



## **Minutes of the Working Group**

**18 May 2018**

Uni Europa informed the committee of staff changes in the secretariat. After the departure of Mrs Natalie Swan, Mr Mark Bergfeld will be the new Director for Property Services and UNICARE (coordinating cleaning and security sectors) in Uni Europa from the 1<sup>st</sup> June 2018. In the meantime, Mr Eddy Stam, the Head of UNI Property Services, is in charge.

### **1. and 2. Adoption of the agenda and of the minutes of the previous meeting (20.11.2017)**

The agenda of the meeting is adopted as are the minutes of the previous meeting.

### **3. Exchange of views on current initiatives from the European Commission**

#### *a. Written Statement Directive*

Mrs Mirka Hajkova (European Commission, DG EMPL) informed about the [Commission's proposal for directive on transparent and predictable working conditions](#) of 20 December 2017, revising the current Written Statement Directive. The initiative is a part of follow-up to the European Pillar of Social Rights. The proposal aims to complement and modernise existing obligations with the specific aim of ensuring that all workers in atypical contracts benefit from basic rights, regardless of the type of contract or employment relationship.

The proposed Directive defines the term of 'worker' broadly (in line with the case-law of the European Court of Justice) extending the scope of protection to platform and domestic workers and providing for a minimum floor of rights, which will reduce the degree of precariousness. By using a definition of worker based on the case law of the Court this Directive would ensure that in all Member States the same, broad categories of workers will be covered.

The proposal also minimizes the time in which a worker can be requested to work without receiving basic information on their job: it is proposed that all workers receive the basic written information at the latest on the first day of work. Additionally, some new specific rights are included in the proposal: a limit to the length of probationary periods to 6 months; a right to work for other employers, with a ban on exclusivity clauses and restrictions on incompatibility clauses; a right to predictability of work; a right to request a more stable form

of employment and to receive a written reply; a right to cost-free training when this is mandatory.

The aim is to finalise the legislative process by the end of the year. In the Council, the aim is to reach a general approach at the June EPSCO Council. The next working party meeting is on 24 May and the Coreper discussion will take place on 6 June. The Parliament appointed its Rapporteur, MEP Enrique Calvet Chambon and started its preparatory work. Presentation and consideration of draft report in EMPL Committee is foreseen on 18-19 June and adoption of the report in EMPL Committee is expected in October 2018.

Upon the question of Uni Europa, Mrs Hajkova clarified that the Commission's proposal does not aim to ban specific forms of work, such as zero-hour contracts, but rather focuses on providing rights that protect workers in precarious situations whatever the form of work. Regarding the workers in the platform economy, if these workers perform less than 8 hours/month, Member States would be free not to cover them. The directive would however apply to active persons in the platform economy who are considered as workers under the proposed definition.

Mr Eddy Stam, Uni Europa, stated that for the trade unions the use of zero-hour contracts is unacceptable and should be banned. Mr Stam also informed that Uni Europa planned to make a presentation on zero-hour contracts at the present meeting, but it was not possible due to the staff changes.

Mr Eduardo Cobas, CoESS, stated that the employers could agree in principle with Uni Europa as regards the use of the zero-hour contracts. Nevertheless, while CoESS is against zero-hour contracts, the working time issue is very sensitive for the employers who believe that this should be addressed in the context of collective bargaining. The sector's specificities, requiring flexibility, need to be taken into account.

*b. Services E-card*

Mrs Hajkova (DG EMPL) informed that the proposal of the European Commission (DG GROW) on Services E-card was rejected by the leading EP committee (IMCO) in March. As a result, the proposal is not discussed further in the EP or the Council.

The social partners welcomed this development.

*c. Procurement Package*

Mrs Anna Lupi (European Commission, DG GROW) informed about the ongoing revision of the Buying Social Guide. The new guide should serve as a practical tool and provide advice on the implementation of the procurement directive, as well as on the preparatory phase and the phase after the procurement (contract management). DG GROW will use an external consultant to prepare the ground work for the revision, which should be ready in about a year. The guide will be translated in all official EU languages.

In parallel, DG GROW will organise, with the help of an external contractor, training workshops in 15 Member States (SE, DK, NL, EL, FR, DE, IT, PL, LV, SK, CZ, HU, RO, HR, IE) in early 2019. The one-day information and dissemination events will target mainly contracting agents, but mixed audience is expected. Social partners can provide national contacts to be invited. The workshops will support a development of a training material on best practices.

Finally, Mrs Lupi indicated that while no further public consultation on the Buying Social Guide is foreseen, DG GROW is available to meet with stakeholders upon request. Stakeholders are also invited to submit to DG GROW good or bad practices on the use of social clauses in public procurement.

Mr Eddy Stam, Uni Europa, reminded that the social partners in the private security and in the cleaning sectors have prepared, in consultation with DG GROW, specific sectoral guides on public procurement (Best Value Guides). He reiterated the importance of an effective dissemination of these guides to the procurers and the national authorities. The involvement of the Commission in the dissemination would be helpful. He cited the ‘responsible contractor’s code’ in the Netherlands as a good example of dissemination.

Mr Eduardo Cobas, CoESS, considered that the sectoral Best Value Guide, on which the Commission was consulted, is fully compliant with EU law. As such, it needs to be integrated in the Commission’s revised Buying Social Guide. Furthermore, the new Commission’s guide should clearly state that the legal framework has changed (taking into account Article 18(2) of the Directive) and should also highlight the everyday role of the national social partners in helping the national authorities in the implementation of the directive. Since the new Commission’s guide will have a big impact at the national level, Mr Cobas asked whether the social partners could be consulted on the first draft.

Mrs Lupi replied that Article 18(2) of the directive is indeed one of the major additions to the guide. The Commission is aware of the great diversity between the Member States’ practices and that dissemination among the national officers is essential. Regarding the question on the possibility of stakeholders’ consultation on the first draft of the Commission’s guide, Mrs Lupi stated that it is unlikely due to the tight time line.

#### *d) European Labour Authority*

Mrs Mirka Hajkova (DG EMPL) informed about the last important social policy delivery for the current Commission. On 13 March 2018, the Commission adopted ‘[Social Fairness package](#)’ containing a proposal for creation of European Labour Authority (ELA), a proposal for Council recommendation on access to social protection, Communication on the implementation of Social Pillar.

The proposal for creation of ELA stems from the identified need for a European structure or body to support effective cooperation on cross-border labour and on social security matters between Member States. The key purpose is to contribute to ensuring that EU rules on cross-border labour mobility and social security coordination are enforced in a fair and effective

way. In this context, the Authority would facilitate access for individuals and employers to information on their rights and obligations; support cooperation between Member States in the cross-border enforcement of relevant Union law, including facilitating joint inspections; mediate and facilitate a solution in cases of cross-border disputes between national authorities or labour market disruptions.

The Authority will be established as a new decentralised EU agency. EU level social partners will have an advisory role through a dedicated Stakeholder Group. In accordance with the ordinary legislative procedure, the proposal for a Regulation is now being examined by the European Parliament and the Council. The ambition of the Commission is for the Authority to be up and running in 2019. Following a transition period, during which specialized staff will be recruited and working methods established, the authority should be fully operational by 2023.

A dedicated Advisory Group has been set up to advise and assist the Commission on the establishment of the Authority. The group will include key stakeholders, such as representatives from the Member States and Union-level social partners. The first meeting of the Advisory Group took place on 16 May.

Regarding the impact on the current institutional setup, ELA should absorb committees that have mainly operational tasks, including the Platform on Undeclared work and Expert Committee on the Posting of Workers.

The social partners thanked for the information and asked for a presentation on this initiative at the next meeting.

#### **4. Future of the sector and anticipation to change**

Mrs Catherine Piana, CoESS, informed about the ongoing joint social partners' project, co-financed by DG EMPL, on 'Anticipating Change'. The second workshop took place on 24 April 2018 in Leuven and focused on the discussion about the causes and consequences of change in the private security industry. The basis for the discussion was a report by the external contractor (Ecorys).

As the next step, the project's Expert Committee will comment on the draft recommendations. The next meeting of the Expert Committee will take place on 6 September. The final conference, where deliverables will be presented, is planned for 10 October (venue TBC).

Mr Eddy Stam, Uni Europa, stated that the interim report of Ecorys does not go in the direction that Uni Europa expected. The deliverables of the project need to be helpful at national level, ie. what can be done of fixed in collective bargaining. He also mentioned that the consultant cancelled some interviews with Uni Europa members at the last minute.

Mrs Piana asked for a concrete feedback from Uni Europa on the draft report and draft recommendations by 6 September. She will follow-up with Ecorys on the issue of cancelled interviews.

The workshop conclusions and the consultant's report will be circulated.

## **5. The future of cash: consequences of employment on cash policies**

Mr Eduardo Cobas, CoESS, informed about the campaign of CoESS to keep cash in the ongoing phenomena of cash-free society. In his view, cash is still a useful instrument. Concretely, the following arguments are being put forward by CoESS: a) cash is a universal way of payment, it is inclusive (non-discriminatory); b) every transaction can be made by cash; c) it is a trustful method of payment (less fraudulent than new electronic methods); d) privacy; e) efficiency (payment is immediate); f) social character (link to the national sovereignty).

From the workers' side, Uni Europa pointed out to the safety risks of jobs in cash-in-transit.

The Swedish Uni Europa representative stated that due to the move to cash-free society in Sweden, the problem with robberies linked to cash-in-transit was solved. However, the cash-free payment system based on smartphone can be discriminatory (against older people or children) and some small business have problems. Moreover, it is still to be proved that the new system is less prone to fraud.

The Belgian Uni Europa representative suggested dealing with this issue also within the joint project on anticipation of change.

CoESS stated that it would consider how to integrate the issue in the ongoing project.

## **6. Update on the Insider Threat project**

Mrs Piana, CoESS, updated the committee on the ongoing project on insider threat prevention in aviation (AITRAP), coordinated by CoESS and co-financed by the European Commission (DG HOME). The incentive for the project came from the terrorism threat, but the results and deliverables can be used in the wider context. The project will lead to two types of outputs: a) awareness raising film or presentation, targeting any type of airport employee; b) e-learning and manual for people who will be tasked to create an insider threat programme. DG HOME is currently assessing what channels should be used for the dissemination of outputs.

Mrs Piana explained that trade unions' role lies primarily in being involved in the set-up of pre-employment and background checks, but also in constant monitoring after the commencement of the employment. Trade unions need to be involved and on board with these policies. Trade unions can also sensitise employees on what is the baseline and what is deviation from the normal behaviour.

Upon questions from Uni Europa, Mrs Piana reiterated that while security and political checks are regulated by national legislations, trade unions must be on board of insider threat prevention policies within the companies. Each company needs to assess its risks and vulnerabilities. The intention is not for private companies to substitute governments in carrying out background checks. The idea is, for example, to train recruiters for spotting fake information.

Uni Europa said it would reflect about trade unions' role.

## **7. Technology: update on the drones legislation**

Mrs Piana, CoESS, updated on the developments of the legislation. The discussions are currently ongoing on the use of drones in the private security sector with a view of having a validation by EASA (European Aviation Safety Agency). Legislation will continue to be developed through the delegated acts of the Commission expert groups.

## **8. Standards: update on work in TC439 and WG1**

Mr Cobas, CoESS, informed about the ongoing work of the general committee TC439 'Private security services' on standardisation, which has developed three main initiatives:

- a) Update of the terminology standard of 2006
- b) UK initiative for a possible European standard for lone workers – a project subject to approval
- c) WG1 'Working Group 1' – focuses on creation of European standard on quality criteria for provision of services in critical infrastructures (currently there are two standards in maritime and airport security segments, the idea is to create a generic standard for all critical infrastructures with particular annexes for different sub-groups of critical infrastructures). The WG1 will meet again in June 2018 and output is expected in 2-3 years.

CoESS appreciated that a Uni Europa expert is now actively participating in the work on the standardisation, which is ultimately contributing to the quality of private security services.

## **9. AOB**

Mrs Hajkova, DG EMPL, informed the social partners that Eurofound has launched the representativeness study in the private security sector. The representativeness has to be regularly assessed, as it provides a criterion for EU level social dialogue participation. The last representativeness study for the sector was published in 2012. In January 2018, the social partners (Uni Europa and CoESS), Eurofound and DG EMPL met for a kick-off meeting. Ms Hajkova stressed the importance to reply to the national Eurofound correspondents who will approach the national delegates in June 2018. The draft overview report is foreseen for 2019.

The social partners asked to be involved and to be consulted on the national reports.

**Next meetings:** 5 November 2018