

European Transport Workers' Federation
Fédération Européenne des Travailleurs des Transports
Europäische Transportarbeiter-Föderation
Federación Europea de los Trabajadores del Transporte

Brussels, September 5th, 2013

ETF position paper on SES2+ new legislative proposal

Introduction

This position paper aims to give the ETF opinion on the SES 2+ proposal released by the European commission on the 11th June 2013. ETF already produced a position paper on SES2+ in March 2013 following the end of the very short consultation period organised by the EC on the new SES legislative package. This second position paper attempts to give more precise comments on the proposal itself as it was not available in March. However, all the general comments ETF produced in the first position paper are still valid as most of the concerns identified after the preliminary consultation period are finally included in the EC proposal.

With regard to the consultation process, ETF deeply regrets the lack of willingness of the EC to organise a real consultation with the social partners and the other stakeholders before the release of the SES2+ draft proposal, despite that a lot of concerns were already identified as very important issues. Some examples of these concerns from a social perspective are the introduction of market principles for support services, FAB implementation, performance scheme modification etc... The EC didn't use the existing consultation tools for social partners on SES issues like the ATM sectorial social dialogue and/or the SES social expert group to try to sort out those issues. The signals sent by ETF and its members were strong enough and the EC couldn't ignore them. As a consequence, the SES2+ legislative proposal has already created social tensions everywhere in Europe as it was one of the main reasons of the European Action Day organised by ETF members on the 12th June 2013.

Additionally ETF regrets this proposal is coming out only few years after the adoption of the last SES legislative text in 2009. This over-regulating legislative process creates uncertainty and instability in ATM industry as the legislative background is changing continuously. ETF believes it is now time to stabilise the legislation in order to give the possibility for ATM stakeholders to fully implement the already existing legislative packages.



President Lars Lindgren

Vice Presidents Alexander Kirchner
Ekaterina Yordanova

General Secretary Eduardo Chagas



Furthermore, this new text is presented by the EC as only an update of the previous one with no big changes in the regulation. This analysis is clearly not supported by ETF which considers that the SES2+ proposal is challenging a lot of political consensus obtained in SES1 and SES2. Such consensus is necessary to create a general agreement among all stakeholders on the SES project. Acting like this the EC takes the risk that some important categories of stakeholders, for instance workers, will withdraw their support to the SES idea.

To conclude, there is a clear divergence of opinion between ETF members and the EC on the analysis of ATM situation in Europe. For ETF, ATM is a public service with a high safety dimension and very long term investment cycles. This particular dimension of ATM is not recognised by the EC which considers ATM as a marketable sector. Therefore the general ETF comments on the SES2+ new proposals are not very supportive.

1. National Authorities (article 3, 13)

Independence of NSA

ETF supports the need for NSA to act independently from any industrial, economic and political pressure. To achieve this, it is important to keep NSA activities in the remit of the public sector.

Therefore the EU rules laying down selection processes for NSA staff should not be in contradiction with the usual selection processes for civil servants of any Member State. Additionally, any new rules for selection processes adopted at EU level shouldn't prevent mobility of staff between supervisory and service provision bodies which is a good way to ensure a good level of expertise for both sides.

Link between supervisory authorities and service provision (article 3)

Following the SES1 regulation there is a mandatory separation between supervisory and service provision sides at least at functional level. The new wording will impose a structural separation. This is clearly not supported by ETF.

There is no justification to change the regulation on that point as it permits to harmonise organisations throughout Europe whilst allowing some countries to keep their own organisation for ATM to take into account specific developments for civil aviation and/or cultural and social aspects.

It is also important to note that the structural separation will create strong social negative reactions in some Member States, as it will lead to privatisation of the ATM sector.



President Lars Lindgren

Vice Presidents Alexander Kirchner
Ekaterina Yordanova

General Secretary Eduardo Chagas



Creation of an European Union Agency for Aviation (EAA) (Article 5)

ETF doesn't see the added value to create a new EU agency to organise cooperation and exchange of information and practices between NSA at EU level. This task can already be performed by EASA.

Additionally ETF identifies several risks with the creation of the EAA:

- The current EASA consultation process is not functioning well; the creation of a new agency with more responsibilities will enlarge the number of issues on which staff representatives will have difficulties to be heard.
- The scope of responsibility of this new agency should focus only on technical regulations/aspects and not on general SES development regulations which should remain clearly under the responsibility of the SSC. This is not clear with the current SES2+ proposal.
- The transfer of some tasks from NSA to this new agency will have a social impact on number of jobs at national level.
- This new agency would be financed directly by users' charges (article 13) which will create additional costs at a time where there is already a very high pressure on ATM related charges.

2. Performance Scheme (article 11)

ETF totally rejects the suggested changes for the decision making process of the national/FAB plans. The performance scheme is a very sensitive issue regarding its potential economic and social consequences. The two EU regulations (performance scheme and charging regulations) were adopted and amended in 2012. Now the EC is trying to amend once again these regulations. To change the rule every time on such important and complex issues will not help for its acceptance by all stakeholders. Furthermore, the suggested modifications aim to give more power to the EC in case of disagreement between EU and local targets. ETF doesn't support this top-down approach as it will lead to adoption at local level of targets which may be completely unrealistic.

According to ETF, other modifications to the performance scheme should be introduced :

- 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 representative for adoption of the local performance plans.
- Interdependency between the different KPA should be taken into account.



President Lars Lindgren

Vice Presidents Alexander Kirchner
Ekaterina Yordanova

General Secretary Eduardo Chagas



3. Functional Airspace Blocks (article 16)

ETF doesn't support the changes introduced by SES2+ in the articles in relation with FAB.

Especially the addition of the sentence « based integrated provision of air traffic services » creates concerns as it could be interpreted as the will of the EC to impose a unique model of FAB based on consolidation of services (reduction of the number of ANSP and the number of ATM facilities). ETF members oppose this kind of approach, which could be qualified as top-down and will have many negative social consequences. The new idea of flexible FAB based on industrial partnerships for support services and participation of ANSPs to several FABs will also lead to introduce more complexity and competitive behaviour in FAB projects. It will not accelerate the FAB implementation process; on the contrary it could lead to the creation of conflict of interests between stakeholders.

To implement FAB correctly the legislation should seek to improve cooperation between stakeholders as proposed by ETF in the **Co-op Model** (based on Cooperation) which is the only model of FAB able to improve performance avoiding any social risks. Consolidation of service provision and competition between service providers will only lead to blocking points and social tensions.

Furthermore ETF requests that the SES legislation on FABs considers the following points :

- FAB implementation must create and secure jobs and not the contrary.
- A mandatory social dialogue process should be set up at national and FAB levels.

4. Provision of support services (article 10)

The question of the provision of the support services (CNS services, AIS, MET, Training) is a central issue for ETF members. Once again on this topic there is a clear divergence of opinion between ETF members and the content of SES2+ proposed by the EC. According to the SES1 and SES2 regulations the choice to unbundle and open to market principles those services is left to each Member State in accordance with the subsidiarity principle. For ETF this compromise was acceptable as it permitted to choose the best solutions according to local situation and specific strategy decided by national ANSP and Member State.

The draft SES2+ regulation challenges this agreement trying to impose mandatory separation of support services and application of market principles. This is clearly not supported by ETF.

Separation of provision of support services

Currently in Europe, some Member States decided to separate support services from ATM core business but many decided not to do so. In the Member States where the decision was taken to keep those services inside the national ANSP, the performance of service provision is as good and sometimes better and cheaper as in the Member States where the decision was taken to unbundle the support services. That's why for



President Lars Lindgren

Vice Presidents Alexander Kirchner
Ekaterina Yordanova

General Secretary Eduardo Chagas



ETF, there is no evidence that such decision will lead to improve ATM efficiency. On the contrary it could lead to more inefficiency as it will introduce more fragmentation in service provision which is completely against the goals of SES. Furthermore, it is clearly a legislative interference inside the ANSP business model. It could challenge the ability of some ANSPs to continue to perform their activity as they will be reduced to very small entities after separation of support services from main ATC service provision.

Application of market principles to support services

This proposal is also not supported by ETF as it will create social tensions in many countries in Europe by destroying jobs and changing working conditions and quality of jobs in the field of ATM. It is clearly a very hot social issue that was never addressed by the EC. Furthermore there is no evidence that introduction of competition in ATM services will increased efficiency in Europe. It will create tensions between stakeholders and will lead to conflicts of interest. For the ETF, the EC should try to promote cooperation instead of competition.

Safety chain

In a general way, ETF doesn't support the idea that services like CNS, AIS, MET, Training could be set as secondary services (designated as « support services », previously « ancillary services ») which could be isolated and separated from a « core business » designated as a very tiny part of ATM services (ATCO activity only...). ETF supports the idea that the different ATM services are part of a global and integrated safety chain. Trying to mandate the unbundling of those services with introduction of market principles, the EC is going to breach the existing safety chain which will have undoubtedly consequences on service delivery and, at the first row, on the level of safety. For instance, Communication Navigation Surveillance services (CNS) gather services that contain radio communication, radar antenna, phone communication etc. which are directly the « Eyes and Ears » of ATCOs. To separate artificially such services is clearly a big mistake.

5. Network manager role (article 17)

ETF supports the idea that some ATM functions, including potentially some of the support services, could be delivered directly at EU level under the responsibility of the Network manager if there is evidence that it will have an added-value on the EU ATM system. Nevertheless ETF doesn't entirely support the model of Centralised Services recently proposed by Eurocontrol as it is based only on the principles of unbundling and application of market principles for the delivery of such functions. For ETF there is a risk that such model will end with monopolistic situations for the benefits of private consortiums which will create conflicts of interest at EU level. That's why those services proposed to be directly delivered by the Network Manager will have to be very carefully examined.

From a social perspective, if the creation of functions provided at EU level under the



President Lars Lindgren

Vice Presidents Alexander Kirchner
Ekaterina Yordanova

General Secretary Eduardo Chagas



responsibility of the Network Manager will replace services delivered previously at ANSP/National levels then it will be necessary to find solutions to mitigate any social impact for workers.

6. Relation with stakeholders (article 19)

ETF supports the idea of consultation of every group of stakeholders in general. Nevertheless the new idea to involve user's representatives inside the ANSP internal decision making process is very surprising and is not supported by ETF. Firstly it is not necessary as airspace users already have many tools of consultation on ANSP activity at EU, FAB and national level. Secondly there is clearly interference inside the internal business of each ANSP which will lead to conflicts of interest and will raise many questions: which user's representatives to choose? Why only user's representatives? What about other stakeholders' groups, for instance, staff representatives?

7. The 5th Pillar is still not visible (article missing)

The social dimension of the SES2+ proposal is very weak. Nothing was put forward by the EC to try to fulfil workers expectations and counterbalance the possible threats of some aspects of the new legislative proposal. The idea of a 5th pillar, a human factor pillar, was introduced by the EC during the SES2 legislation process (reference to EC communication of 25th March 2009). Up to now it is only a slogan used by the EC to communicate to the workers than an action plan will address the social dimension of the SES. So far, the ETF hasn't seen any progress on this dossier.

From a legislative perspective, the 5th pillar could be declined in the SES legislation through the following additions:

- Mandatory social dialogue implementation for FAB implementation
- Development of guidelines for staff union's consultation for FAB implementation, development of national/FAB performance plans and SESAR implementation
- Commitment not to force mobility of staff due to SES implementation
- Impact assessment on introduction of market principles, FAB implementation, Centralised services etc.
- Safety and just culture implementation
- Change Management
- etc.



President Lars Lindgren

Vice Presidents Alexander Kirchner
Ekaterina Yordanova

General Secretary Eduardo Chagas



Conclusion

ETF, representing the majority of ATCOs and ATM workers in Europe, is a key stakeholder and social partner for the SES success or failure. Our global analysis of the SES2+ draft regulation is very negative. The content of this proposal confirms the threats identified in the last months and is even worse than expected. This proposal will have negative effects on jobs and working conditions.

The liberalisation process introduced by the EC in this new regulation is not needed. It will have a negative impact on safety and will never be accepted by workers. Socially speaking, it will create tensions in many countries and there is a high risk that ATM workers will lose confidence in the whole SES process.

Furthermore, this new package will not have a positive impact on ATM performance as expected by the EC. It will not reduce delays, will not improve environmental aspects, will not reduce cost and will not improve safety.

Considering all these aspects ETF affiliates decided to reject the SES2+ package as it stands.



President Lars Lindgren

Vice Presidents Alexander Kirchner
Ekaterina Yordanova

General Secretary Eduardo Chagas

