



EUROPEAN COMMISSION  
DG Employment, Social Affairs and Inclusion

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

**SECTORAL DIALOGUE  
COMMITTEE**  
Civil Aviation

**Minutes  
Working group on air crew**

**12 December 2019**

It was the first Air Crew working group meeting involving the participation of two new employers' airlines organisations, Airline Coordination Platform (ACP) and Airlines for Dialogue (A4D).



20191212\_group photo.jpg

DG EMPL opened the meeting with a tour de table. Social partners were asked to nominate a chair and a vice chair for the working group. Social partners agreed about a two years rotation system. The nomination order between employers and employees will be the opposite of the one for the plenary meeting. The designated Chair is Sylviane LUST (AIRE Director General) and vice Chair Ignacio Plaza (ECA Deputy Secretary General).

**1. Adoption of the agenda**

The draft agenda was adopted.

**2. Social dialogue project to support the work of the civil aviation sectoral social dialogue committee**

ETF presented the new project introduced by ETF as lead applicant to support the work of the sectoral social dialogue committee: *A results-based approach to social dialogue: supporting the implementation of the work programme of the sectoral dialogue committee in civil aviation*, which was recently selected by the Commission.

This project will allow the SSDC and the working groups to have additional meetings and activities to support their social dialogue.

After the grant agreement will be signed, ETF will provide the members of the working group with the final description of the project and a short memo with key steps and dates.

### 3. Disruptive passengers

ETF introduced the subject, reminding the campaign by the EASA<sup>1</sup> and the recent ICAO legal guidance on the management of unruly and disruptive passengers<sup>2</sup>.

Social partners agreed that those initiatives are important. One of the main cause for unruly passengers being abuse of alcohol. Social partners had a fruitful discussion on the scope, causes, target group and possible options to address the issues.

Social partners agreed to envisage joining the initiative by some sectoral social partners regarding a multi-sectoral guidelines to tackle third-party violence and harassment related to work<sup>3</sup>; they will also work on a joint statement for the aircrew sector. In addition, they will study the issue of violence against women through their social dialogue project. This will be the basis to envisage further joint actions.

The Chair concluded with the following actions:

- the multi-sectoral guidelines will be circulated to consider whether the aircrew social partners will subscribe to it (jointly or individually);
- starting to develop an aircrew social partners own statement describing general principles regarding third party violence related to the need for ratification of the Montreal Protocol; this would be a starting point to develop further actions by the social partners. A first draft will be provided by ACP.

### 4. Project on posting: presentation by Van Olmen & Wynant

ECA introduced the report *on application of and compliance with the posting of workers rules in the aviation industry of the EU Member* commissioned in the framework of the social partners' project managed by ECA (associated with ETF and ERA) to lawyers Van Olmen & Wynant. The aim of the study is to support social partners' discussions and to decide whether the social partners will be interested to continue to work on this topic.

The consultant presented their report regarding posted aircrew in the civil aviation sector.



Air crew posting  
REV 12-12.pdf

The report posed questions and concerns to all social partners but not for the same reasons. The DG EMPL representative questioned the assumption on which the report is based: the use of the home base concept in the framework of the posting directive. This comment confused the social partners; they raised the issue of coherence notably with EASA security regulations (using the home base principle). On the employers' side, one of the questions would be what are the correct terms and conditions of the employment situation of the aircrew, instead of determining whether an aircrew is posted or not, and it was noted that this varies on a case-by-case basis owing to the very nature of the aviation market.

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<sup>1</sup> <https://www.easa.europa.eu/notonmyflight>

<sup>2</sup> <https://store.icao.int/manual-on-the-legal-aspects-of-unruly-and-disruptive-passengers-doc-10117.html>

<sup>3</sup> <https://ec.europa.eu/social/main.jsp?catId=521&langId=en&agreementId=5555>

For the workers the issue would be to determine under which legislation the workers are protected, notably in case of wet leasing. They called for more guidance at EU level notably for supporting labour inspections and for an active role of the new European Labour Authority.

The discussion showed that all the organisations would have comments and serious concerns on the content of the Van Olmen & Wynant report. The organisations objected to many claims in the report and explicitly did not agree with the findings in the report, and would not be associated with it owing to these serious reservations. It was clarified that the report was final and is not opened to further comment. There was no agreement on a joint follow-up. Social partners decided to react separately after the release of the report.

## 5. European work on bogus self-employment

ECA introduced the subject by alleging a situation of self-employed pilots by an airline member of A4D. ECA considered that pilots cannot be employed by an airline under the self-employment statute, as this statute prevents the pilots to engage in social dialogue, affects their employment rights and creates a situation of unfair competition. ECA stated that they have a concern about a member of the EU social dialogue committee to implement such employment practices, which are against EU rules and incompatible with EU social dialogue.

The Commission representatives presented the actions promoted at EU level to discuss bogus self-employment as also indicated in the Commission's report "*Aviation Strategy for Europe: Maintaining and promoting high social standards*"<sup>4</sup>:

- The **sub-group on social matters** related to aircrews established under the Expert Group on Aviation Internal Market will aim at sharing information and exchange views and experience on two key issues: enforcement of applicable law and bogus self-employment. It aims at bringing together the relevant aviation and labour authorities. Social partners are invited to the meeting on 17 December 2019



Expert group social  
issues in aviation.pc

- The **European Platform tackling undeclared work seminar on air transport**, foreseen 19 February 2020 will address recent developments in the air transport sector, presenting the possible issues related to undeclared work, with a particular focus on collaboration between competent authorities and bogus self-employment of aircrews". Invitations to express their interest to attend this seminar was sent to the aircrew social partners' organisations.

ETF commented that self-employment for pilots and cabin crews should be considered as bogus self-employment, therefore prohibited. They called for actions at EU level and from the European Labour Authorities and asked the member of the SSDC if they are ready to discuss the issue in the framework of the EU social dialogue.

A4D commented that self-employment is common in many industries, and is used by airlines of all business models – legacy and low-cost – and that they see no reason for abolishing this standard industry practice, which is not detected as a problem through inspections at national level. A4D objected to ECA's attempts to criticise A4D's

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<sup>4</sup> [https://ec.europa.eu/transport/modes/air/news/2019-03-01-social-standards-air-transport\\_en](https://ec.europa.eu/transport/modes/air/news/2019-03-01-social-standards-air-transport_en)

membership, and noted that ECA were aware of A4D's members and employment practices when they agreed for A4D to become a member of the SSDC.

ACP indicated that they see self-employment in principle not applicable for an aircrew.

The Chair asked whether the social partners want to engage in a discussion on this topic; the positions of airlines organisations being diverging.

ETF/ECA suggested continuing the discussion between partners who would agree.

AIRE noted that this was not the forum for social partners to attempt to engage in bilateral dialogue with an airline, it would be against this approach, as it would create alliance of some partners against others. .

The chair concluded that the airlines organisations will provide their answer on the possibility to address the topic through the EU social dialogue at the next working group meeting.

## **6. Follow up of the work on Temporary Agency**

ETF introduced the ETF/ECA discussion paper on temporary work agency (TWA) in aviation.



TWA\_DISCUSSIONPA  
PER\_ECA ETF.pdf

The discussion showed that the concepts and legislative frameworks used to describe the situation of pilots recruited through intermediary / temporary work agencies may require further discussion. The document use the concept of TWA (regulated through an EU Directive) to describe the situation of aircrew recruited through intermediary bodies.

The Chair concluded that the ETF/ECA's note will be the basis for further discussions. The Employers' side acknowledged the paper prepared by the employees. The employers agreed to provide a common answer at the beginning of 2020 for a joint discussion at the next meeting of the working group.

## **7. European Labour Authority (ELA)**

A representative of ELA described the role and activities of the newly created European labour Authority. Social partners are represented in the stakeholders' group.



ELA  
Presentation\_aviatio

The participants expressed their expectations, ELA playing an important role regarding the highly mobile workers (aircrews) and the possibility for ELA to deal with the issues social partners discussed during their meeting.

Information on the governing structure of ELA will be provided to the social partners.

## **8. AOB**

Next meetings:

- 21 April 2020 project meeting
- 22 June 2020 Air crew working Group (to be modified if feasible)
- 22 October 2020 SSDC plenary meeting
- 23 October 2020 project meeting

## List of participants 12 December 2019

<b>Employers</b>	<b>Workers</b>
<b>A4D</b> HUURRE, Eveliina (FI) KRASA Matthew (IE) LING Kate (UK) RYBAKOWSKAM Monica (EU)	<b>ETF</b> WARNECK Wiebke (BE) DUTHIERS, Monique (ES) FAWCUS, Rebecca (ES) KRUPITZA, Lukas (CH) MAZZEI, Alberto (IT) MICHEL, Arnaud (FR) PRATL, Christina (AT) VON DER BURG, Felicitas (DE)
<b>ACP</b> OLLONGREN Hans (SE)	<b>ECA</b> VON SCHÖPPENTHAU Philip (BE) PLAZA Ignacio (BE) AMPHOUX, Marie-Claude (FR) DE BLASIO, Alessandro (IT) KAVASA, Dace (LT) MARASCO, Rosella (BE)
<b>AIRE</b> LUST Sylviane (BE) MOYSON, Erik	<b>EXPERTS: VAN OLMEN</b> PECINOVSKY, Pieter (BE) BUSSCHAERT, Gautier (BE)
<b>ERA</b> ÖLLÖS, Ágota (UK)	

See AGM registration