



**EUROPEAN COMMISSION**  
Employment, Social Affairs and Inclusion DG

Employment and Social Legislation, Social Dialogue  
**Social dialogue, Industrial Relations**

Brussels, 20 November 2014

**SECTORAL SOCIAL DIALOGUE  
COMMITTEE  
TEMPORARY AGENCY WORK**

## **DRAFT Minutes of the plenary meeting on 7 October 2014**

### **1. Adoption of the agenda and adoption of the minutes**

The meeting was chaired by the Commission, Ms Winiarska (DG EMPL, Social Dialogue and Industrial Relations Unit) who replaced Ms Durst in charge of the Committee. Participants introduced themselves. The agenda was adopted. The minutes of the last meeting (26 May 2014) were approved with one change.

### **2. Discussion on the new work programme 2015-2016**

The social partners started by discussing the state of play of the current work programme and agreed that most of the points were well covered. UNI Europa noted that more efforts are still needed to include new countries in the dialogue and gather more facts. On the first issue, the trade unions asked for a list of Eurociett members (national organizations and corporate) and Mr Pennel said that it can be easily accessed via the website.

With regards to the work programme of the Committee for the next two years, the employers proposed the following items: a) follow-up on the priorities of the new Commission; b) continue the roundtable in candidate countries (Macedonia, Montenegro and Turkey); c) continue to work on the cross-border mobility in the context of the TAW Directive, notably by looking at national initiatives to promote temporary agency work, ex. in the Nordic countries. Ms Lelyte (UNI Europa) agreed that the roundtables in Serbia and Croatia were successful and the following two countries should be decided, depending on UNI associations. A joint statement on abusive practices by some rogue operators (selected cases) could be also considered. In terms of decent work, UNI proposed to emphasise the importance of equal treatment. On cross-border mobility, more countries could be looked at. The FR trade unions (CGT) proposed that the issue of trade union rights for temporary agency workers is tackled. Finally, the social partners discussed also some cases of loopholes in the FR and IT legislation, which could be further investigated. It was agreed that the secretariats will continue work with a view of finalizing the 2015-2016 work programme before the end of the year.

### **3. Promotion of national sectoral social dialogue**

The AT social partners presented jointly the new sectoral collective agreement, highlighting that in 2013 they were able for the first time to have data on the spectrum of

clients and profiles of workers. The speakers gave an overview of the development of the legal framework and highlighted the element of social partnership, which entails high level of workers' protection. Among interesting points, higher minimum salary for blue collar workers than for white collar workers was mentioned. Among current problems, the interpretation of the posting of workers is seen as difficult.

Among other developments, the DK and NL social partners reported on the change in the national collective agreement (DK: inclusion of equal treatment principle), Adecco informed about the planned "Spanish-style" labour market reform in IT, IT trade unions expressed support for any initiative that helps to tackle bogus self-employment problem and CR has a new labour code since August 2014, including a chapter on TAW and new health and safety rules. CR trade unions noted also difficulties in organizing workers, since TAW contracts are limited to 3 months.

Eurociett and UNI Europa reported on a positive feedback they received from a roundtable in Serbia, where employers are willing to organize themselves. The EU social partners presented also the joint statement and expressed hope that the Serbian social partners will continue the discussions in the good direction.

## **5. OECD presentation on the employment protection legislation (EPL) index on temporary agency work**

Mr Bassanini (OECD, Directorate for Employment, Labour and Social Affairs) presented the database and the EPL indicators developed by the organization to analyse the situation in the overall economy but also specifically looking at TAW. Among the 2013 study findings, the speaker noted that the TAW regulation saw much fewer reforms than the permanent work, even in the recent context of economic crisis, lower level of workers' protection in common law countries and hence uneven level of competition, and generally lower of protection for fixed term/temporary agency workers compared to permanent workers.

In a following discussion, the social partners asked about the comparison between the fixed-term contract and temporary agency work and the DE trade union noted that "permanent TAW" situations can be also observed. In his reaction, Mr Bassanini underlined that downwards-spiral on workers' protection should not be the objective and he gave some examples on the diversity of situations when it comes to legal framework on fixed term and agency work.

## **6. Joint project on comparing temporary agency work to other forms of work (VS/2013/0389)**

Mr Romainville (IDEA Consult) presented to the participants and methodology as well as preliminary results of the project study. He started by saying that the size of the TAW sector compared to the total EU employment was 1.5 - 2% in 2012 and the national evolution of the sector is correlated to the GDP growth. Since 1996, the permanent employment in the EU remains fairly stable at the rate of 75%, self-employment slightly decreased and temporary work increased. The speaker developed also on the working and employment conditions part that was elaborated based on the Eurofound's working conditions survey, 2012 study on job quality by the Metropolitan London University and study questionnaires. Among the findings, IDEA highlighted more satisfaction with the working time and pay compared to fixed term workers. In a follow-up debate, the IT trade unions asked about the case studies and AT employers inquired about types of work contracts. Mr Pettineo (Eurociett) summarized also the discussion at the EU stakeholders'

meeting the day before and announced the final conference in February 2015, exact date TBC. The consultant assured that all comments made by the social partners will be reflected in the final draft.

## **7. TAW regulation**

Regarding the possibility of derogation on the principle of equal pay, Ms Lelyte clarified that there was a misunderstanding and a letter was sent to Eurociett shortly before the meeting, clarifying that the position of UNI Europa is in line with the position of ETUC and there is no need to review the Directive, only to continue its monitoring. Eurociett asked the Commission to reflect the correction also in the Review report of the Directive on temporary agency work.

On the restrictions, Eurociett prepared a position paper on three main areas the employers wish to re-discuss: a) in number of MS including BE, BG, LUX and PL there is currently no possibility for private employment agencies to offer open-ended contracts; b) there are some sectors closed to agency work, notably public sector in BE and construction sector in DE; c) *limits of use*: need for further clarification. Eurociett gave some examples of restrictions that could be counter-productive; ex. labour doctors. UNI Europa stated that as they do not represent workers in the construction and public service sectors, appropriate unions could be invited to a future SSDC meeting. A number of national unions took floor to address the point of open-ended contracts; notably the FR unions explained that this is decided on the cross-industry level by the state to safeguard the public interest and asked for more explanation on the job creation aspect and the BG unions pointed to the importance of the temporary aspect of TAW work and need for contract stability. DK employers noted that there is an on-going discussion on the national level how the temporary jobs can be considered good jobs and also made interesting, CZ employers informed about the recent lift of restrictions on access by handicap workers, IT employers informed about steady 30% increase over a year of the temporary work linked to removal of the formal justification requirement. IT trade unions asked for a further discussion on the principle of commercial contract between the user-company and TAW agency. UNI Europa agreed to jointly have a closer look at restrictions in certain sectors, in the second SSDC meeting of 2015. The Commission proposed to the social partners to reflect this point in the new work programme.

## **8. Cross-border mobility**

The social partners reported on the state of play on the AT, PT and SE fact sheets. It was agreed that the IE fact sheet should be prepared in the coming months. UNI will follow-up on the UK observatory.

## **9. Any other business**

UNI Europa reported to the plenary on the meeting that took place in June with ETUC and IndustriAll Europe, noting that the other trade unions were interested in the research on cross-border mobility.

The Commission confirmed that the kick-off meeting of the representativeness study in the sector is scheduled for 10 October. The cross-industry social partners were also invited to the meeting due to the specificity of the sector.

The dates of meetings for 2015 are: working groups on **27/02/2015** and on **23/06/2015**, PL meeting on **2/10/2015** (subject to the confirmation on the basis of the draft agendas).

*List of participants 7/10/2014*

<p><b>Employers (11 ♂, 8 ♀)</b>  <i>10 different Member States</i></p> <p>Mr Auth (DE)  Mr Bonardo (IT)  Mr Geary (UK)  Mr Grammelhofer (AT)  Ms Hirschel (DE)  Mr Milonas (EL)  Mr Bart (Eurociett)  Mr Pennel (Eurociett)  Mr Pettineo (Eurociett)  Mr Praschek (AT)  Ms Schaller (CH, observer)  Ms Slivneanu (RO)  Ms Spangenberg (NL)  Ms Strilka (AT)  Mr Tietzge (DK)  Ms Tylleroova (CZ)  Ms van Lieshout (NL)  Mr Vink (NL)  Ms Zielinska (PL)</p>	<p><b>Workers (13 ♂, 6 ♀)</b>  <i>10 different Member States</i></p> <p>Mr Ballester (FR)  Mr Borghesi (IT)  Mr Brännström (SE)  Ms Caetano (PT)  Mr Colapinto (IT)  Mr Faintrenie (FR)  Ms Goneva (BG)  Mr Lean (UK)  Ms Lelyte (UNI Europa)  Mr Nymark (SE)  Mr Palada (CR)  Mr Perez (ES)  Mr Prieto (ES)  Ms Revillod (FR)  Ms Riboni (IT)  Mr Rodriguez (PT)  Ms Rynning (Norway, observer)  Mr Toth (HU)  Mr Wagmann (FR)</p>
<p><b>European Commission</b></p> <p>Mr Muller-Schleiden (DG EMPL)  Ms Winiarska (DG EMPL)</p>	<p><b>Others</b></p> <p>Mr Bassanini (OECD)  Mr Romainville (IDEA Consult)</p>