



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

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

Brussels, 3 June 2015

**SECTORAL SOCIAL DIALOGUE  
COMMITTEE RAILWAYS**

## **Draft Minutes of the "Adaptability and Interoperability" working group meeting**

**03 March 2015**

The meeting was chaired by Mr Olofsson (employers), Chair of the working group.

### **1. Review of the train drivers directive – update from ERA**

The review process has started in 2013 with a survey undertaken by ERA and subsequent report to the Commission on the implementation of the train driver certification scheme. Subsequently the Commission has asked ERA for technical advice which is now under preparation and will be submitted to the Commission in January 2016.

The ERA report indicated 21 issues where improvement are necessary or could be possible. The Commission has charged ERA to elaborate on 19 of these issues detailed technical advice. This work is now ongoing in a task force hosted by ERA. The task force has around 25 members including representation from Member States and industry.

The 19 issues are grouped into (a) general aspects, (b) issues linked to medical/psychological examinations and (c) issues linked to the certificate/professional competence. These issues (proposals) will be consecutively and in a standardized format worked on by the task force.

Mr. Mette gave some indication of the concrete discussions ongoing, such as the development of a clearer distinction between examinations linked to the initial issuing of document and examinations undertaken to ensure the validity of these documents. The former regularly subject to formal examination bodies, the latter part of the competence management system of the undertaking. The aim being to arrive at a revision on which the task force can agree. The technical advice is supported by an assessment of the legal feasibility and economic validity of this advice.

In the discussion Ms. Trier stressed the interest of the committee to be regularly informed about the ongoing revision in particular as the Directive is in main parts based on a social partner agreement. ETF wondered whether the suggested revision would mean that the periodic checks would fall into the exclusive responsibility of the competence management system of companies, while the quality of these systems differs largely

between companies. Mr. Mette explained that this discussion is not yet finalized and that there would be minimum criteria with which the competence management systems of the companies would have to comply with, such as maintaining a certain periodicity of these checks.

Mr. Mette clarified that the requirement to inform the competent authority on the cessation of employment was foreseen to facilitate the supervision of working time. He demonstrated that this objective has not been achieved with this requirement.

Following the request from ETF, Mr. Mette confirmed that the proposed modification of the recognitions would indeed mean that a training center which is recognised for a specific training in one place could set up a subsidiary somewhere else which would automatically be licensed to give the very same training at the new place. Upon request he indicated that there was little risk of poorer quality, because the NSAs are supposed to supervise the training centers (including an obligation for training centers to cooperate with NSAs) and recognition was only valid for specific trainings.

Mr. Mette also indicated that issuing of certificates to self-employed drivers or drivers working in driver-pools is not considered to create problems, as it is the operating company which is responsible for that. Working situations outside regular employment contracts could pose problems for NSAs when it comes to the checking that there is a competence management system for the driver.

It was clarified that in spite of the TSI operation and efforts to harmonize rules, the rail system will continue to be characterized by non-harmonized rules, thus in the foreseeable future it is not likely that one training center could obtain a dominating position.

Mr. Martin acknowledged and thanked for the smooth work related to the revision. Upon his request Mr. Mette explained that during the last task force meeting an extensive discussion on the possibility to substitute missing competence of one driver by an assistant who himself is not a certified train driver took place. This discussion is not yet finalized but the proposer has been invited to put his idea in writing and make this document available to the colleagues of the task force.

## **2. Presentation on the state of play of the 4<sup>th</sup> railway package**

Ms. Elisabetta Garofalo (DG MOVE) gave a generic presentation on the state of play of the discussion of the market pillar of the 4<sup>th</sup> railway package, from which evolved that the discussion is still circulating around the issues of financial transparency, governance structure and PSO-regulation. Social conditions were stated to not yet have been discussed in Council. She stated that a Council position before the end of June is aimed at.

In the discussion Mr. Rohrmann (CER) mentioned that in countries with highly liberalized markets such as Sweden, the Netherlands or the UK, employees benefit from effective social protection in case of transfers. Furthermore he referred to the joint opinion from February 2014 of the social partners and expressed his wish that this opinion, which was also a basis for the statement from the Parliament, should more fully be taken on board by the Commission. In conclusion: it should be decided at the European level that social aspects have to be taken into account in a liberalized market, while the most appropriate way to do this, should be left to the national level, thus taking

into account the diversity of national systems. Ms. Garofalo indicated that the issue of social standards has not yet been discussed in Council but will be part of the triologue.

Asked for what the Commission will do to avoid under-compensation, Ms. Garofalo indicates that she considers this more of an issue at the national level than at the EU-level, also indicating that she considers cross-compensation as part of the problem. She furthermore stressed the importance of the role of the regulator, thereby indicating that discussions in Council on both points are upcoming and controversial. She confirmed that she has understood that social partners consider an EU-level obligation to protect workers in market opening as very important.

CER and ETF jointly reiterate that the Commission has not sufficiently taken into account the joint opinion of the social partners and indicate that the presentation is perceived as patronizing and ideological, in short inadequate, given the longstanding work of the Committee in this area. The social partners agree amongst each other that for the next presentation from DG MOVE a more knowledgeable colleague is needed from DG MOVE side, so to allow for a more fact based discussion and to acknowledge the expertise gathered in the committee.

Ms. Magel (DG MOVE) informed the social partners that the social dimension of transport is now coordinated by the passenger rights unit in DG MOVE and that the study on jobs and (employment) trends in transport is now under internal validation and might be presented at the next social dialogue meeting.

### **3. Draft opinion on the future of rail freight**

ETF has prepared a first draft for a joint opinion on the future of rail freight in Europe. In preparing the draft the ETF has also used previous statements from CER.

The draft is structured as follows:

- A) Rail freight is a transport mode which is ecological and reducing the dependency on oil
- B) EU policy so far has not helped a modal shift towards rail (on the contrary)
- C) Employment is falling and working conditions are – as a consequence of cost saving efforts – getting more difficult
- D) Increasing the attractiveness of rail freight will require investment in infrastructure
- E) It also requires a balanced coverage of external costs by different transport modes and according national taxation
- F) The role of rail freight infrastructure in spatial and urban industrial planning is to be recognized
- G) The draft concludes with a request for urgent action and a list of concrete proposals.

In its presentation ETF highlighted in particular the social aspects, such as the request to ensure a fair treatment of all transport modes and to fight social dumping in all transport modes.

CER recognises that the document reflects well the difficulties of the rail freight sector and sees it as a good basis for a joint document. Furthermore CER agreed to provide data on the ecological footprint of rail to support the reasoning. In detail however, CER expressed skepticism whether the document would change anything in respect to the Commission's attitude to establish an equal level playing field for the rail sector as compared other transport modes as well as to changes in their position towards social dumping, where the Commission's position and actions are less clear. CER indicated that for some of the elements further information and clarification from ETF would be needed. Where the concrete proposals go beyond rail transport towards more general transport related issues, CER will have more difficulties to agree (such broader policy statements are not usual for CER).

It was agreed that the secretariats of CER and ETF will further work on the document so to be able to adopt the joint declaration at the plenary meeting of the Committee on 17 June 2015.

Ms. Trier informs the Committee that DG MOVE plans together with DG EMPL a conference on a social agenda for transport on June 4<sup>th</sup>. While the original understanding was that the conference would discuss social dumping in transport, recent information indicates that social dumping is considered only one theme amongst others. This was regretted by ETF where a campaign against social dumping in transport is under preparation.

#### **4. Any other business**

Ms. Caspar (DG EMPL) summarizes the structure and objectives of the high-level-conference 'a new start for social dialogue' which took place on 5<sup>th</sup> March. Main topics of the conference are governance related issues, such as the involvement of social partners in the European Semester, capacity building at European and national level but also concrete involvement in policy making. The conference is expected to draw the attention to social dialogue and to start a process.

ETF has some concerns about the idea to 're-launch social dialogue': on the one hand it signals that the Commission considers that social dialogue is not functioning, on the other hand ETF has the impression that the Commission has considerably contributed to the problems by restricting the support providing to the sectoral dialogue committees and complicating the implementation of social partner agreements via Council decision.

**Participants**

<b>Employers</b> <b>(6 ♂, 4 ♀), 7 countries</b>  <b>CER</b>  <b>EIM</b>	<b>Workers</b> <b>(5 ♂, 5 ♀), 8 countries</b>  <b>ETF</b>
<b>European Commission</b> <b>(3 ♀)</b>	<b>European Railway Agency</b> <b>(1 ♂)</b>