



EUROPEAN COMMISSION
Employment, Social Affairs and Inclusion DG

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

**SECTORAL DIALOGUE
COMMITTEE
CIVIL AVIATION**

**Minutes of the ground handling working group meeting
02 October 2014**

Chairs: Mr Schwarz and Mr Bandasz (European Commission)

1. Adoption of the agenda

The agenda was adopted and participants introduced themselves.

2. Adoption of the draft minutes of the last GH SD WG meeting (10/09/2013)

The minutes were adopted.

3. Information by the Commission about the progress of the proposal for a Regulation on ground-handling services at Union airports and possible next steps by the social partners

Sabine Crome (MOVE.E4) recalled that:

- It is up to the Italian Presidency or the next Presidency (Latvia's) to decide if the Council engages the trilogue negotiations between the Council, the European Parliament and the Commission.
- Nothing has happened on this file since 16 April 2013 and the EP amendments. The elections for a new EP meant that work in the EP was blocked since February/March 2014. New EP and new TRAN committee are now in place. The new TRAN Rapporteur for the ground-handling proposal is Ms Deirdre Clune (IE, EPP). The EMPL Rapporteur is not known yet.
- We understood that the IT Presidency is focusing on SES, rather than on the airport package. If the IT presidency ever deals with the airport package, it will privilege the slots file over GH's. Latvia seems to share the same priority as IT.

The Commission continues to fully support the revision of the ground-handling Directive and is making every effort for the negotiations to continue. But in the end the Council sets the agenda for the negotiations.

Guido Schwarz (EMPL.B1), answering a question from F. Ballestero (ETF) concerning the direction the new Commission is going to take, said we could not say much about it, until it is definitely in place. Reference was made by E. Jahan (AEA) to J-C Juncker's mission letter to the Commissioner for Transport (focus on Fourth Railway package and SES).¹

F. Ballestero (ETF) deplored that DG MOVE was not represented appropriately to be able to answer important political questions on GH, which was already the case in previous meetings of the working group.

S. Crome recalled the lessons learnt from a recent ECJ court case (C-277/2013 – GH services in Portugal): Point 55 of that judgment refers to social matters, and the specific issue of an obligation of staff takeover, highlighting the importance to clarify in the new Regulation on GH the treatment of obligations on transfer of staff.

4. Exchange of views on the Commission Position concerning EP amendments

On the Commission's position on EP 1st reading amendments:

- ASA welcomes this document. They stressed the role of the EC, which has the power of initiative. It is a difficult exercise to find a balance of interests between all parties. Crucial points include: training, safety, transfer of staff and quality standards. ASA considers enough information on these aspects is available to take this forward. Need to unblock the situation. (see attached document on Commission position)
- ETF also welcomes the document. Regarding training and quality standards, ETF analysed differences in the texts of EC, EP and Council (see attached A3 document and ETF position on Commission comments). They asked whether LV could move forward. Field needs to be prepared by social partners, Gibraltar cannot block Europe forever. ETF welcomes EC accepting EP amendments. Reservations on some EC positions, such as "representative collective agreement" (amendment 248, 268, 278, 360), etc. DE and IT employees pointed that "competition is dragging down working conditions and quality of service".
- ACI Europe: Negative consequences of the opening of the market should be addressed. The text, as it is, has little added value. We need better operational system and more coordination (as we do with SES: "gate-to-gate" project).
- AEA: We should focus on operational efficiency, regulatory framework (re: social and safety). GH encompasses a wide range of activities: only 4 out of 11 categories of GH can still be restricted (the other being fully liberalised). We need to assess the impact of liberalisation in those 7 services to draw lessons for the 4 regulated ones. On "representative collective agreement", practices vary across the EU. In some Member States collective agreements can be, for instance, universally extended to all parties by public authorities. Last year, social partners proposed minimum

¹ http://ec.europa.eu/about/juncker-commission/docs/bulc_en.pdf

training to be prescribed at EU level, along with guidelines MS are invited to apply.

On Article 12 par. 2 specifically:

- ETF advocates the need to secure the rights of workers: the amendment proposed by the EP should be endorsed: *shall* instead of may:

"Where, following the selection procedure laid down in Articles 7 to 10, a supplier of groundhandling services mentioned in paragraph 1 loses its authorisation to provide these services, *or where a supplier of groundhandling service ceases to provide these services to an airport user, or where a self-handling airport user decides to cease self-handling*, Member States *shall* require supplier(s) of groundhandling services *or self-handling airport users* which subsequently provide these services to grant staff previously hired to provide these services the rights to which they would have been entitled if there had been a transfer within the meaning of Council Directive 2001/23/EC."

- ASA considers that provisions on transfer of staff are innovative enough. Case law on transfer of undertakings (compiled in a SWD) should be referred to. Question: need to adapt Commission Memorandum/Working Document on Directive 23/2001/EC? G. Schwarz referred to the Industrial Relations in Europe biennial report, featuring a specific chapter on labour case law (next edition: spring 2015).
- AEA sees two problems: (1) transfer of staff should be mandatory (i.e. employees may not refuse the transfer), as it is better for both employers and employees; (2) as to the rights of transferred staff, judgments exist and should be carefully analysed (see also directive on transfer of undertakings). But should we be more prescriptive for GH activities than for the rest of the economy? The situation should be analysed for aviation. Should we extend the protection of the rights of workers beyond the 1 year established in Directive 23/2001?
- ETF referred to Directive 23/2001 as a horizontal directive. No fair competition is possible in GH without the same protection. A balance should be found between the absence of rules and too heavy rules.

ACI and ASA agree with ETF on the point they made "shall instead of may": so three out of the four organisations represented at the meeting. Liberalisation pressure is high, and tradeoff is needed. Both sides agreed that it is in no one's interest to see more strikes in the future.

5. Possible joint work of the social partners on vocational training (linked with the proposal for a Regulation on ground-handling services)

- ETF presented its comparison between EC and EP / Council amendments of the text. ETF proposed, if the other organisations agreed, to set up a smaller working group to analyse the situation together.
- ASA supports Commission viewpoint that only safety related training may be considered in the Ground handling Regulation. Should the social partners not focus on quality standards criteria, which would require social dialogue too?

Article 32 – Annex 1.a lists minimum quality standards and safety (see EP's Amendment 332). The list should be discussed among social partners.

- AEA supports EC's position on safety, which is part of competition and operations. We need to enforce existing rules (in association with EASA).
- ETF explained there are two exercises to be done: (1) comparing position of three institutions and (2) follow-up addressing safety training standards. Progress has been seen as to the role EC and EP give to social partners; the will to harmonise rules; and approach to recurrent training. Confusion remains though as to who is responsible and the number of training days (assessment needed between social partners).
- ACI agrees on the method proposed by ETF.
- AEA explained that such an exercise should also include non-restricted services. On the other hand they disagreed with new rules on training.
- ASA: Not in favour of putting training standards into new Regulation except safety related. We can reflect on quality standards, safety-related training, etc. and come up with guidelines.
- ETF concluded by saying they would carry out the 1st exercise themselves and welcomed the proposal to draft guidelines. AEA, ASA and ACI would contribute to the latter.

6. ETF proposal to extend the EASA scope to ground-handling: views of the other social partners and possible joint follow-up

Three out of four organisations are in favour of extending EASA scope to include GH.

IN FAVOUR OF EXTENDING EASA SCOPE:

- ETF has consulted GH workers' (organisations) and EASA on extending EASA scope to GH (see attached document). According to ETF, P. Ky is not opposed to including GH into their remit. Bridging the gap between security and aviation safety: calling on harmonised rules and global approach to safety. Why not having an EU level certification like for ATM? ETF is convinced it should be EASA's responsibility to also take care of GH safety matters. ETF took part in the public consultation on revision of Regulation 216. They invited the Commission to explain the state of play in that respect and invited other social partners to express their views on this matter.
- ASA met EASA last summer, and also took part in the public consultation. They are also in favour of direct responsibility for GH providers. A lot of airline specific safety procedures currently apply to GH despite ISAGO. Difficult to handle and need to streamline the rules and procedures, in everyone's interest. The current setting is not satisfactory, given the lack of clarity and consistency. ASA is in favour of a common SMS (Safety Management System).
- ACI agrees with ETF and ASA on extending EASA competence. That extension would be logical, as aircraft and airport parts are covered, but not GH: missing link! GH should not be treated as mere subcontractors. They also stressed the need to first engage in close dialogue between GH and EASA. We need to work

together on this: better rather than more regulation. A comprehensive and pragmatic approach should be pursued in terms of safety.

NOT IN FAVOUR OF EXTENDING EASA SCOPE:

- AEA not convinced by that approach. What are the needs? For what benefits? Facts and figures are missing. More in favour of industry-based solutions to safety issues. Industry standards are considered sufficient. The need to call on EASA is not enough supported. In Germany, common view not to include security in the remit of EASA. Let's be pragmatic: legacy airlines do not need additional burden that is not in accordance with their business.

ASA said they would look for more facts and figures.

Nicola Ostertag (MOVE.E3) explained where they are with the revision of Regulation 216/2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency:

- The public consultation was closed last month and will serve as one building block into the IA. Additional evidence, such as studies or statistics to support the positions put forward are welcome.
- MOVE.E3 is still in the phase of collecting views and welcomes this exchange of views between social partners; views from both sides are most welcome!
- The final Commission proposal, planned to come out by mid-2015 will be based on the IA (+/- March 2015) and will be the result of an inter-service consultation.

7. Information by the Commission on the current situation regarding the Trade in Services Agreement (TiSA) and the possible inclusion of ground-handling services in its scope

Neither DG TRADE nor MOVE.E1 colleagues could be present to cover this item.

- K. Bandasz (EMPL.B1) informed the participants that ground-handling services have been normally a subject of trade negotiations since several years – as all other air auxiliary services. TiSA is also very likely to touch on air auxiliary services including ground-handling and airport operation services. The EU position on this issue in trade negotiations is coordinated and agreed with DG MOVE and the Member States. The results of the public consultations conducted by the European Commission on TiSA are available on-line:
http://trade.ec.europa.eu/doclib/docs/2014/may/tradoc_152464.pdf
- AEA indicated that ground-handling services were mentioned several times in the public consultations in reference to barriers to cross border trade in countries participating in TiSA.

8. AOB

- In reference to the recent Liaison Forum ASA suggested that the GH working group should apply for a project under the call 001 "Support for social dialogue". The joint project would allow social partners to meet more often and intensify their discussions and cooperation on a factual best practice basis.

- ETF expressed its support for the joint proposal.
- K. Bandasz encouraged social partners from the GH working group to apply for a project next spring. He noted that the Air Traffic Management Working Group has already applied for a project to facilitate the joint work.

• List of participants 2 October 2014

<p><u>Employers (7 ♂, 0 ♀)</u></p> <p><i>ACI Europe:</i> Mr Borel</p> <p><i>AEA:</i> Mr Husain Khan Mr Jahan Ms Erdmann Mr Holzrichter</p> <p><i>ERA:</i> Not represented</p> <p><i>IACA:</i> Not represented</p> <p><i>ASA Europe:</i> Mr Schmitz</p>	<p><u>Workers (8 ♂, 4 ♀)</u></p> <p><i>ETF:</i></p> <p>Mr Ballestero Mr Maurer Ms Nabavi (SE) Mr Nassar (SE) Mr Mansi (IT) Ms Modonesi (IT) Mr Hortobagyi (HU) Mr Olajos (HU) Ms Belenguer (ES) Mr Bay-Clausen (DK) Ms Wesenick (DE) Mr Hengster (DE) Mr Hadorn (CH) Ms Panayotova – Sabeva (BG) Mr Hannsens (BE) Ms Napoli (FR) Mr Manuel (ES) Mr Verbinnen (BE) Mr Norbury (UK) Ms Coxhill (UK)</p>
<p style="text-align: center;"><u>European Commission</u></p> <p style="text-align: center;">Mr Schwarz (DG EMPL/B.1) Mr Bandasz (DG EMPL/B.1) Mr Lagneaux (DG MOVE/E.4) Ms Crome (DG MOVE/E.4) Ms Ostertag (DG MOVE/E.3) Mr Ratajczyk (DG MOVE/E.3)</p>	