



## EUROPEAN COMMISSION

Employment, Social Affairs and Equal Opportunities DG

Social Dialogue, Social Rights, Working Conditions, Adaptation to Change  
**Social Dialogue, Industrial Relations**

**SECTORAL SOCIAL DIALOGUE  
COMMITTEE  
LIVE PERFORMANCE**

**MINUTES  
SUB-WORKING GROUP ON RISK ASSESSMENT  
PLENARY MEETING  
06/10/2010**

**SUB-WORKING GROUP ON RISK ASSESSMENT**

**Chair:** Ms Anita DEBAERE (Pearle\*, employers)

**1. Approval of the draft agenda**

The draft agenda was approved without modifications.

**2. Approval of the minutes of the previous meeting**

The draft minutes of the meeting of the sub-working group of 26 April 2010 were approved without modifications.

**3. Development of a risk assessment tool for the Live Performance sector: presentation of the project in France**

Ms Colette Chardon (Directrice Générale du Service Interentreprises de Santé au Travail CMB, France) started by explaining the mission, structure and services of the CMB (see presentation in [annex](#)).

In collaboration with a number of partners (including the social partners), the CMB is developing a software application – based on the OiRA tool of the Bilbao Agency<sup>1</sup> – that should support the employers in the live performance sector to perform risk assessments at the workplace (see documents on the OiRA tool in [annex](#)). Based on the input that is encoded in the application by the employer, the tool creates the so-called "document unique", which provides a list of possible dangerous situations, the number of persons exposed to these situations and the preventive measures to be undertaken. The tool and the document should not be seen as an administrative obligation, but should lead to a genuine proactive approach by the employer. This "document unique" is also put at the disposal of the worker and the Labour Inspection.

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<sup>1</sup> European Agency for Safety and Health at Work (OSHA).

Responding to questions of delegates, Ms Chardon explained: that the collaboration with the Bilbao Agency is based on a two-way, free-of-charge exchange of expertise; that it remains to be decided on which basis the tool will be structured, one possibility being the "professions" in the sector; that the objective is to allow for exchange of information between countries; that a first version of the tool should be ready by mid-2011, the final version expected to be available by October 2011; that ideally the tool should be used both by theatres and by performing groups; that the "document unique" – which is to be established by the employer – is not identical to the prevention plan – which can cover a show which involves several employers –, but if all "documents uniques" are established properly, the prevention plan should write itself.

Ms Dearbhal Murphy provided feedback on a recent meeting of the Committee's secretariats with Mr Lorenzo Munar of the Bilbao Agency. She reminded the working group that the aim of the sub-working group on risk assessment was to create a risk assessment tool that could fill the gap in those Member States that do not have tools of their own (not mandatory) and that could be used by social partners – including at European level – to raise awareness regarding risk assessment issues. The Agency now proposes to support the Live Performance Committee to develop a European risk assessment tool for the sector.

The tool would probably be made available in 3 or 4 languages. Hopefully, the European tool would lead to the further development of national tools, translated in the language(s) of the Member State concerned and adapted to the national context and legislation.

The working group **agreed** to continue the work of the sub-working group, to follow-up the project in France and to take up the offer of the Agency to further consider developing a sectoral risk assessment tool. This agreement will be submitted for endorsement at the plenary meeting.

#### **4. Presentation by Dr André-François Arcier (Institut Médecine des Arts, Paris)**

In his presentation on occupational diseases amongst musicians, Mr Arcier stressed the importance of a *systemic* approach that should foster the *prevention* of health problems. He confirmed the need for a more general risk assessment approach that should nevertheless be complemented by an identification of more specific risks to which musicians are exposed. A detailed overview of such risks can be found in the presentation in annex.

An important issue is the lack of recognition of several artists' problems as occupational diseases. Therefore lobbying with national governments is required to obtain such recognition.

The importance of post-sickness and post-career reconversion was also highlighted.

#### **5. Discussion on next steps**

See the conclusion/agreement under point 3.

#### **6. AOB**

No issues were discussed under this point.

## Annexes

- Point 3 – Presentation CMB
- Point 3 – Project management plan
- Point 3 – OiRA guide
- Point 3 – OiRA template
- Point 4 – Presentation Musician and occupational diseases

**Chair:** Mr Sture CARLSSON (Pearle\*, employers)

**1. Opening of the meeting – Approval of the draft agenda – Approval of the draft minutes of the Working Group meeting of 26 April**

The draft agenda was approved with a few modifications regarding the order of the points foreseen.

The draft minutes of the meeting of the Working Group of 26 April 2010 were approved on the basis of the modifications proposed.

**2. Information from the Commission on the ongoing activities in the field of employment and social affairs**

Mr Stefaan Ceuppens provided a brief update on EU initiatives, including: the ongoing work of the Commission on the further elaboration of the flagship initiatives which are an essential part of the Europe 2020 Strategy; the Digital Agenda flagship initiative that was presented by the Commission already in May; the recently presented Youth on the Move flagship initiative, including 28 key actions aiming at helping young people to gain the knowledge, skills and experience they need to accede to a first job.

As regards recent developments in the employment and social field in particular, he referred to: the publication in August of a call to all interested parties to contribute to the development of the ESCO taxonomy (Skills, Competencies and Occupations); the proposal of the Commission to designate 2012 as the European Year for Active Ageing; the adoption of a new 5-year strategy on gender equality<sup>2</sup>; the adoption in July of the Commission Staff Working Document (SWD) on the functioning and potential of European sectoral social dialogue; the agreement of European social partners of a number of sectors on guidelines to tackle third-party violence and harassment at work.

**3. Risk assessment: feedback on the working group meeting**

Due to time constraints, this point was postponed to a later meeting.

**4. Presentation of the final report on the Capacity Building project in Southern Europe**

Messrs Jaap Jong and Richard Polacek presented the results of the project which aimed at mapping the situation of social dialogue in 12 Southern European countries, including "old" and "new" Member States, as well as candidate countries (see the full report in annex).

Mr Jong highlighted a number of points from the employers' perspective, notably: the limited number of employers' organisations, due to the fact that most performing arts organisations are very much dependent on government subsidies and are often publicly owned; as a consequence, they are very vulnerable in times of economic crisis and the autonomy of management – e.g. as regards labour conditions – is limited; there are hardly any structural solutions for ageing performers; the development of the

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<sup>2</sup> <http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=890&furtherNews>

commercial sector, as an alternative for the publicly subsidised sector, is very slow; audiences in many countries are dwindling.

Mr Polacek explained the situation of workers' organisations: most workers are still employed as civil servants or under long term contracts, but their number is decreasing whereas precarious working conditions and the numbers of freelance workers are increasing; the tourism and the commercial sector are important sources of employment for actors and musicians, but employers in the tourism sector are reluctant to engage in any sort of social dialogue; trade unions are present in the sector – either through sector specific organisations or as part of more general trade unions – and are independent of governments, although some professions (dancers, technicians) are not organised in some countries. Specific challenges for trade unions include: a decreasing membership; the increasing number of freelance workers and the issue of their representation; problems for funding trade unions' daily activities; decreasing employment opportunities and conditions; the low average level of wages.

The situation of social dialogue in the countries concerned shows a very diverse picture, but in most cases bilateral collective bargaining does not exist due to the absence of employers' organisations and the lack of autonomy of management. In some countries, trilateral social dialogue exists in the public sector, as well as bilateral social dialogue in the commercial sector. In the tourism sector, social dialogue is basically inexistent.

The main recommendations of the study can be summarised as follows: increase cooperation between all key players in the sector, namely trade unions, employers and the different government bodies, even if solutions will need to be tailored towards the specific national situations; assist the establishment and functioning of independent sector organisations – both workers' and employers' – and support an independent social dialogue in both the public and commercial sectors; organise learning from best practices in other countries.

The following concrete ***actions*** are put forward: explore possibilities for funding for capacity building of social partners, amongst others via the European Commission; consider organising staff exchanges for mutual learning.

It is proposed that both employers and workers explore the possibilities for funding and capacity building with a view to providing input for future discussions on the issue in the committee. It is also proposed to include the issue of the financing of the cultural sector in next year's work programme of the social dialogue committee.

## **5. Training**

### **a) Update on the Theatre Technicians Training**

Mr Chris Van Goethem (TEAD) informed the committee that, following up on the conclusions of the Theatre Technicians Training (TTT) project, an application was made towards the Leonardo Da Vinci programme of the European Commission for funding of a network of stakeholders from education and training and of research centres on TTT.

Unfortunately, the application was refused. It was recognised that the project falls within the scope of the programme and that the need for pooling knowledge on TTT is real. However, points to be improved to be successful are: the clarity and level of detail of the proposal; the involvement of local partners of the sector, including "new" partners (e.g. in countries/regions which haven't been involved in this type of projects yet); the cost-benefit ratio; the dissemination efforts.

It is the intention to submit a new application for funding of the network.

Mr Van Goethem also gave a brief overview of a number of other training projects in the sector which *are* currently ongoing, some of which built upon the results of the TTT and Live Performance Technics (LPT) projects.

It is also the intention to set up a project that would integrate the results of the TTT and LPT projects (to be run by the Helsinki Metropolia University of Applied Sciences).

#### **b) New skills for new jobs: exchange of views**

Mr Manuel Hubert explained the committee that the Commission does not have the intention to conduct new skills forecasting studies, as was done in 2009 in a number of studies.

The conclusions of this research revealed the need for exchanging information and best practices between stakeholders in different sectors on this issue, also at European level, involving social partners, national skills observatories and education, training and research institutes. Hence the proposal of the Commission to create European "Sector Council on Jobs and Skills". The Commission is ready to co-finance projects to set up such networks via calls for proposals. In a first phase, the situation as regards training institutes and skills needs in a given sector should be mapped and the readiness of national stakeholders to engage in such a process assessed. Several sectors have taken the first steps in this sense, including the textiles, automotive, metal and commerce sectors.

With due attention for the added value of this initiative and the risk of setting up a parallel structure, the committee proposed the following **actions**: to learn from other sectors that have undertaken a mapping exercise and from sectors that consider piloting a sectoral skills council; to engage in a mapping exercise for the sector, given its intrinsic interest. Whether this should lead to the creation of a sector council on jobs and skills remains to be decided.

#### **6. Financial and economic crisis – impact on the Live Performance sector: state of play**

Several delegates informed about the situation in their countries, including the Netherlands (budget cuts of 20-25%, increase of VAT on tickets, abolishment of culture vouchers for pupils), Slovakia (budget cuts of 10%, but better outlook as from 2012), Bulgaria (lay-offs in orchestras, very low and thus unattractive wages), Spain (reduction of annual budgets by 10%, resulting in lay-offs), Poland (closure of 3 radio orchestras and 1 choir, 2 of which however being saved by regional authorities).

The trade unions propose to consider establishing joint appeals towards the Commission and the European Parliament requesting them to exercise pressure on governments where necessary and appropriate, in line with the EU's statements on the importance of culture and cultural diversity.

Mr Richard Pulford draws the attention of the committee to the following: where the entire public sector is under budgetary pressure, care should be taken when choosing arguments for defending public spending on culture; in the current context, choices will have to be made (not everything is worth preserving); also, managers will have to make (difficult) choices, which do not necessarily have to lead to less "art" and should be made in consultation with the trade unions.

Delegates agree that imaginative solutions will need to be found to address the current difficult situation, while continuing to advocate for appropriate funding of the sector.

**7. Exchange of views on the proposal for a Joint Statement ahead of the conference on "The contribution of culture to the fight against poverty and social exclusion" (17-19/10/2010) in the framework of the European Year for Combating Poverty and Social Exclusion**

Due to time constraints, this point was postponed to a later meeting.

**8. Mobility**

**a) Visas and work permits for European performers travelling to the USA: state of play**

Ms Zaiga Birzniece provided an update on the EU common visa policy, notably as regards the principle of reciprocity, which is one of the corner stones of this policy: as set out in Regulation 539/2001, if a third country, such as the USA, (re-)imposes a visa requirement to one or more EU Member States, the Commission has to take steps in order to restore a reciprocal visa-free travel and it can propose retaliatory measures vis-à-vis that country.

She was explaining: that most EU citizens do not require a visa for stays of up to 3 months in the USA; that nevertheless 4 Member States (BG, CY, PL, RO) are still under a visa requirement by the USA and that the Commission is striving towards full reciprocity; that since January 2009, persons travelling to the USA under the Visa Waiver Program (VWP) are to apply for authorisation via the Electronic System for Travel Authorization (ESTA); that as from September 2010, an ESTA fee (14 USD) is charged to the applicants; that the Commission is assessing whether this ESTA is equivalent to a Schengen visa and thus whether it should consider proposing retaliatory measures; that the Commission has decided to send written comments to the USA expressing its concerns over the ESTA fee in the framework of a public consultation procedure (in the meantime, sent on 07/10/2010).

However, the VWP only covers temporary business and leisure travelling, not performing artists. The EU common visa policy is more favourable for US artists travelling to the EU than vice versa, as US artists can travel and stay in the EU visa-free up to 3 months in a 6 months period – and even longer on the basis of bilateral agreements with certain Member States. However, most Member States use the possibility to derogate from the EU common visa policy for paid activities and require a visa in those cases.

**b) Feedback on the seminar on visas and work permits for incoming and outgoing mobility**

Ms Anita Debaere reported briefly on yesterday's seminar. The report will be shared with the committee members and could be discussed at a future meeting.

**c) Commission Communication on "Reaffirming the free movement of workers: rights and major developments"**

Mr Raul Trujillo Herrera presented the main elements of the recently adopted Commission Communication on the free movement of workers, a fundamental freedom enshrined in the Treaty on the Functioning of the European Union (see [annex](#)).

He reminded the committee that a distinction is to be made between: persons who move to another Member State to work as an employee (i.e. migrant workers as covered by the Communication); posted workers and self-employed workers (not covered by this Communication).

The main goals of the Communication are: to provide a picture of the rights of migrant workers; to give an update of case law of the European Court of Justice in this domain; to promote the rights of migrant workers and raise awareness on the issue.

He announced a Communication on social security of highly mobile workers for June 2011.

## **9. Work Programme 2011**

The draft work programme was discussed. It was agreed to include: a reference to the issue of how the cultural sector is financed; the committee's intention to strive towards joint positions/statements regarding the impact of the crisis on the sector in certain Member States, where appropriate; social security issues related to mobility of artists. It was agreed that the trade unions would make further drafting proposals and that the secretariats would prepare a final draft before the next meeting of the committee.

## **10. AOB**

The delegates pay tribute to Mr Richard Pulford's important contribution to the debate in the social dialogue committee and wishes him all the best in his future activities.

### Annexes

- Point 4 – Survey on the Situation of Social Dialogue in the Live Performance Sector in Twelve Southern European EU Member States and Candidate Countries
- Point 8c – Commission Communication on "Reaffirming the free movement of workers: rights and major developments"



Annex: List of participants 06/10/2010

<u>Employers</u>	<u>Workers</u>
<p><b>Pearle*</b>  Ms Catherine BAUMANN (FR)  Mr Mark BISAERTS (BE)  Ms Mar BORDANOVA (ES)  Ms Joëlle BOULLIER-DEBUF (FR)  Ms Francisca CARNEIRO FERNANDES (PT)  Mr Sture CARLSSON (SE)  Ms Anita DEBAERE (BE)  Ms Liesbeth DEJONGHE (BE)  Mr Momchil GEORGIEV (BG)  Ms Claire GUILLEMAIN (FR)  Mr Jaap JONG (NL)  Mr Julius KLEIN (SK)  Mr Geza KOVACS (HU)  Mr Aart KRAAK (NL)  Ms Kathleen LOPEZ KILCOYNE (ES)  Ms Ursula MURSCHITZ (AT)  Mr Richard PULFORD (UK)  Ms Fernanda RODRIGUES (PT)  Mr Tommi SAARIKIVI (FI)</p> <p>19 employers representatives  (10 women, 9 men)  (3 new MS, 16 old MS)</p>	<p><b>EURO-MEI</b>  Ms Angeline BARTH (FR)  Ms Françoise CHAZAUD (FR)  Mr William DONAGHY (UK)  Ms Hanna HARVIMA (BE)  Mr Aldis MISEVICS (LV)  Mr Carlos PONCE (ES)  Mr Raimo SODER (FI)  Mr Pierre VANTORRE (FR)  Mr Pier VERDERIO (IT)</p> <p><b>FIA</b>  Mr Marten GUNNARTZ (SE)  Mr Stanislas IDE (BE)  Ms Dearbhal MURPHY (BE)  Mr Jimmy SHUMAN (FR)  Mr Mitja SUSTAR (SI)</p> <p><b>FIM</b>  Mr Thomas DAYAN (FR)  Mr Jerzy GORZYNSKI (PL)  Ms Laura HÖLZENSPIES (NL)  Mr Anthony MARSCHUTZ (FR)  Mr David MORALES MONTANES (ES)  Mr Antonio MUÑOZ LOBATON (ES)  Mr Leonard-Octavian PADURET (RO)  Mr Andrej SRAKA (SI)  Ms Diane WIDDISON (UK)  Ms Jenny ZAHARIEVA (BG)</p> <p>24 workers representatives  (7 women, 17 men)  (6 new MS, 18 old MS)</p>
<p><u>Other participants</u>  Mr André-François ARCIER (Institut Médecine des Arts, FR)  Ms Colette CHARDON (CMB, FR)  Mr Richard POLACEK (Consultant for the EAEA, CZ)  Mr Chris VAN GOETHEM (TEAD, BE)</p>	
<p><u>European Commission</u>  Ms Zaiga BIRZNIECE (HOME.B.3)  Mr Stefaan CEUPPENS (EMPL.F.1)  Mr Manuel HUBERT (EMPL.F.3)  Mr Raul TRUJILLO HERRERA (EMPL.E.3)</p>	