

## ETF Position Paper on SES2+ recast

The ETF, representing more than 25,000 Air Traffic Controllers (ATCOs) and ATM Staff, has been supportive of the overall idea of a Single European Sky from the very beginning of the process. However, the ETF has been opposing the use of SES as an instrument to further unnecessarily liberalise ATM services and causing negative social consequences for workers.

The European Commission's (EC) proposal on the SES2+ recast does exactly that - it tries to introduce competition into some fields with a mandatory separation between supervisory authorities and service providers, and a mandatory application of market principles for the aerodrome air traffic services (ATS), as well as functional and budgetary separation for all ATM services, with performance requirements driven almost only by cost reduction. In doing so, the proposal fails to address many actual issues of the sector.

With regard to the drafting process, the ETF deeply regrets the lack of willingness of the EC to take into account the feedback they had during roundtable discussions that led to the high-level [declaration](#) on Digital European Sky. The EC also ignored the existing consultation tools to engage with the social partners on SES issues like the ATM working group of the aviation sectoral social dialogue and the SES Expert Group on Human Dimension (EGHD). The ETF also notes that the current crisis was not taken into account when drafting this proposal. The failure to incorporate lessons from the past demonstrates once again the EC's unhealthy, [one-sided approach to policymaking in the ATM field](#).

# 1. Some concerns about the process

## Lack of consultation

With regard to the consultation process, the ETF deeply regrets the lack of willingness on behalf of the EC to take into account the issues raised by the social partners and other stakeholders before the release of the SES2+ recast proposal. Some examples of these concerns from a social perspective are the introduction of market principles for some services, ATM Data Service Providers (ADSP) implementation, performance scheme modification etc. The EC didn't use the existing consultation tools for social partners on SES issues like the ATM sectoral social dialogue and/or the SES Expert Group on the Human Dimension to try to sort out those issues. Additionally, it didn't carry out a regulatory impact assessment that would take into account the new scope of the proposals, which have an even greater negative social impact. The signals sent by the ETF and its affiliates were sufficiently strong, and the EC chose to ignore them.

## Over-regulation

The ETF regrets that this proposal is trying once again to micro-manage the ATM industry. This over-regulating legislative process creates uncertainty and instability in the ATM industry as the legislative background is changing continuously. The ETF believes it is now time to stabilise the legislation to give the possibility for ATM stakeholders to implement the already existing legislative packages fully.

The EC's current approach risks the withdrawal of support for the SES by some essential categories of stakeholders, such as workers.

## A regulation with ulterior motives

Sustainable, scalable, resilient ATM: this is what this SES2+ recast should be aimed at according to the communications of the EC. Unfortunately, an analysis of the different articles shows that the only driver behind the proposed changes is the cost reduction of ATM.

Keeping in mind the current crisis and the environmental impact of aviation, it is hard to believe that the EC is still playing the same music as in 1999.

ATM infrastructure is able to perform very well if you give it the means to do so. It can perform even better with more means. Having ATM data operated as a market and putting more pressure on costs, however, will not improve the performance.

# 2. National Authorities

## Independence of NSA

The ETF supports the need for National Supervisory Authorities (NSAs) to act independently from any industrial, economic or political pressure. To achieve this, NSAs' activities must remain under the remit of the public sector.

Therefore EU rules laying down selection processes for NSA staff should not contradict the usual selection processes for civil servants of many Member States.

Additionally, any new rules for selection processes adopted at the EU level shouldn't prevent staff mobility between supervisory and service provision bodies, as this ensures a good level of expertise for both sides.

### **The link between supervisory authorities and service provision**

Following the SES1 regulation, there is a mandatory separation between supervisory and service provision activities, at least at a functional level. The new wording will impose a structural separation. The ETF does not support this.

There is no justification for changing the regulation on this matter. As it currently stands, functional separation effectively means a certain degree of harmonisation of how Air Navigation Service Providers (ANSPs) and National Competent Authorities (NCAs, previously referred to as 'supervisory authorities') are organised throughout Europe. At the same time, it allows Member States to apply such a structure which reflects specific developments in civil aviation as well as cultural and social aspects. Having mandatory structural separation, however, means interference into the way Member States organise their ANSPs and NCAs.

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

Finally, enough experience has been gained through this functional separation to show that it is performing as good as a structural one. What problem are we trying to fix?

## **3. Provision of ATM services**

The question of the provision of the support services such as Communication Navigation Surveillance services (CNS), Aeronautical Information Service (AIS) and Meteorological services for air navigation (MET), is a central issue for ETF affiliates. According to the SES1 and SES2 regulations, the choice to unbundle and open those services to market principles is left to each Member State in accordance with the subsidiarity principle. For the ETF, this compromise was acceptable as it permits the choice of the best solutions according to the local situation and specific strategy decided by national ANSP and Member State.

The SES2+ recast proposal does not reflect a balanced approach and is trying to favour separation of support services and application of market principles. The ETF does not support this.

### **Separation of provision of Aerodrome services, support services, ATM Data Service Provider (ADSP)**

In Europe, some Member States decided to separate support services from ATM core business, but many chose 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 the ETF, there is no evidence that such a decision will lead to improved ATM efficiency. On the contrary, it could lead to more inefficiency and decreased safety. It will introduce more fragmentation in service provision, which is completely against SES goals, thus deteriorating the safety culture and safety chain by clustering services. Furthermore, this represents 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 the main air traffic control service provision.

The ETF is not opposed to the concept of ADSPs as such but considers that the only role of European legislation should be to solve the regulatory issues they create and not to artificially favour one model or another by forcing ANSPs to reorganise themselves.

## **Application of market principles to Aerodrome ATS**

This proposal is also not supported by the 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 a crucial social issue that was never addressed by the EC. Furthermore, there is no evidence that the introduction of competition in ATS services will increase efficiency in Europe. In the UK, for example, where liberalisation of aerodrome ATM has been introduced, it led to an increased cost of service for the airspace users and reduced access to air travel. 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**

Generally speaking, the ETF doesn't support the idea that services like CNS, AIS, MET could be designated as secondary services (or '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). The ETF believes that the different ATM services are part of a global and integrated safety chain. In trying to encourage or force the unbundling of those services with the introduction of market principles, the EC will breach the existing safety chain which will undoubtedly have consequences on service delivery and the level of safety. For instance, CNS gather services that contain radio communication, radar antenna, phone communication etc. which are directly the 'eyes and ears' of ATCOs. To artificially separate such services is a big mistake.

## **4. Performance Scheme**

The ETF strongly rejects the suggested changes for the decision-making process of the national plans. The performance scheme is a very sensitive issue regarding its potential economic and social consequences. The amended EU regulation regarding performance and charging was adopted in 2019. Now the EC is trying, once again, to amend these regulations. To constantly change the rules on such important and complex issues will not help gain its acceptance by stakeholders. Furthermore, the suggested modifications aim to give more power to the EC in case of disagreement between the EU and local targets. The ETF doesn't support this top-down approach as it will lead to adoption of local targets which may be completely unrealistic. The ETF also rejects the introduction of the Performance Review Body (PRB) inside the remit of EASA. It is surprising that while the EC tries to impose a structural separation at national level, it also proposes to include the economic regulator into a safety agency.

The rationality of having the body in charge of ATM cost-cutting in the same body in charge of regulating the safety of ATM is also questionable.

It is also questionable how (or even if) the EC intends to ensure the independence of the new economic regulator from its services when nominations in this economic regulator can only be made with the approval of the EC.

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

- The Safety KPA (Key Performance Area) should be developed at the same level as other KPAs with EU metric targets and indicators.
- Mandatory consultation mechanisms should be introduced at local level to ensure appropriate involvement of staff representatives for the adoption of the local performance plans.
- Interdependency between the different KPAs should be taken into account.

## 5. Functional Airspace Blocks

It has been the ETF's position from the beginning that the promises made on Functional Airspace Blocks (FABs) were way too ambitious. Of course the fact the FABs have not delivered will surprise no one.

That said, removing all references to FABs in the proposed regulation looks like an overreaction.

There has been a lot of investment and energy spent on creating FABs as the EC forced us to do. Even if they did not deliver as much performance as expected in a 'global' European fashion, they can create a common culture, improve social dialogue, and act as a facilitator to improve performance in some places. FABs have brought a limited but truly increased cooperation between States and ANSPs which has delivered a limited but truly increased performance.

For this reason, the ETF would agree with having the concept of FABs still referenced in the text.

## 6. Network Manager role

As previously stated by the ETF, the Network manager's (NM) role should be limited to its domain of expertise. The ETF acknowledges that the NM has probably the best knowledge of what works for the network. However, ATM performance is much more than only the interest of the network. Many local constraints and expertise (including safety concerns) lie inside the ANSPs.

Therefore, the ETF believes that a balanced approach should be the aim and that the NM's power should not be extended.

## Conclusion

The ETF, representing the majority of ATCOs and ATM workers in Europe, is a key stakeholder and social partner for the SES success or failure. While we believe in the added value of an EU approach to air traffic management, our general analysis has shown the SES2+ draft regulation to be far from adequate. The content of this recast proposal confirms the threats identified in recent months and is even worse than expected. This proposal will have adverse effects on jobs and working conditions.

Many other stakeholders (States, ANSPs, other Staff Organisations) are not happy with the content of the SES2+ recast proposal.

The liberalisation process introduced by the EC in this new regulation is not needed. It will harm 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 positively impact ATM performance as expected by the EC. It will not reduce delays, nor will it improve environmental aspects, reduce cost or improve safety.

The EC is for the fourth time, making the same mistakes. After selling the moon to airspace users through FABs or selling ATCO mobility via a licence, the EC is now dreaming of an ideal world full of resilience and scalability where ATM data will be on the market and available on-demand. Of course, any ATM worker already knows where all this will bring us: an even more fragmented and far worse-performing ATM infrastructure.

Considering all these aspects, the ETF affiliates have decided to reject the SES2+ recast proposal as it stands.