



EUROPEAN COMMISSION

DG Employment, Social Affairs and Inclusion

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

Brussels, 7 June 2011

**SECTORAL DIALOGUE
COMMITTEE
TEMPORARY AGENCY WORK**

Minutes of the meeting of 6 April 2011

1. Welcome, adoption of minutes and adoption of the agenda

The meeting was chaired by the Commission.

Ms Owens (UNI Europe) introduced her successor for the TAW sector, Ms Castaldo, who would take over as from the following week. She also informed the participants that UNI Europa's Regional Secretary Ms Ségol had been designated to become ETUC's new Secretary General in May. Mr Röthig, currently Head of UNI Europa Finance, would become the acting Secretary General. The official nomination of the new Secretary General would take place at UNI Europa's next Congress in October 2011.

The minutes of the last two meetings were approved taking into account the respective comments. The draft agenda was adopted. All participants introduced themselves.

2. Adoption of the work programme 2011-2012

The work programme had been finalised between the secretariats. This last version was acceptable to both sides of industry and thus adopted. Ms Muntz (Eurociett) announced that it was the employers' turn to submit a project proposal. Therefore, Eurociett would take care of the proposal on TAW & transitions in the labour market (see section IV of the work programme). The employers also reported that Eurociett was working on indicators to assess the link between the economic cycles and the TAW market (see section V of the work programme). Once developed, they would share them with UNI Europa and the Commission.

3. TAW regulation

Mr Muller-Schleiden from the European Commission (Labour Law Unit) informed the participants about the sixth and probably last expert group meeting on the transposition of the TAW Directive held on 7 March 2011. Besides closing discussions on outstanding issues related to Articles 1, 3, 4 and 5 of the Directive, the Order of the Court of Justice of 16 June 2010 in Case C-298/09¹ was mentioned in the meeting. Now the Commission

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:288:0014:0015:EN:PDF>

would prepare a draft report on the work of the expert group. It was planned to submit this draft report to the members of the expert group; it would then be endorsed either at a possible seventh meeting or at the meeting of the Directors-General on Industrial Relations (in June in Warsaw) and published on the website of DG EMPL. Asked about reporting obligations arising from the TAW Directive, Mr Muller-Schleiden explained that a review by the Commission of the application of the Directive, in consultation with the Member States and the European social partners, was due two years after the end of the transposition period (i.e. by December 2013). Besides, Member States would have to inform the Commission of the results of their respective review of restrictions and prohibitions by 5 December 2011. The Commission did not have an overview yet on the state of these reviews. The social partners came back to their request to get a written clarification on the link between the Posting of Workers Directive and the TAW Directive. The Commission representative invited the social partners to submit their request in writing to Mr Silva (Director responsible for Employment and Social Legislation, Social Dialogue).

In the afternoon, social partner representatives from the following countries (by order of intervention: DE, DK, ES, FI, FR, IT, NL, PL, PT, UK and GR) reported on their countries' progress and the involvement of the social partners in the implementation of the TAW Directive.

The participants were also informed about joint Ciett/UNI Global activities with the ILO on promoting further ratifications of Convention 181 on Private Employment Agencies. UNI global and Ciett would meet in May to prepare the Global Dialogue Forum to be held on 18–19 October 2011 in Geneva.

4. Presentation of the flagship initiative 'An Agenda for new skills and jobs'

Mr Gergely from the European Commission (European Employment Strategy Unit) informed the participants on the flagship initiative COM/2010/0682 adopted on 23 November 2010². As part of the Europe 2020 Strategy, this initiative is the Commission's contribution to the joint efforts towards reaching the 75 % EU employment rate target for women and men for the 20-64 years age group by 2020 (see detailed slide presentation). As one of the 13 key actions of the initiative, the Commission will organise a stakeholder conference on flexicurity in November 2011 in view of a Communication on a new momentum for flexicurity in the first half of 2012.

After the presentation, both sides of industry referred to their respective positions on the flagship initiative (Eurociett supporting the four key priorities, UNI Europa supporting ETUC's position). Eurociett stressed their key role in job transitions and skills enhancement and considered that in the future, skills shortage would be a bigger problem than unemployment. UNI Europa mentioned the difficulty for highly qualified people to enter the job market and stressed that a lot of people with lower skills did not have sufficient access to training in order to upgrade their skills. Also, the question "Who pays for vocational training?" was crucial. The workers' side regretted that the flagship initiative did not address specific situations such as young people in apprenticeships or disabled persons. Both sides of industry expressed their interest to play a key role in the stakeholder conference on flexicurity.

² <http://ec.europa.eu/social/main.jsp?catId=958&langId=en>

Mr Gergely thanked the participants for their comments. He provided further information on the findings concerning the increase of involuntary temporary and part-time work, which derived directly from Eurostat figures. He mentioned that specific groups such as persons with disabilities were referred to in the document among vulnerable workers who require targeted approaches and also in the employment guidelines. He stated that the Commission was aware of the problem of highly qualified people, which was also related to the lack of information on the needs of the labour market and insufficient career guidance. He took note of the social partners' interest in the flexicurity conference.

5. Promoting national social dialogue

As agreed at the last meeting, national collective labour agreements in the TAW sector would be presented at each meeting in order to exchange good practices and knowledge. Unfortunately, for this meeting, a joint presentation (employers-workers) had not been possible. Mr Bonardo (employers) presented the Italian situation (see slide presentation). Workers' representatives from Italy pointed out that the presentation given by Mr Bonardo was not a comprehensive reflection of the Italian situation and that certain aspects of the national collective agreement had been neglected while others only represented the employers' position on the negotiations which were ongoing at the time of the meeting.

The discussion on the organisation of the next roundtable was postponed. Possible countries could be Croatia and Serbia.

6. Cross-border TAW activities

Mr Feenstra from the European Commission (Labour Law Unit) informed the participants on yesterday's meeting of the expert group on the Posting of Workers Directive. Some studies regarding the ex post evaluation of the Posting of Workers Directive – also available on the Unit's website³ – had been finalised during this last meeting. He announced that a conference on Posting of Workers would be organised on 27-28 June in Brussels to which the social partners in the TAW sector would be invited. As far as the exercise of freedom of establishment/freedom to provide services alongside fundamental social rights was concerned, he referred to the follow-up communication on the Single Market Act which would be adopted on 13 April 2011 and possibly address posting of workers⁴. Asked about the link between the Posting of Workers Directive and the TAW Directive, the Commission representative reiterated that in his view the two pieces of legislation were mutually reinforcing and that there was no need to change anything in this respect. As far as the judgement of the European Court of Justice in Joined Cases C-307/09 to C-309/09⁵ was concerned he considered that the fact that work permits could still be applied during the transitional period (restriction of free movement of workers) would not have a huge immediate effect. However, this issue could play a role for any new enlargement. During the Q & A session, other aspects related to

³ <http://ec.europa.eu/social/main.jsp?catId=471&langId=en>

⁴ Meanwhile adopted, see key action 10 of the Communication "12 actions for the Single Market in 2012: Together for new growth" at http://ec.europa.eu/internal_market/smact/index_en.htm

⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:103:0005:0006:EN:PDF>

minimum wage, quota for temporary agency workers and competing collective agreements were discussed.

Ms Jones from the University of Manchester (UK) presented the findings of her three year PhD project on "The role of temporary staffing agencies in facilitating migration into the UK" (see slide presentation). Several aspects were raised during the discussion: the problem of compliance with existing TAW regulation (also in the sending countries); the lack of inspectors; and the lack of decent accommodation (quality standards).

7. Joint projects

The parties exchanged briefly information on past and future joint projects which were part of the current work programme.

List of participants 6/4/2011

<p>Employers (6 ♂, 7 ♀)</p> <p>Mr Auth (DE, corporate member) Mr Bonardo (IT) Ms Bonnichon (FR) Ms Cordero (ES) Mr Freytag (Eurociett) Ms Koussia (GR) Mr Marseaut (DE) Ms Muntz (NL, Eurociett President) Mr Pennel (Eurociett) Mr Pettineo (Eurociett) Ms Raven (NL, corporate member) Ms Schaller (corporate member) Ms Spangenberg (NL) Ms Zielińska (PL)</p>	<p>Workers (7 ♂, 10 ♀)</p> <p>Mr Calado (PT) Ms Castaldo (UNI Europa) Mr Catala (ES) Mr Colapinto (IT) Ms Jakabowits (FR) Mr Leblanc (FR) Ms Lelyte (UNI Global) Mr Nascimento (PT) Ms Østrup (DK) Ms Owens (UNI Europa) Ms Pohjola (FI) Mr Ramos Amado (PT) Ms Riboni (IT) Ms Unterschütz (PL) Ms Varas (ES) Mr Vicioso (ES) Ms Walker Shaw (UK)</p>
<p>European Commission</p> <p>Ms Durst Mr Feenstra Mr Gergely Mr Muller-Schleiden</p>	
<p>Others</p> <p>Ms Jones (University of Manchester, UK)</p>	