



## EUROPEAN COMMISSION

Employment, Social Affairs and Equal Opportunities DG

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

Brussels, 5 November 2008

### **MINUTES OF THE WORKING GROUP MEETING TEMPORARY AGENCY WORK (TAW), 27 MAY 2008**

#### **1. Adoption of the agenda and approval of the minutes from the last meeting**

The meeting was chaired by the Commission. The agenda of the meeting was adopted with one supplementary item (information on a draft joint declaration on the draft directive on working conditions for temporary workers) and a change in the order of items. The minutes of the meeting held on 12 February 2008 were adopted.

#### **2. Draft joint declaration on the draft directive on working conditions for temporary workers (interinstitutional procedure 2002/0072/COD)**

UNI-Europa informed the meeting that its executive had backed a proposed joint declaration aimed at improving the chances of winning a European directive to cover temporary work agencies and give temporary agency workers equal treatment. The workers' side hoped that Eurociett would also adopt the text and stressed that the text should be seen as a balanced and integral deal and should not put into question acquired workers' rights. Eurociett agreed with the idea that the text should be seen as a package and was confident that their membership would be able to approve the text<sup>1</sup>.

#### **3. Joint project on vocational training (VS/2007/0571)**

Eurociett presented the latest developments with regard to the project (finalisation of the questionnaire to be sent back by 1 June 2008, organisation of a conference in Brussels on December 4<sup>th</sup>, drawing up of a guide for the European Social Fund). The next steering committee would be held on 25 June 2008.

#### **4. Decent work, non-discrimination and equal treatment**

As agreed at the last meeting, some cases were presented: access to credit and housing (FAS-TT in France), access to complementary pension schemes in the Netherlands and diversity in the labour market (Adecco France's agreement with trade unions). All three examples involved both sides of industry and were considered as good practice. The social partners decided to continue the exercise of exchange of best practices at the next meeting.

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<sup>1</sup> Text adopted on 28 May 2008 and released on 29 May 2008, see also:  
[http://ec.europa.eu/employment\\_social/dsw/public/displayRecord.do?id=5087](http://ec.europa.eu/employment_social/dsw/public/displayRecord.do?id=5087)

## **5. Project on the representation of temporary agency workers**

Astrées presented the project "The Representation of Agency Workers. Effectiveness of labour organisations, social dialogue and collective bargaining systems in articulating the interests of agency workers in Europe" (carried out by the Department of Work Science, Göteborg University, and co-funded by the European Community under budget heading 04 03 03 01 "Industrial relations and social dialogue"). The project aimed to evaluate the representation of agency workers in Europe and to explore their engagement in social dialogue and with trade unions. The preliminary results of the project had shown that there was a great diversity of situations, that it was difficult for temporary agency workers to have access to trade unions and that the question was which would be the right balance of representation within the triangular relationship (worker-agency-client).

In the following exchange of views, both Eurociett and UNI-Europe underlined that compared to other sectors where one could find a triangular relationship (subcontracting in the restaurant sector for instance), temporary agency work was not a sector of activity, but an employment status. One should therefore not mix these different categories. The Astrées' representative stressed that the main question of the research was how these workers were currently represented.

## **6. Update of information by the Commission**

Mr Feenstra (DG EMPL, Labour Law Unit) gave a detailed overview of recent case law of the ECJ, in particular the Viking and Laval cases (C-438/05, C-341/05, concerning the compatibility of the fundamental right to take collective action in view of protecting workers' rights with the economic freedom enshrined in the EC Treaty ) and the Rüffert case (C-346/06, precluding a Member State from adopting a measure of a legislative nature requiring the contracting authority to impose on foreign service providers/contractors for public works contracts the respect of conditions laid down in a collective agreement which has not been declared universally applicable in force at the place where those services are performed). Another ECJ ruling related to the question freedom to provide services/posting of workers was expected for 19 June (COM v LUX C-319/06<sup>2</sup>). Here, the European Commission argued that Luxembourg's current labour legislation was not in line with the Posting of Workers Directive because Luxembourg interpreted too widely the term "public policy provisions" when bringing all their labour law regulations under that term.

The Viking and Laval cases did not contain anything specific on temporary agency work. However, temporary agency work was often referred to in the context of posting of workers given that "fictitious agencies" existed. This problem could be tackled through better administrative cooperation. Both sides of industry confirmed their willingness to fight against fake agencies and announced that they would set up this year a European Observatory on cross border activities within temporary agency work (as announced in their work programme 2008-2009).

As far as the setting-up of a High-Level Committee in the field of posting of workers was concerned (see Commission Recommendation of 3 April 2008 (2008/C 89/11), Mr Feenstra indicated that in June the Council would probably invite the Commission

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<sup>2</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62006J0319:EN:HTML>

to set up a committee. This committee of experts should formally and regularly involve the social partners, in particular representatives of the social partners in sectors with a high incidence of recourse to posted workers<sup>3</sup>.

The Commission representative also informed the meeting that the political discussion on the draft directive on working conditions for temporary agency workers would start in Council tomorrow and updated the participants on the ratification process of ILO Convention 181.

## **7. Promotion of national sectoral social dialogue**

Due to the lack of time, the parties decided to postpone the tour de table on each Member State. As far as the organisation of a round table in Bulgaria was concerned, UNI-Europa proposed Eurociett to take over the initiative because from the trade union's side, they had not received any news. Eurociett confirmed its interest in organising the event with the help of TAIEX.

## **8. Any other business**

Planned meeting dates for 2008 (tbc): 23 September, 3 December (plenary meeting)<sup>4</sup>.

Eurociett proposed to identify three new best practice cases on decent work, non-discrimination and equal treatment for the next meeting. UNI-Europa suggested in addition to put the already known cases on paper for dissemination.

As far as the ILO Convention was concerned, Eurociett announced that an ILO office workshop would take place in October in Turin to which Ciett and UNI-Global were convened.

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<sup>3</sup> See [http://www.eu2008.si/en/News\\_and\\_Documents/Council\\_Conclusions/June/0609\\_EPSCO-admin\\_cooper.pdf](http://www.eu2008.si/en/News_and_Documents/Council_Conclusions/June/0609_EPSCO-admin_cooper.pdf)

<sup>4</sup> The plenary meeting took place on 5 November 2008.

*List of participants 27 May 2008*

<p><b>Employers:</b></p> <p>F. Aerden (BE) T. d'Avezac (FR) M. Delbar (PL) A. Fairweather (UK) R. Henseler (DE) A. Muntz (NL) D. Pennel (BE) B. Roch (FR) J. Tzanidaki (NL)</p>	<p><b>Workers:</b></p> <p>K. Achholt (SE) M. Boton (FR) S. Dandemar (SE) M. Fernandes (ES) E. Lambert (BE) M. Leroy (BE) U. Mack (DE) M. J. Martin Sánchez (ES) J. Michiels (BE) L. Mulligan (IE) M. Nuyten (NL) J.-L. Tolomio (FR) S. Toth (HU) F. Warneck (BE)</p>
<p><b>European Commission:</b></p> <p>E. Durst (DG EMPL/F/1) S. Feenstra (DG EMPL/F/2)</p>	<p><b>Others:</b></p> <p>J. M. Soulodre (FAS-TT) A. Peters (IDEA Consult) C. E. Triomphe (ASTREES)</p>