



# **ETF Position Paper on SES 2 +**

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The European Transport Workers' Federation (ETF) is the pan-European trade union organization which embraces transport trade unions from the European Union, the European Economic Area and Central and Eastern European countries, representing more than 2,5 million workers from 40 European countries, 14,000 European Air Traffic Controllers and all other categories of ATM staff in Europe

### **European Transport Workers' Federation**

Galerie Agora,  
Rue du Marché aux Herbes 105  
Bte 11B-1000 Brussels  
Telephone +32 2 285 46 60  
Fax +32 2 280 08 17  
Email: [etf@etf-europe.org](mailto:etf@etf-europe.org)  
Web : [www.etf-europe.org](http://www.etf-europe.org)  
[www.etf-atm.org](http://www.etf-atm.org)

**General Secretary Eduardo Chagas**





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## Introduction

This position paper has been produced following the consultation on SES2+ which was run by the EC on SES2+ at end of 2012. ETF played an active part in this consultation and the ideas developed within this document are based on the responses submitted by ETF to the questions raised by the EC in the written consultation. The ETF position on SES2+ is likely to evolve regarding what the EC will propose as the basis for the SES2+ legislative text.

Careful analysis of SES2+ identifies significant negative impact on workers. Many of the ideas put forward by the EC are perceived as either explicit and/or implicit threats and attacks against them. Furthermore a lack of social dialogue, no real willing to implement the 5<sup>th</sup> pillar, a new institutional set up geared to increase liberalization; attacks against ancillary services are just some of the elements that clearly identifies the drive for the exclusion of social issues in a service, that by its very nature, is dependent on people.



# Achievement of SES objectives

## *General context*

Some stakeholders continue to complain about the lack of achievement of the SES regarding the objectives that were originally presented for the years leading up to 2025 (tripling of capacity, halving costs, reduction of environmental impact of 10% and improving safety level by a factor of 10). It is the view of ETF that these are politically based, theoretical targets that have not been validated in any way and as such the implementation of these targets by the European Commission was indeed a mistake. The targets do not take into account the size, complexity, scope and the reality of ATM and as such generates a high level of frustration for the users by creating unrealistic expectations on what the SES could really achieve. Moreover these targets were put forward on the base of a traffic forecast that is not realistic anymore. ETF believes now is the time to establish a more pragmatic approach and to define a set of targets that have a sound basis with demonstrable validity.

ETF is also concerned about the introduction of a new legislative text for SES, only four years after the adoption of the existing legislation. The ATM community needs a more stable legislative background to be focused on service delivery rather than on implementing new rules, requirements etc. Workers will perceive this over-regulating behavior for an already widely regulated sector as a concerted plan to erode and/or reduce conditions whilst increasing demands on them.



## *Social dialogue requirements are still not being met*

Despite the fact that the SES is likely to have a significant social impact on workers (jobs and quality of jobs), there has been a failure to implement social dialogue effectively at all stages of the SES. For instance, on two very sensitive issues for workers, the establishment of FABs and the setting up of national performance plans, there are too many countries where the Trade Unions are simply excluded from any consultation process. ETF believes that there are still some stakeholders who consider social dialogue as “optional” which is clearly against both the letter and the spirit of the rules surrounding Social Dialogue. As a consequence, the number of social conflicts that were linked directly or indirectly to a SES issue has increased in the last few years which itself is a clear indicator of a lack of adequate and effective consultation.

One of the requirements of the SES2 package regarding implementation of social dialogue at EU level resulted with the creation the SES social expert group. The first goal of this group is to ensure consultation of social partners on SES issues. Nevertheless, the creation of this Group came very late-after the adoption of the SES2 in 2009. As such this group has never been consulted for the major implementing rules that came formed SES 2.

## *5<sup>th</sup> pillar implementation*

The 5<sup>th</sup> pillar of the SES, the human factor pillar, was introduced as a result of the Madrid conference in 2010, a few months after the adoption of the SES 2 package. Up to now the 5<sup>th</sup> pillar has been nothing more than a slogan used by the European Commission to communicate to workers rather than a true action plan to address the social dimension of the SES. As mentioned above, there is



still work to be done to implement effective social dialogue and very few activities have been done to address social issues like understaffing, mobility of workers, consideration of the consequences relating to the introduction of market principles or consolidation of services, etc. Additionally EASA seems to be reluctant to deal with introduction of human factors related rules and recommended practices.

ETF demands that the 5<sup>th</sup> pillar must be fully integrated into the SES legislation as are the other four pillars in order for it to be necessarily fully effective

## *Safety and Just Culture*

Despite the efforts that were made as part of the RP2 processes, Safety remains the weakest area of the performance scheme and indeed it is the only KPA not to have quantitative EU wide targets. Safety targets must be set and well defined in order to ensure that activities required in order to meet the economical and performance targets do not cause an erosion or breakdown of safety. Just Culture is key to achieving a defined and necessary level of Safety and as such it needs to be promoted and introduced on a mandatory basis.



## Unbundling of “Ancillary” services and introduction of Market Principles

According to the public consultation performed for the SES2+ package, the European Commission is considering the possibility of compulsorily unbundling for the so-called “ancillary services” (CNS, AIS, MET) from the core business and to open them to market principles.

ETF is totally opposed to this idea.

The airline associations have a desire to use a competitive tender process to unbundle the provision of CNS, AIM and MET services, to prevent the current fragmentation and duplication as well as to meet their perception of the need to improve efficiency, ignoring their strong role in the safety chain with the risk to put safety at risk.

Whilst this could be considered to be attractive in the short term, other liberalised markets have demonstrated that consolidation between providers will result in a small number of large companies effectively returning the provision of these services to a pseudo monopoly environment.

There is also the potential situation that companies will not tender to provide these services due to uncertainty over staff and asset transfer, particularly if these contracts are short term. Initial investments in contract set up, staff training and transfer may outweigh the value of the contract.





Companies may well be reluctant to invest in recruitment, training and equipment if there is a doubt over the long-term retention of a contract. There is a risk that the return on the investment won't be realised, which could be a powerful argument used to dissuade a company from tendering in the first place.

As the airport liberalisation demonstrates, unbundling has instead introduced greater fragmentation, which is indeed the diametric opposite of the SES goal to reduce fragmentation. This will create more interfaces requiring a greater degree of managing which will lead to an inevitable reduction in efficiency in service provision and associated increase in cost. Moreover the ETF cannot support a business model in which the competition is only based on labour cost.

The introduction of additional interfaces results in additional complexity which means that safety is inevitably affected. Furthermore the services to be unbundled are all critical with respect to ATM and they fall within the safety chain.

In both scenarios, to separate these services from the ANSP functions and to put them under additional cost pressure through potentially artificial cost competition will have a negative impact on safety.

In contrast, ETF asks to reinforce the safety dimension of the SES. Imposing competition between safety-related services will completely go against any safety consideration.

The introduction of competition into ANS provision will jeopardize co-operation between ANSPs. Moreover it will threaten the ability to share experience and lessons learned amongst providers.

Unbundling of key services will create huge social difficulties throughout Europe by introducing threats to jobs and working conditions for the workers providing those services. The social acceptability of a new legislation must be



taken into account in a consultation process. It is the responsibility of the ETF to clearly identify the impact that this proposal will have on workers and to ensure that impact is addressed. Thus for the reasons stated above together with the lack of adequate engagement on social issues, the impact on workers will be significant and negative; the ETF outlines that this proposal is unacceptable for the workers.

## *In Conclusion*

Unbundling of ancillary service has a potentially detrimental impact on safety. It can be a false economy since the complexity it introduces will require greater management and increased assurance – both quality and safety. Furthermore it introduces the need for greater regulation which obviously increases cost.

It is apparent that the European Commission is taking a dogmatic approach to the unbundling of ancillary services as it continues to push this issue each time there is a new legislative proposal. The SES2 consultation, made it clear that there is strong and justified opposition to unbundling of services by the main ATM (ANSP) stakeholders, who don't see any added value of this proposal. Because this is not what the European Commission wants to hear it is re-introduced at every opportunity. The workload and timescales associated with SES do not allow for proposals to be constantly re-visited.

It is now time to take into account the positions already expressed by the stakeholders and the Members States and to definitely close this debate.

The ETF is highly concerned about the latest developments in terminal ATS provision in Europe. Fragmentation of services, the creation of additional ANSPs



or subsidiaries thereof for the purpose of circumnavigating collective and social agreements leads to unacceptable social consequences for the workers concerned. ETF believes that the provision of terminal ATS is part of a public service obligation. Opening this segment to the free forces of the market will lead to an unacceptable cost pressure on ANSPs and their staff. As a consequence, social costs will rise and regional infrastructure of the EU will deteriorate.

ETF is following closely the technical development inside and outside SESAR to facilitate a re-organisation of aerodrome ATS (Towers). ETF appreciates a technology leading to an improved service quality and enhanced safety. However, ETF is deeply concerned that this technology currently can ensure an adequate level of safety. Moreover, ETF will not hesitate to defend the social interests of workers subject to possible consolidation of aerodrome ATS.



## Institutional and governance issues.

One of the justifications of the SES2+ is to simplify the SES rule-making process between the various bodies. ETF believes that to refine the SES institutional arrangements should not be a priority. ATM is an extremely complex environment with a very long life cycles regarding asset investments, technical changes and operational changes. This complexity was never taken fully into account by the EC and commercial airspace users who consider ATM as a normal business that should be ruled by market principles. This lack of understanding or indeed lack of a willingness to understand the ATM domain still exists today. The airlines (whose focus is on the profit) and EC (who are politically focused) believe that market principles and unbundling are necessary since ATM is simply a business and that EASA is the answer for any safety problem.

The reality is far more complex than the view taken by the airlines and the EC. Refining the institutional set-up of SES will not lower this complexity. On the contrary it will create confusion and instability at a crucial juncture (FAB implementation, performance scheme for RP2, EASA rulemaking process, SESAR deployment phase etc.), which will be detrimental to the overall process.

The debate and in any proposal for new regulations should focus on addressing the issues relating to safety, capacity, continuity, complexity, reliability, sovereignty and military considerations as these key issues continue to be only partially considered.



ETF feels it is necessary to highlight the following points:

### *Single Sky committee*

The SSC has to remain the political decision making body for all the IRs related to SES legislative texts.

### *Creation of a new EU aviation agency*

ETF does not support this idea especially if this new agency will take over some responsibilities of the SSC and if it has to be created using EASA as a basis.

EASA already has huge difficulties in fulfill its current accountabilities and responsibilities due to lack of economic and human resources. Adding additional responsibilities to agency is not just unrealistic it is clearly not adequately thought out.

Furthermore, ETF is not satisfied with the consultation policy inside the agency. Since the extension of the EASA scope to ATM, ETF has identified many hurdles in the consultation processes:

- Decisions taken by EASA top management are often not in line with the recommendations and outcomes of the working groups.
- There are difficulties (entitlement) to participate to some tasks with clear social implications.
- Unbalanced opinions are being communicated to the Commission.



ETF is opposed to a further extension of the scope of an agency that is still not able to manage a fair and balanced consultation processes with staff representatives and other stakeholders. It is a serious concern to ETF and as such we would urge the EC to reject any extension in scope of EASA.

### *Network Manager Governance*

Airspace users are already part of the Network Management function governance body as ANSPs and other industry stakeholders. ETF does not see the need to give them an increased strategic role and can foreseen many problems this may cause, as it will create strong conflicts of interest between different categories of users and between different industry stakeholder groups.

### *Governance of the performance scheme*

ETF does not support the idea to give the PRB a more independent role than it has today. The PRB has to remain a consultative body and to act on behalf of the EC and the SSC. Only the latter are legitimised bodies to take political decisions.

The current consultation process for target setting may be considered to be too long by some stakeholders, but this is necessary in order to ensure an effective consultation on issues that are very sensitive and complex.



## *NSA*

For ETF there is no necessity to strengthen independence of NSAs. A strong link between States and NSA has to be maintained to ensure public service mission of NSAs.

Many NSAs need to be adequately reinforced regarding economic and human resources since in many Member States this reinforcement has not been adequately addressed since the separation between regulatory and service provision functions introduced by SES regulation in 2004.

## *ANSP governance*

ETF is opposed to the involvement of airspace users in ANSP governance structures as suggested by the European Commission. Airspace users are already fully consulted in various forms through the establishment of national/FAB performance plans or ANSP strategic plans. Those consultation mechanisms plus the existing consultation mechanisms at EU level (Network Manager Board, ICB, PRB etc.) ensure sufficient focus on commercial airspace users needs. Furthermore, there is a need to prevent conflicts of interests between different categories of users.

Current ANSP governance structures already permit establishment of joint ventures and collaborative working arrangements so there is no need to further regulation on this topic.

Separation between Service Provision and NSA



The SES first package concluded on the need to ensure at least functional separation between service provision and supervisory authorities. No requirements to implement structural separation has been included, following the will of some Member States to keep a link between the provision of the services and supervisory level. It provides an added value for the expertise of NSA personnel. This was a complex political compromise. There is no need to re-discuss this agreement again. To continually reopen the same discussions is reducing the credibility of the SES project as well as the credibility of the political class.





## FAB implementation

ETF does not support the EC will to start infringement procedures against all the 27 Member States because of the FAB implementation. This is a negative signal to send to Member States and to all the stakeholders involved in the various FAB projects. It does not take into account the work already done nor the complexity of such issues.

This attitude is clearly not in line with the bottom-up approach and will never be supported by ETF. All stakeholders have to accept the idea that different models of FABs exist. The one based on consolidation of services is surely not the easiest to implement (sovereignty issues, transition and defragmentation costs, social costs etc.) and certainly not the most efficient.

Furthermore, the complexity of FAB projects has to be acknowledged by all stakeholders and expectations have to be realistic regarding time schedule and service provision improvements.

To conclude ETF does not support any changes in the legislation regarding FAB implementation.



## Conclusion

The ETF will oppose the SES2+ package, if the identified hot topics remain unresolved:

- Safety is still the weakest area,
- 5<sup>th</sup> pillar is still only a EC declaration but is missing in the regulation,
- Extreme cost pressure,
- Institutional set up for more liberalisation,
- Top-down for FAB implementation,
- Mandatory unbundling of services.

The introduction of this new legislative package comes too early regarding the implementation of the SES2. SES2+ is not only an update to the previous SES package, but it has to be considered as a new legislative package. ETF wonders what is the added value of a new text only four years after the adoption of the previous one. ETF is opposed to the over-regulating attitude of the EC.

SES2 is already having negative effects on workers: difficulties in renewal of collective agreements, numbers and quality of jobs, income reduction, etc.

The SES2+ package will create additional, real and concrete threats for workers. They have to be put in perspective with the whole SES process on which workers have great concerns. The EC should not underestimate the lack of commitment of the ATM workers to this overall process. Unless there is a real change in the political heading, the EC will definitively lose the support of the ATM workers on the whole SES process.