



**Minutes
Work group meeting of 16 January 2018**

1. Adoption of the agenda

The meeting was chaired by Mr Kerkhof (ETF, BTB Belgium). The agenda was adopted.

2. Adoption of the minutes of the last meeting (10 October 2017)

The draft minutes were approved.

3. Information by the Commission on:

a) Implementation process IWT Council Directive on Working Time

On behalf of the unit *Working Conditions* of DG EMPL Mr Strohbach informed the participants that the situation in four Member States has changed since the last SSDC meeting in October:

- Two Member States (Czech Republic and Romania) have now notified national transposition measures and declared that the transposition of the Directive is complete.
- The UK has notified national transposition measures that, according to their declaration, transpose the Directive in full.
- Bulgaria has notified national transposition measures that, according to their declaration, transpose partially the Directive.

Therefore, by now all Member States have declared that the transposition is complete except Bulgaria which has declared that the transposition is partial.

All the national transposition measures are under examination by the Commission. The Commission will then decide to close or to open or to pursue the non-communication infringements.

He reminded the social partners that the national implementing measures are publicly available in the EUROPA website: <http://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32014L0112>

In addition he pointed out that the Commission will also assess the geographical reasons for not transposing the Directive as argued by 9 Member States (CY, DK, EL, ES, IE, LV, MT, PT, SI).

Social partners are not satisfied with the current state of play of the transposition of the Directive, in particular with regard to the 9 MS which declared that they were not transposing the Directive due to geographical reasons. As in the previous meetings, social partners strongly underlined that it cannot be accepted that some MS do not transpose the Directive for geographical reasons, although the registered office or place of business of the company or employer is situated in these MS. Social partners reminded the EC that it has to be clarified in terms of working time legislation which principle applies. Either it is the law in which the work contract was signed or it is the law of the country in which the vessel operates/is.

Social partners have assured the EC to support the EC/MS in this transposition process of the Directive. Therefore social partners agreed to contact directly the EC service in charge. In preparation of this, social partners have formulated questions that should be answered by the EC. These questions are as follows:

- Why does the EC accept that the Directive is not transposed in all MS?
- Why does the EC accept exceptions of transposing the Directive due to geographical reasons?
- How can the flag of an MS be used for vessels operating on European waterways if the respective MS declares not to transpose the Directive because of geographical reasons?
- How can work contracts of this MS be used for staff on vessels operating on European waterways if the respective MS declares not to transpose the Directive because of geographical reasons?
- As IWT is a cross border/international business, which working time/labour law applies? The intention of the social partners' agreement has been to establish the same working time rules for the European waterways. If the COM accepts all these exceptions the social partners' agreement will be thwarted.
- If a vessel from a given MS operates constantly in another MS this will not be covered by cabotage. The EC has to ensure that European law is not undermined and cabotage is not misused. How will the EC guarantee that European law in this respect is applied consistently?

b) State of Affairs Draft Directive on Professional Qualifications

Ms Rousseau reported on the important milestones that have taken place regarding the new directive on the recognition of professional qualifications since the last meeting of the committee i.e. its adoption on 12 December, its publication in the OJ of the EU on 27 December and its entry into force on 16 January. The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 17 January 2022. The Commission will need to adopt the implementing and delegated acts referred to in the Directive by 17 January 2020.

To the question from one participant on the reason for such a long transposition period, Ms Rousseau referred to the result of the negotiations between the

European Parliament and the Council, mentioning that the co-legislator considered this time was necessary for developing and adopting the standard for the implementing and delegated acts as well as to consequently adjust the national systems to the new requirements.

Ms Rousseau also informed the participants that the inception impact assessment for an initiative on digital tools for inland navigation legislation had been published on the Commission Better regulation website. Though the feedback period has ended, she explained that this represents a first preliminary step in the whole consultation process. There will be many others coming. The next step is the selection of the external contractor who will carry out the study in support of the impact assessment. DG MOVE is taking the necessary steps internally with the aim to start the contract execution in April. The contract duration shall in principle be 10 months. The committee will of course be duly kept informed about the key developments of this initiative and formally consulted.

c) Horizontal social developments at EU level bearing effect on the European IWT sector

Ms Marin-Combeaud informed the participants about the launch of the *Women in Transport – EU Platform for change* on 27 November 2017. The Platform was set up to strengthen women's employment and equal opportunities for women and men in the transport sector thanks to the actions brought about by the Platform members. The Platform comprises 19 members¹: 4 Member States (Austria, Croatia, Spain and Sweden), the European Railways Agency and 14 EU transport organisations (two representing workers -ETF and ECA- and 12 the industry. EBU and ESO are not members). For those not ready to become Platform members, two lighter ways to contribute are proposed: (1) to exchange good practices through the online module available on the Europa Website (2) to sign the *Declaration to ensure equal opportunities for women and men in the transport sector* online².

Ms Marin-Combeaud also informed the social partners about the difficulties encountered by the consultants in charge of the study entitled "*a business case to increase female employment in Transport*" to find companies from the inland navigation sector willing to participate in the case studies. Mr Kerkhof suggested a company which has a gender equality policy in place (<http://www.kotugsmiit.eu/>).

Finally, Ms Marin-Combeaud indicated that DG MOVE will work on the social consequences of automation. A workshop on the topic was held during the Digital Transport Days in Tallinn in November 2017. Stakeholders will be associated to the upcoming work.

¹ 18 at the time of the meeting

² See the following Webpage: https://ec.europa.eu/transport/themes/social/women-transport-eu-platform-change_en

Ms Chaffart informed that the next meeting of the UN Economic Committee of Inland waterways will be on 14 – 16 February 2018. Item 4 of the agenda is on automatization and digitalization in IWT.

d) Representativeness study

Mr Strohbach informed about the current state of play which was provided by Mr Kerkhofs (Eurofound). Due to the heavy workload Eurofound is confronted with, they are still preparing the national draft reports. Once the national draft reports are finalised, social partners (secretariats) will be asked to check these draft reports.

4. Follow up of TASCs project

Ms Chaffart informed about the second Steering Committee meeting which took place in Brussels on 5 December 2017. Main topic of this meeting was the interim report of the consultant. A first small sample of vessels has been visited. The focus is now on the correct structure (geared towards the future and not the past) and that the questions of the questionnaire will provide real results which can be used. Therefore 8 categories of vessels (4 cargo vessels, 2 passenger vessels and 2 other service vessels) were defined. In addition, the questionnaire was slightly amended. However, it came to light that interviewees were often not correctly informed about the study. As a consequence, the distribution of the information sheet/communication channels has to be improved. In addition, several practical issues were discussed, i.e. how to ensure the right atmosphere for the interviewees, limited language capacities etc. Finally, Ms Chaffart informed briefly about first outcomes of the study. It was highlighted that the CCNR supports the project implementation in terms of language needs. The next project meeting will be in Rotterdam on 29 May 2018 and 2 workshops are planned for June 2018.

5. Social Security in European Waterway- upcoming CASS Meeting 26 October

Mr Koning referred to the meeting on 6 December 2017, which focused on developing a common strategy on social security in European waterways. However, no decision was taken at this meeting.

Ms Tournaye presented the conclusions, which were taken at the meeting on 6 December 2017 in order to fight social dumping. Based on an analysis (AQUAPOL) the most vulnerable groups to dumping in the IWT sector are the cabin/hotel staff on board passenger ships. In most cases these people are recruited by agencies in other countries than where the vessel operates. Although social dumping happens in all modes of transport there is a specific issue in the IWT sector. In this sector two different legal systems (Rhine system and the EU system) with regard to social security co-exist. In the Rhine system the place of the operator counts. In principle, this rule is satisfactory but causes problems in practice (clarity of issuing the certificate "Rheinzugehoerigkeitsurkunde"). The CCNR has worked on it. Yet, some problems remain. Therefore the meeting on 6 December 2017 focussed on defining where the substantial work of the operator is carried out. The European system does not refer explicitly to the IWT sector. The main principle is the application of the law where the place of work is. However, as

work in IWT is by definition a cross border business, this sector always falls under the derogations of this law. The EC is aware of the social dumping issues caused by the derogations and is working on rules according to which the employers have to establish where the real/substantial operations take place. Therefore, it is crucial to define the place of establishment as the place where the substantial operations of the operator takes place.

In addition and with regard to market access rules, Ms Tournaye pointed out that the market professional licence and the ship safety certificate should be issued by the same MS authority.

The minutes of the meeting on 6 December 2017 will be translated in DE, FR and NL. Social partners underlined that there are main differences among the MS in terms of social security in European waterways. In addition, social partners agreed on continuing the work on the common strategy on social security in European waterways. Therefore, a joint paper should be developed and the topic should be included in the work programme of the SSDC. The next working group meeting has been scheduled in Brussels on 11 April 2018.

6. Discussion & adoption work programme 2018-2019

The work programme was adopted. An amendment concerning one item will be done at a later stage.

7. Reserve fund platform presentation by EBU & ESO

Mr Lanker explained the Inland Navigation Reserve Fund platform. On 17 February 2016, the European Barge Union (EBU) and the European Skippers Organization (ESO) unanimously requested the Commission to use the reserve fund (Council Regulation (EC) No 718/1999) for the purpose of certain measures. Those measures will be implemented by means of an independent legal entity, the so-called "European Inland Waterways Transport (IWT) platform, which will be coordinated by EBU and ESO. The overall amount of the Inland Waterways Fund, as results from the remaining amounts in the reserve funds established by Austria, Belgium, France, Germany and The Netherlands amounts to EUR 33,3 million.

On 5 October 2017 the EC decided to make use of the Reserve Fund. Article 8 of the regulation, sets out the modalities how to use the fund for the IWT sector. So far the platform organised meetings/committees to identify/to decide how to make best use of the fund.

8. Women in European IWT:

a. Gender Pay Gap – introduction by EC expert

This item was postponed to the next meeting.

b. ETF study on workplace violence against women transport workers

Ms Latron (ETF) presented the ETF survey on workplace violence against women transport workers. This ILO survey (1444 women transport workers from across Europe) by Dr. Jane Pillinger which is available in 13 languages, was carried out between 25-11-2016 and 28-02-2017 and issued on 8 March 2017: A key objective of the report was to promote a systematic approach to prevention and elimination of violence and harassment at work and to support

Trade Unions in building a strong position for the development of a standard-setting item at the International Labour Conference in 2018.

Ms Latron explained the key findings of the survey in detail; they are:

- Alarming evidence of high levels of violence against women transport workers across Europe
- Shocking accounts of verbal threats, intimidation and sexual harassment were disclosed, as well as incidents of both sexual and physical assault against women transport workers
- Violence is regularly seen to “be part of the job” and is rarely a one-off event
- 63% of the respondents have experienced at least one recent act of violence
- 25% of the respondents believe that violence against women is a regular occurrence in the transport sector
- 26% believe that harassment is considered to be ‘part of the job’ in transport

Finally, Ms Latron presented the recommendations and conclusions (please see the presentation). As one of the key outcomes, the ETF statement "Stop violence against women transport workers across Europe" on 25 November 2017 was highlighted. In addition, the EU Platform for Change - Declaration on equal opportunities for women and men in the transport sector was promoted. All social partners (ETF already did) of the transport sector were invited to sign this declaration.

Social partners of the IWT sector agreed on the importance of fighting all forms of violence in the IWT sector, in particular in view of staff shortages. They also agreed on the need to increase the attractiveness of the sector. Therefore, it is crucial to ensure that the vessel is a safe workplace. Social partners underlined that mutual respect in the transport sector has to be improved and they concluded to draft a joint declaration for the IWT sector

9. AOB

a. Agenda next meeting

The agenda will remain the same for the next SSDC meeting.

b. CESNI update on activities & state of play

Ms Moosbrugger pointed out that the social partners are actively involved in the CESNI working groups. In 2018 the first standards of vocational qualification will be reviewed. To do so the meetings in Strasbourg on 10 April and in Prague on 8 November will be used.

c. CCNR update on activities & state of play

Ms Moosbrugger referred to the adoption of the strategic guidelines in December 2017. In addition she highlighted that on 17 October 2018 the 150th anniversary of the signing of the Mannheim Act will be celebrated.

d. Posting of workers directive & impact on IWT (possible exception)

Mr Strohbach explained that on 8 March 2016, the European Commission proposed a revision of the rules on posting of workers [Directive (96/71/EC)] within the EU to ensure they remain fit for purpose. On 23 October 2017 the EU employment ministers agreed on a compromise to reform the 1996 directive on posted workers. The compromise reaffirms the principle of "the same pay for the same work in the same place", as stated in commission's proposal. The discussion is ongoing within the Trilogue.

Social partners did not discuss this item in detail.

Participants

<p>6 Employers <i>(4 ♂, 2 ♀, 3 different Member States)</i></p> <p>EBU Mr Koning (NL) vice-chair Mr Stommel (DE) Ms Kegels (DE)</p> <p>ESO Ms Beckschäfer (DE) Mr van Lancker (BE) Mr Kester (NL)</p>	<p>15 Workers <i>(12 ♂, 3 ♀, 9 different Member States)</i></p> <p>ETF Mr Kerkhof (BE) chair Ms Chaffart Mr Albertazzi Ms Tournaye</p> <p>Mr Bramley (CH) Mr Jerabek (CZ) Mr Misic (HR) Ms Latron (FR) Mr Kerkhofs (BE) Mr Karavatchev (UK) Mr Crease (UK) Mr Kiepe (DE) Mr Simeonov (BG) Mr Shchekotin (RU) Mr Sukhorukov (RU)</p>
<p>Central Commission for the Navigation of the Rhine (CCNR) Ms Moosbrugger (DE)</p> <p>European Commission Ms Rousseau (DG MOVE) Ms Marin-Combeaud Sophie (MOVE) Mr Strohbach (DG EMPL)</p>	