



EUROPEAN COMMISSION

DG Employment, Social Affairs and Inclusion

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

Brussels, 8 February 2012

SECTORAL DIALOGUE COMMITTEE TEMPORARY AGENCY WORK

Minutes of the plenary meeting of 8 November 2011

1. Adoption of the agenda and adoption of the minutes

The meeting was chaired by the Commission. The agenda was adopted after adding the point "review of the work programme". The minutes of the last meeting (16 September 2011) were approved.

2. European sectoral social dialogue on TAW

Following the discussion at the last meeting (see minutes there), Eurociett had sent their two questions of principle to UNI Europa in writing. UNI Europa had formally replied in October. Ms Muntz (Eurociett) started by saying that they appreciated very much the time and effort UNI Europa had put in their extensive reply. Eurociett confirmed that this was definitively a basis to resume the social dialogue at European level.

Nevertheless, the employers' organisation was willing to clarify some extra comments made by UNI Europa in the document. They would certainly come back to UNI Europa on the following three points: the derogation from the equal treatment principle on pay, especially y CLAs; the concept of "respecting the overall protection of temporary agency worker"; and the importance of lifting of restrictions, including the ones in CLAs (balance between Articles 4 and 5 of the Directive). Generally, it was important to take due account of the fact that national rules where extremely diverse. Therefore, it was crucial to use the social dialogue meetings to get to know examples of different collective labour agreements.

Ms Castaldo (UNI Europa) thanked Eurociett for the feedback on their paper. The workers' organisation had taken the questions seriously and put the necessary time for drafting the reply. UNI Europa was happy that Eurociett recognised the huge diversity amongst national systems. Indeed, not all employers had a bargaining mandate and UNI Europa confirmed that they recognised the employers' role as employers when they had such a mandate. Regarding the three points raised by Eurociett, UNI Europa considered that even though exemptions were possible, the principle of equal treatment should be the leading principle. For UNI Europa, reviewing the restrictions would not automatically mean lifting them. The workers' organisation was not in favour of lifting

all restrictions. UNI Europa regretted how the discussion went last time. Still there would be certain points on which the two sides of industry would not be able to agree.

Eurociett thanked the workers' side for the contribution and acknowledged that one could not disagree on facts, but on positions. The dialogue should continue.

3. Eurociett "Adapting to change" report

Eurociett presented the key findings of their report (see slide presentation). The report was not restricted to temporary work agencies, but covered also private employment agencies; and it was a global report. One of the objectives of the report was to take it as a basis for discussions with workers' organisations and public authorities. It contained recommendations not only to the governments, but also to the sector itself.

UNI Europa thanked Eurociett for the report which they had received a couple of days before. The workers' organisation needed more time to fully analyse it, especially with regard to the labour market efficiency indexes. At first sight, UNI Europa agreed with some of the conclusions and recommendations, such as the transitional function of TAW; the role in matching supply and demand; the role in responding to seasonal peaks; and the fight against unscrupulous agencies. UNI Europa did not agree with the conclusion that agency work created jobs. It was the user company which was creating jobs and the agencies would respond to their needs. UNI Europa considered that there were cases where TAW was substituting permanent jobs.

UNI Europa proposed to further examine the report within the framework of the social partner project on "Temporary agency work and transitions in the labour market"¹.

4. Promoting national social dialogue

On behalf of both sides of industry, the Belgian social partners gave a presentation on agency work in their country, explaining the size of the sector, the legislative framework, the social dialogue (amongst other things the "Commission paritaire 322"), the restrictions and the principle of equal treatment. The questions of the audience were related to bonuses of the user company, the rationale behind excluded sectors and training entitlements. The slide presentation was distributed after the meeting.

5. Implementation of Directive 2008/104/EC on temporary agency work²

Social partner representatives from different countries (BE, BG, DK, DE, IE, ES, FR, IT, NL, AT, PL, PT, FI) reported on new developments with regard to their countries' progress and the social partners' involvement in the implementation process of the Directive. In a number of countries, progress was slow and some delegates guessed that the deadline of 5 December 2011 would not be met by their countries. The fact that there had been some changes in government recently added to the delay.

Both sides of industry expressed their worries and surprise regarding the transposition process of the TAW Directive. They wished that at the next meeting, the Commission report on the state of play of the transposition of the Directive. They also asked the

¹ Grant agreement VS/2011/0403 starting on 15/12/2011.

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:327:0009:0014:EN:PDF>

Commission to provide information about the review of restrictions by the Member States.

6. Posting of workers/cross-border provision of TAW

Ms Durst (DG EMPL) informed the participants on the 8th meeting of the Committee of Experts on Posting of Workers (14 October 2011) to which Eurociett and UNI Europa had been invited as observers. Eurociett had participated in the meeting; UNI Europa was represented via ETUC. Ms Durst also announced the planned timetable for the Commission's forthcoming proposals: an Enforcement Directive and a so-called Monti II Regulation³.

The social partners reiterated their wish to have a first information/discussion with the Commission on the proposals at the next meeting with a view to better clarify the relations between the TAW and Posting of Workers Directives.

The parties took again stock of the different fact sheets on TAW regulation. The parties noted that the factsheet for German was still missing and decided to contact their respective members in order to have one ready, possibly, for the next meeting in February

7. Labour market policies

Regarding the draft Eurociett and UNI Europa Joint declaration on the Europe 2020 Flagship Initiative "New Skills and Jobs", it was agreed that the secretariats liaise to assess if a joint text was possible. Some work on rewording would be necessary.

8. Review of the work programme 2011-2012

Both sides of industry considered that all topics of their work programme were still relevant and no adaption was needed at this stage.

9. Any other business

The planned meeting dates for 2012 are: 8 February, 15 June, 16 October (plenary).

The Commission representative informed the participants of the forthcoming conference on Flexicurity (14 November 2011)⁴.

³ Announced for 20 December 2011, meanwhile planned for 1 February 2012.

⁴ <http://ec.europa.eu/social/main.jsp?langId=en&catId=88&eventsId=356&furtherEvents=yes>

List of participants 8/11/2011

<p>Employers (8 ♂, 8 ♀)</p> <p>Mr Auth (DE, corporate member) Mr Bonardo (IT) Ms Bonnichon (FR) Ms Cattelain (BE) Ms Cordero (ES) Mr de Leeuw (NL) Ms Fasola (IT) Mr Marseault (DE) Ms Muntz (NL, Eurociett President) Mr Pennel (Eurociett) Mr Pettineo (Eurociett) Ms Schaller (corporate member) Ms Spangenberg (NL) Mr Tietge (DK) Mr Vink (NL, corporate member) Ms Zielinska (PL)</p>	<p>Workers (10 ♂, 8 ♀)</p> <p>Mr Black (UK) Mr Borghesi (IT) Ms Budweis (AT) Mr Calado (PT) Ms Castaldo (UNI Europa) Mr Colapinto (IT) Mr György (HU) Ms Lelyte (UNI Global) Mr Leroy (BE) Mr Makkinje (NL) Ms Mulligan (IE) Mr Perez Moratilla (ES) Ms Pohjola (FI) Ms Unterschütz (PL) Mr Van den Bergh (BE) Ms Varas (ES) Mr Vicioso Alfaro (ES) Ms Wirken (BE)</p>
<p>European Commission</p> <p>Ms Durst (DG EMPL) Mr Schöbel (DG EMPL)</p>	