



EUROPEAN COMMISSION
EMPLOYMENT, SOCIAL AFFAIRS AND EQUAL OPPORTUNITIES DG

Social dialogue, Social Rights, Working conditions, Adaptation to change
Social dialogue – Industrial relations

Brussels, 10.11.2006

**MINUTES OF THE PLENARY SESSION
TEMPORARY WORK, 20.10.2006**

Chair: P. Maršálová (European Commission)

In attendance:

Eurociett

A. Muntz (NL)
M. Freytag (BE)
D. Pennel (BE)
T. d'Avezac (FR)
M. Delbar (PL)
A. Hurst (DE)
A. Fairweather (UK)
J. Tzanidaki (NL)
Y. Van Dijck (NL)

Uni-Europa

H. Westerhof (NL)
F. Warneck (BE)
M. Oorsprong (BE)
W. Hartig (DE)
L. Hoier (DK)
S. Dandemar (SE)
P. Wirken (BE)
S. Toth (HU)
W. Springer (AT)
J. Roelandt (BE)
L. Jenal (LU)
A. Pohjola (FI)
P. Arja (FI)
J.-L. Tolomio
D. Kiziakiewicz (PL)

The points on the agenda are reported in the order of the debate.

1. Introduction, approval of the agenda and minutes from the last meeting

The chair welcomed the participants and informed about the programme of the meeting. Uni-Europa informed that due to technical problems presentation on undeclared work could not be delivered and suggested postponing it to the next meeting. The employers expressed the wish to keep this point on the agenda for a short discussion. The agenda was adopted. The minutes from the working group meeting in July were adopted.

2. Formal adoption of Rules of procedure. Discussion on a possible change of Committee's name

Eurociett suggested that the name of the committee be changed to "temporary agency work" in order to better reflect the reality of the discussions taking place in the committee and the nature of the industry, characterised by a triangular relationship between companies, agencies and workers. Uni-Europa had no objection to add the word "agency" to committee's name, the crucial word for them being "temporary". It was agreed that the name of the committee would be changed to "temporary agency work". The social partners will send the official request to the Commission as soon as possible.

The rules of procedure were adopted. Committee's name in the rules of procedure will be adapted as soon as formally approved by the Commission.

3. Update from the Commission on recent developments in the social policy area

Mr. Armindo Silva, Head of Unit Labour Law of DG Employment, Social Affairs and Equal opportunities, gave an update on latest developments in the following areas:

Working time: Re-examination of the directive has entered in a crucial phase with the Finnish presidency investing important efforts also in bilateral negotiations. The main issue for the debate is maintaining of the opt-out clause. The presidency suggested a trade-off between opt-out and other flexibility mechanisms, in order to find a compromise position. If the negotiations do not result in a compromise leading to adoption of the directive in 2007, the German presidency will not be willing to pursue negotiations on this issue. The Commission will in that case be obliged to assume its responsibility in applying the existing legislation and consider launching infringement procedures against a considerable number of the Member States.

Working time is only one part of flexibility; there are other elements like external flexibility (related to hiring), functional flexibility, work organisation etc. The Commission has engaged in a broad debate on "flexicurity" and will publish a communication next year.

The Green Paper on Labour Law develops a legal side of flexicurity and is launched by the Commission in order to evaluate the legislation in force and its capacity to respond to new flexible demands and still provide security for workers. A large consultation will be launched among the Member States, social partners and civil society. The Green Paper will explicitly mention temporary work together with other forms of atypical work contracts that account for 40 % of employment in Europe. Temporary work will be specifically mentioned in the Green Paper.

The Commission will re-examine the **Directive on temporary work** in the light of another proposal, namely the services directive. The European Parliament proposed an amendment excluding temporary work agencies from the services directive, agreed by the Council. The fact that interim agencies will not be covered under the services directive will influence the way the directive will be re-examined. The importance of article 4 (flexibility article) is increasing in this situation. The Commission will carefully study the current proposal and will consult the social partners on this issue.

In the debate, Uni-Europa welcomed the idea of revision of the directive that they consider to be unsatisfactory, especially in terms of health and safety. They also argued that discussion on working time should not be separated from the issue of salaries. The question was also raised about the delay of publication of the Green Paper due to comment presented by UNICE. Mr. Silva explained that an important interservice discussion was taking place in the Commission both on the Green Paper and the Communication on functioning of the European labour market which caused delay in publication of those documents.

Uni-Europa welcomed that the Commission is paying specific attention to sectors with triangular employment relationships, but the focus should be on security, because flexibility exists already. Uni-Europa called for European rules and regulation directing the sector. On this point the employers did not agree, with respect to the Dublin foundation study which claimed that temporary work is well regulated in most Member States. The issues is intermingled with labour law and social security law that are not be harmonised and this has to be born in mind. Eurociett expressed the view that the communication on flexicurity is of extreme importance. There is need for more flexibility, and changes should be made on national level to reflect the fact that the security needs to be understood in terms of work security rather than job security. The definition of length of assignment should be clarified (length of work vs. length of job). Within triangular relationship various types of contracts exist, therefore the temporary agencies would oppose to be seen as atypical. Eurociett is also pleased that the Commission is opened to review the temporary work directive with a view to

services directive and together the social partners would see if they can contribute to move this difficult dossier forward.

The chair informed about:

- creation of **two new sectoral social committees** in steel and hospitals sectors
- publication of the **Report on implementation of the European framework agreement on telework** by the interprofessional social partners.¹
- social partners' **negotiations in progress** (violence and harassment at work, social aspects of ILO conventions in the maritime sector, working time in inland waterways sector).
- new **communication on Demography** and the priority areas for action defined in this communication and the **consultation (art.138) on reconciliation of the professional, family and private life** to which social partners are invited to contribute.

4. Report from the Round table in Warsaw

The social partners expressed their satisfaction with the meeting, which they perceived as a big step forward in initiating the social dialogue in the sector in Poland. The objective was to meet the national social partners and see how the European level can contribute to development of the national social dialogue and also how to make Polish social partners contribute to the European level. A representative of Polish employers estimated that the round table was an important step in launching contact between the representatives of the two sides of the industry at the local level, which had not existed before. Many examples of problems and bad practice were given, but the major problem identified by round-table participants was a lack of respect of the existing legislation, (very much inspired by the proposal of the Agency Work directive). Fight against pathologies and abuses should hence be the main priority. The discussion helped to improve mutual understanding and a common declaration was published in the end of the meeting. Polish trade union representative also mentioned that the legislation itself should be adapted because the current situation does not have strong sanctions and therefore allows for abuses. There is also a cultural problem which hinders development of the social dialogue and lack of responsibility on the side of Polish authorities. Eurociett suggested addressing the Polish government and prioritising the law enforcement and offered support of the European social partners for joint Polish initiatives in this direction. Uni-Europa suggested to try identifying more synergies between the EWC work and European social dialogue and proposed that a committee could discuss that issue. The Polish representative of trade unions emphasised the impact of foreign ownership of Polish companies on social dialogue and an insufficient level of sanctions related to lack of implementation of legislation in power. Hungarian representative added that the reform process has not ended in the new Member States and the fact that the legislation has been adopted rather quickly without being embedded in previous practice makes the change even more difficult. Eurociett pointed out that there is a large space to share experience from different Member States. The chair emphasised the importance of such events in the member states and expressed Commission's support for future initiatives.

5. Study from the Dublin foundation

The social partners informed the members that a joint letter has been sent to Dublin Foundation to thank them for the work they have carried out and request an update of the study. The social partners also encouraged the Foundation to continue the research and

¹ The report can be downloaded at http://ec.europa.eu/employment_social/social_dialogue/docs_en.htm

include more topics in an eventual update of the report. Informal contacts confirm that Dublin Foundation would be willing to continue work on the temporary agency work industry.

6. Undeclared work carried out by organisations pretending to be temporary work agencies

Han Westerhof from Uni-Europa presented an outline of a presentation on undeclared work in the Netherlands, rescheduled to the next meeting. He gave practical examples of problems created by existence of agencies calling themselves temporary work agencies that in fact favour black work. The Dutch trade unions set up a Foundation for compliance with collective bargaining agreements in temporary work sector which can enforce agreements across the border even in case of triangular relationship. More details will be explained in the future presentation. A future debate should focus on cooperation among the social partners and their responsibility to promote decent employment conditions for workers, including healthcare. Eurociett noted that responsibility of public authorities in this field should not be neglected. Uni-Europa agreed that responsibility of each actor has to be clearly identified and together joint communication/initiatives can be undertaken against indecent work and also unfair competition due to undeclared work. The understanding of definition of undeclared work has also been clarified.

7. Review of implementation of the work programme for 2005-2006 and preparation of the work programme for 2007-2008

The social partners presented to the members a draft programme for next two years, prepared by the secretariat. Both sides presented their suggestions to amend the programme (reference to the ILO Convention, access to housing and healthcare for temporary workers, legislation, etc.) and found consensus on wording. The final version of the work programme will be circulated before the end of the year.

8. Flexicurity

The chair recalled the framework in which the debate on flexicurity takes place and the fact that the social partners have an excellent opportunity to influence Commission's work in this field by presenting a joint opinion before March 2007. Mr. Jos Kester from DG Employment explained Commission's approach to flexicurity as a new strategy to combine security and flexibility on the labour market and the role social partners can play in this process.² The social partners had a first exchange of views based on the presentation and questions asked by the Commission. Eurociett emphasised a need for more data about the sector. The trade unions were concerned that a link must be established between the Green paper on labour law and legislation regarding the workers and the flexicurity debate. Uni-Europa also suggested that the joint declaration from 2001 could be used as a basis for the flexicurity debate. Eurociett had prepared its position on flexicurity and presented it to Uni-Europa, defining thus the main issues to be addressed in the forthcoming debate. The sector plays a fundamental role in providing transition, therefore the mobility side and adaptability side would be for Eurociett important keystones in the discussion. Following the first exchange of ideas, it was suggested that secretariat prepares a draft of a joint position that would then be distributed to the members and discussed during the next meeting. It was agreed that a working group in January would be devoted to drafting/finalising the joint paper on flexicurity.

9. A.O.B.

Next meetings – planning for 2007: The chair announced that in 2007 the committee should meet for 3 working groups and 1 plenary session. The dates will be announced

² Presentation can be downloaded at http://forum.europa.eu.int/Public/irc/empl/sectoral_social_dialogue/library?l=/temporary_work/2006/20061020_plenartagung&vm=detailed&sb=Title

as soon as possible, with the working groups taking place in January, March and June and the plenary session in November.

The chair also informed about the changes on the **social dialogue website** including the presentations of meetings' agendas and minutes.

Eurociett offered to arrange a visit for trade union representatives in Brussels branches of Eurociett members on the opportunity of one of the future meetings. Uni-Europa will consider if organising such visit would be technically possible for its members.