



ETF analysis of the adopted SES 2 legislation

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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.

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Introduction

The SES 2 legislation should be formally adopted by the Council of Ministers in June. However, the final English version is already available and therefore we have begun analysing and assessing it.

In the last 2 years, ETF has sort to bring forward the expertise and considered views of Air Traffic Controllers, Air Traffic Safety Engineers Personnel and all other ATM Personnel, and has managed to influence this legislation in a number of significant ways.

You will find below in this bibliography reference to the main papers that were issued by ETF (full versions of these papers are available on “[www. jatmwg.org](http://www.jatmwg.org)”). The list does not include the numerous other letters, emails and meetings to, and with, decision makers (in particular, representatives of the Commission, the Council, and the Parliament) which were a necessary part of our lobbying activity.



ETF bibliography on SES 2

- 02 Aug 2007: ETF response to HLG (27 pages)
- 06 Feb 2008: ETF-USF-EPSU Press Release after a meeting with Commissioner Barrot
- 28 Feb 2008: Joint ETF-CANSO statement for the second SES package
- 13 May 2008: ETF position paper on SES 2 (11 pages)
- 25 Jun 2008: ETF Press Release "*ATC workers react to Commission proposal*"
- 04 Sep 2008: ETF amendments to SES 2 (9 pages)
- 02 Oct 2008: ETF Press Release for the ETF Paris Conference "*What future for European Air Traffic Control?*"
- 03 Dec 2008: ETF voting list (for MEPs)
- 14 Jan 2009: ETF-USF-EPSU letter to Commissioner Tajani on SES 2
- 11 Feb 2009: ETF Press Release "*ETF says no to liberalization. The European Economic and Social Committee agrees!*"
- 23 Feb 2009: letter on EASA competence on ATCO Licencing Directive
- 02 Mar 2009: letter to suggest annexed declaration to SES2 legislation
- 09 Mar 2009: letter to suggest last amendment to Reg. 550 Art.18a
- 30 Mar 2009: ETF Press Release "*Air Traffic Management Personnel prepared for change in their industry*"



Analysis

Please, note that the recitals are not yet available. Our analysis is solely based on articles.

1. Framework Regulation 549

Suggested amendments by ETF aimed at:

- *confirming the **bottom-up approach (1)**;*
- *promoting **enhanced cooperation (2)** in the FAB establishment process;*
- *promoting **consultation (3)** through the sectoral Social Dialogue Committee;*
- *the introduction of **Just Culture (4)** principles;*
- *defining **safety, capacity, environment and cost-efficiency (5)** as Key Performance Areas;*
- ***not having penalties (6)** within the performance framework.*

The adopted legislation does not specifically mention the **bottom-up approach (1)**, nor does it mention any top-down approach or any change in this policy. This means that the bottom-up approach is maintained as



defined in SES 1. We would have liked more but we also would have been unhappy if the top-down approach had been favored.

Art.2.25 (definition of FAB) says “...with a view to introducing, in each FAB, **enhanced cooperation** among ANSPs and, where appropriate an integrated provider” **(2)**.

Consultation (3) for professional staff representative bodies is clearly included for implementation of SES both at national level and at European level. Consultation of the Sectoral Social Dialogue Committee is integrated as well (Art.10). Consultation at the regional level (FAB level) is not explicitly mentioned, this does not mean that it is rejected, but it is not well defined.

Just Culture (4) is not mentioned in the regulations but is mentioned in the annexed statement.

Art.11.1a clearly defines **safety, environment, capacity and cost-efficiency** as Key Performance Areas **(5)**.

Unfortunately, the possibility of **penalties (6)** has been retained in this legislation (Art.9).



2. Service Provision Regulation 550

Suggested amendments by ETF aimed at:

- *including checks on **required staffing numbers (7)** in the tasks of the NSAs;*
- ***extending the licensing scheme (8)** and in particular to ATSEPs;*
- *replacing “determined cost” by “**full cost**” (9);*
- *replacing the study on application of market principles by a **study on implementation of the regulation (10)** in Art. 18a.*

The adopted legislation includes compliance with “**human resources requirements for the provision of Air Navigation Services**” (7) in the tasks of the NSAs (Art.2.2).

It does not mention any licensing objective (8) which is clearly a disappointment to us. It should also be noted that the FABs should be implemented “no later than 3 years following the entry into force of this Regulation..”. ETF was in favour of a longer period.

It keeps “determined cost” (9) as the reference cost to be shared among users and to be determined in application of Regulation 549 Art.11.



Adopted Art.18a now reads **(10)**:

“The **Commission shall submit a study** to the European Parliament and the Council no later than 3 years following the entry into force of this Regulation, **evaluating the legal, safety, industrial, economic and social impacts of the application of market principles** to the provision of communication, navigation, surveillance and aeronautical information services compared to existing or alternative organisational principles and taking into account developments in the functional airspace blocks and in available technology.”

The reference to “market principles” that we strived to avoid remains in this new wording. This is clearly the negative side of the article, however the positive aspects are that safety and social impacts are quoted which gives us the possibility to have a role in the conduct of the study.

Above all, we were successful in avoiding the implementation of a “market principles” application as voted for by the European Parliament (and strongly supported by airlines and other stakeholders). We were also successful in introducing the safety and social aspects, which means that the assessment should integrate all of these aspects. In addition, the Commission will only submit a study which should make comparisons between various organisational principles. It is not written in the regulation that the Commission should make proposals following the results of the study!



3. Airspace Regulation 551

Suggested amendment by ETF aimed at:

- **taking into account operational constraints (11)** in “the optimum use of preferred trajectories. (Art.6)

Art.3a states that the Commission is responsible for “the development of Community-wide aeronautical information infrastructure in the form of an electronic integrated briefing portal...”

Although we had not formulated any remark on this possibility, we should monitor very carefully to check if any social impact can be foreseen.

Art.6 on which we had suggested the above amendment **has been completely reworded (11)**.

4. Interoperability Regulation 552

No ETF comment.



5. Annexed Statement

ETF had suggested a declaration which insisted on:

- *the “importance of human factors in ATM” (12);*
- *the “personnel competence”(13);*
- *“a good reporting system” (14);*
- *“the necessary involvement of personnel” (15).*

The existence of such a statement is, in itself, a considerable return for ETF which has been the only organisation to press for this. The Commission statement takes up again **“safety culture”** and **“just culture”** (4), (5) and (14), **“competence of the professionals”** (13), **“involvement of staff representatives”** (15) and **“integration of human factors** into the implementation of the SES no later than 2012” (12).

The only regret would be that all these elements are not so clearly integrated in the core of text, i.e. in the articles.



Conclusion

Following the analysis of the legislation, the question is, is the bottle half full or half empty? For ETF at this point, the bottle is half full! Not all the objectives for ATM employees were achieved, but there was a marked level of success in a number of vital areas.

During the whole process ETF was considered as a valuable and credible stakeholder and social partner.

However, even if the political process is over, the work is not complete. The adopted legislation mainly set up guidelines and principles for establishment of SES2.

A lot of discussion will be conducted in the coming two years regarding the drafting of the implementing rules related to SES2. ETF priorities regarding the SES2 implementation will be the following:

- Implementing rules related to the performance framework. We will have to push for establishment of clear and measurable safety targets and for appropriate consultation of all stakeholders, including staff, before the establishment of performance objectives at European level.
- Carefully implementing the provision which obliges consultation with the Civil Aviation Social Dialogue Committee for the implementation of the SES2 package



- FABs, as they will be subjected to new implementing rules regarding “guidance material for the establishment and modification of FABs” and the new function of “FAB coordinator”. Furthermore we have to monitor the work that is done in all FAB projects to ensure that our member’s interest are taken into account.
- The study on the future of CNS and AIS services. This will be a major issue and we will continue to fight any tentative attempts to force privatization of those services through legislation.
- EASA and its development. EASA will shortly start the drafting of the Implementing Rules related to safety. We will seek to get involved as much as possible.
- Safety. We will have to continue to push for the establishment of a Just Culture across Europe, and for the extension of a licensing scheme to all in the safety chain.

And the list is not exhaustive...

ETF continues to work to protect and enhance the interests of all ATM personnel.