



EUROPEAN COMMISSION

DG EMPLOYMENT, SOCIAL AFFAIRS AND EQUAL OPPORTUNITIES

Social Dialogue, Social Rights, Working Conditions, Adaptation to Change
Social Dialogue, Industrial Relations

Social Dialogue in the construction sector EFBWW-FIEC Employment Working Group Minutes of the meeting held on 21 November 2008 in Brussels (09.30-13.00)

1. Welcome and introduction

The meeting is chaired by Mr Trinci (EFBWW) who welcomes the participants and reads out the agenda, which is adopted with an amendment to item 9 concerning the current difficult economic situation.

2. Approval of the minutes of the meeting held on 15 April 2008

The minutes are approved unanimously.

3. Follow-up to the European Conference on the role of paritarian social funds in the construction industry

Slides are joined to the minutes.

Ms Sibylle Reichert (AEIP) reports on the follow-up and the consequences of the conference, held on 6/7 March in Warsaw.

Mr Buelen (EFBWW) stresses that a second conference on paritarian social funds, to be held in Bucharest in 2010, is in the planning stage. He insists on the fact that discussions between paritarian social funds would be useful as well as the achievements of bilateral agreements. A survey of paritarian social funds and the promotion of bilateral agreements would bring added value.

Mr Campogrande (FIEC) indicates that FIEC has started a survey on the Health and Safety card in order to collect information about the scope of already existing cards in some Member States and to know what could be done at the European level. 5 or 6 countries, where such a system exists already on a voluntary or a mandatory basis, have already answered the questionnaire. It is important to make sure that such a card does not become an obstacle for mobility or cause supplementary costs.

The matter was already discussed in the "Health & Safety" working group, where the question of the protection of privacy was raised. The discussions will be coordinated with the "Employment" working group.

4. Ongoing projects

- Database and Website on Posting of Workers

Slides are joined to the minutes.

Mr Campogrande (FIEC) explains the current situation of the Posting of Workers Database on the basis of a ppt presentation which is joined to the minutes.

National experts have to be designated by the national social partners. In some countries, there exist some difficulties, and national experts have not yet been found. Mr Buelen (EFBWW) states that the EFBWW will discuss with the Lithuanian trade unions and will also send detailed information about the project to the Czech trade unions.

- Self-employment and bogus self-employment

Mr Buelen (EFBWW) reports on the last developments. Since the Commission had reduced the funds allowed for the experts, a new expert had to be found; that was not easy and led to a loss of time. There are still some quality problems to be resolved, but hopefully it will be managed. Two experts, Jan Cremers and Yoes Jorens, will give an introduction, 11 countries have already sent their responses, but not all of them are satisfactory.

A joint approach by the European social partners on bogus self employment is preferable. It is agreed that all reports should be available on 11 December to be circulated for comments. On 9 January 2009, a steering group meeting will take place. The reports will be checked if they are in line.

The last meeting will take place at the end of February 2009 and hopefully the project will be finalized in a positive way.

5. First discussion "Joint and several liability" (Study by the "Dublin Foundation").

The European Parliament has organized a hearing on "Chain liability in the construction sector" and will publish an initiative report on this subject.

Mr Buelen (EFBWW) underlines the 5 points which are crucial for the EFBWW:

- 1) a liability rule that applies both internally and across borders;
- 2) a liability rule that extends to the client (and is not limited to the main contractor);
- 3) an unlimited chain liability as regards scope and amount;
- 4) a chain liability for wages and conditions of employment;
- 5) a chain liability for social security obligations (linked to a social identity card).

The EFBWW is in favour of a European system and wants to achieve a joint approach with FIEC.

Mr Campogrande (FIEC) replies for FIEC and underlines that this subject was already discussed, that for FIEC a EU legislation is not appropriate, that FIEC is against an unlimited liability and that a limitation of liability from the main contractor to the sub contractor is necessary. Nevertheless, FIEC would like to work together with EFBWW on this subject; probably in a small working group.

In answering a question of Mr Detemmerman (Confédération Construction - FIEC), the EFBWW points out that a slightly different approach from the ETUC would not affect the EFBWW's position.

Mr Schmidt-Hullmann (IGBAU - EFBWW) stresses that the construction sector is very different from other sectors: 10 – 14 subcontractors exist only in the construction industry. It would make sense to discuss in small groups.

Mr Richter (HDB - FIEC) insists upon the principle of subsidiarity. EU legislation must not undermine national law.

6. Public procurement in the construction industry and DG EMPL guide

Mr Campogrande (FIEC) makes reference to a meeting, organized by the Commission, to prepare the Commission's "Guide on Social Considerations in Public Procurement". He deplors that the social partners were invited to comment on the future guide, without having the draft paper.

FIEC and EFBWW agree to write a common letter to the Commission to complain about the lack of transparency and to communicate their joint input on the subject.

7. Flexicurity in the construction industry: First discussion

Mr Buelen (EFBWW) stresses that, if there is a high level of flexibility, then a high level of security is also needed.

A common strategy should be drafted on how to implement flexicurity in the construction industry. The following items should be tackled:

- A definition would be desirable;
- Vocational training, Lifelong Learning is a key matter in the flexicurity discussion;
- Since a total flexibility is harmful, acceptable limits on flexibility should be defined.

Mr Schmidt-Hullmann (IGBAU - EFBWW) points out the differences between the 27 Member States of the EU.

Mr Campogrande (FIEC) makes reference to the delicate economic situation. But, since flexicurity is on the work programme, FIEC is ready to discuss it.

The Chair summarizes the discussion and proposes to wait for the Commission's report on flexicurity which will be published in December. In the meantime the discussions could continue.

8. "Posting of workers" Directive (PWD): Experts High Level Group – joint EFBWW-FIEC actions

The Chair gives a review of the proposal for the composition of the High Level Group. FIEC and EFBWW are happy to note that their joint action has been successful and that the European Commission and the Council have accepted that the social partners can participate in the HLG.

9. Any other business:

Financial crisis:

The current economic situation is intensely discussed. Mr Buelen (EFBWW) stresses the joint concern of the social partners in the construction industry and underlines that the absence of public investments will lead to a decline in private investments. Since the Commission's European Economic Recovery Plan is not yet published, the social partners should work on offering direct inputs in order to prevent the construction industry from becoming a victim of the crisis.

Mr Schmidt-Hullmann (IGBAU - EFBWW) insists that the social partners should act to make sure that the Commission's European Economic Recovery Plan is available for the construction industry.

Mr Campogrande (FIEC) states that it is the economic and legal commission within FIEC which is working on this matter, but in any case, FIEC will be ready to act as quickly as possible.

10. Next meetings

The next employment working group meetings will take place on 15 May and on 20 November, dates to be adopted at the plenary meeting.