



Brussels, 10. August 2018

**SECTORAL SOCIAL DIALOGUE
COMMITTEE RAILWAYS**

Minutes of the Working Group Meeting

10 April 2018

I. Working Group: Employability and Equal Opportunities

The meeting was chaired by Ms. Maria Cristina Marzola.

Mr. Rohrman and Ms. Pfaff were excused by Ms. Caldana.

The agenda of the meeting and the minutes of the previous meeting (working group meeting March 2017) were adopted.

Ms. Marzola welcomed Ms. Clio Liégeois, chair of the management board of the European Rail Agency (ERA) and Ms. Oana Gherghinescu, member of the corporate management and evaluation unit of ERA. Both were invited by the social partners to join the discussion around equal opportunities and the fight against violence against women in transport.

1. Women in Transport – EU Platform for Change

Ms. Sophie Marin-Combeaud (DG MOVE) presented the ‘EU Platform for Change’ (ppt), a Commission initiative to strengthen the role of women in transport related professions. Considering the limited legal competence in the area and that many problems are linked to culture and image of certain activities, the Commission has chosen an action-oriented and participatory approach. An important element of the platform is the exchange of experience, therefore the participants are encouraged to put any activities which have a measurable positive impact on the employment of women in the transport sector on the platform (‘SMART’¹ actions). The idea is that the activities on the platform will also be monitored so to be able to assess whether they deliver the

¹ Specific; Measurable; Achievable ; Realistic; Time-bound.

expected outcome. Before an activity is put on the platform the other members will have the possibility to get an understanding of it and shall have the possibility to object or ask for clarifications, e.g. in case the activity is not sufficiently SMART. This is not to be understood as a formal assessment process. The platform shall not include activities which ended before the launch of the platform. Ongoing activities, which meet the platform criteria are welcome to be put on the platform. Activities which are not SMART, but could be interesting, can be provided as best practice examples and can as such be integrated in another part of the online platform.

The members of the platform are predominantly EU-level organisations or Member States, which are then supposed to coordinate and link with national level organisations, so to facilitate the management of the platform. The Commission will invite the members of the platform to regular meetings to exchange and discuss.

The platform links with other gender-related initiatives in particular the initiative to improve Work-Life-Balance and the EU action plan to tackle the gender pay gap.

- The Work-Life-Balance initiative was launched in April 2017 under the responsibility of DG Employment and proposes a non-transferable paternity leave of (at least) 10 days and parental leave of (at least) 4 months (non-transferable) and a minimum of 5 days/year carers' leave – all of these leaves are to be compensated (at least) at sick pay level. Furthermore a right for parents of children up to 12 years and for carers to reduced and flexible working time arrangements. Once Council and European Parliament have agreed on their opinion on this draft directive, discussions between Council, Parliament and Commission (trilogues) will start, to arrive at a proposal which is agreeable for all three – hopefully before the end of this mandate of Parliament and Commission.
- The Action Plan against the gender pay gap was published in November 2017 by DG JUST. Following the still ongoing evaluation, the Commission will decide whether it will take legislative action.

Ms. Caldana highlighted that the participation in the platform for change constitutes for the SSDC Rail a part of its work-programme, which means there is a willingness to propose joint actions to the platform. Asked for the long-term planning Ms. Marin-Combeaud explained that the next meeting of the platform will be on 11 June 2018 and on 27 November a big 1st anniversary event will take place.

The social partners jointly pointed out that the first joint results aiming at a better inclusion of women in the rail sector are a project on Women in Rail and linked to that recommendations and a good implementation guide from 2006. The social partners considered their activities in the area as potentially interesting and inspiring for other transport sectors. They offered to present them at one of the next platform meetings and explained their interest to include them into the collection of good practices. Ms. Marin-Combeaud welcomed these suggestions. She also pointed out that the efforts of the sector to collect data via the annual survey was highly interesting, considering the general scarcity of meaningful data in that area.

Ms. Liégeois and Ms. Gherghinescu referred to the ongoing efforts of ERA to improve the gender balance within the sector in general and in the agency in particular. They highlighted the importance of the information on the quality of jobs held by women, which the survey provides. They praised the integrated approach to gender equality which is undertaken by the sectoral social partners. They invited the social partners to

contribute to a joint concept for the presentation at the InnoTrans Fair in September. Social partners were interested to look into that proposal.

2. Women in Rail survey 2018

It was recollected that the survey primarily aimed at an understanding of the role of women in technical professions, that the upcoming survey will be the 5th one and that the proposal to revise was discussed at previous meetings. Following the annual change of responsibility for the survey, in 2018 CER is responsible and Ms. Kürzl, on behalf of ÖBB will take care of the work. The version communicated before the meeting was the result of discussions with colleagues and experts, taking into account the different aspects, such as continuity, clarity, length etc. Ms. Kürzl wondered whether the survey should also try to collect best practices. Ms. Zlatkova, representing ETF, stressed that it would be important for ETF to not change the survey except for technical clarifications.

Following a short exchange of views detailed discussions were transferred to a smaller working group.

Concerning the newly proposed section 3 of the questionnaire, CER stressed that this was based on the recommendations. ETF accepted the questions in section 3 (involvement of workers representatives in designing and setting up equal opportunity measures and also the question for female trade union representatives in supervisory bodies of companies). Sections 4 and 5 as far as they ask for the role of women in sector related trade unions were rejected by ETF, arguing that this would make the questionnaire longer and more complicated to respond to. CER and ETF agreed, that this part of the questionnaire would need to be completed by the relevant trade union(s) (i.e. management could not respond). While CER stressed that the representation of women in trade union bodies was also interesting for companies' equal opportunity strategies, ETF argued that this would require additional resources which were not available at the moment.

3. Review of the Joint Recommendation 'Better Integration and Participation of Women in the Rail Sector' – getting started

This review process is part of the work programme. The process as such shall take place in a small ad hoc working group with 3 representatives from both sides. The working group will inform the committee about its work.

Ms. Marzola recalled the work of the Committee on gender equality in the sector as from 2004 on and presented suggestions for a way forward and for objectives of this process (see ppt).

As the presentation was not shared before the meeting, no reaction on substance was expected. ETF indicated that on their side Daniela Zlatkova and Maria Cristina Marzola were members of the working group. The third member, ideally a male colleague, would still need to be identified.

On behalf of CER Ms. Caldana thanked for the presentation. She understood that ETF envisaged to consider during the review process not only the text of the joint recommendation but also the material collected and signaled that such broader approach was also discussed within CER. She indicated that for CER the choice of the instrument

would only be made once the analysis was completed. CER is in discussion with its members who would be interested and able to contribute to the topics newly identified in the new workprogramme (employability project and revision of this recommendation). Names should be identified soon.

4. ETF-report: Violence against women at work in transport

Ms. Zlatkova presented (see ppt) the results of a study launched by the ETF Women Committee and finalized in May 2017. The report is based on a survey which received 1444 responses, about half (708) of them from the railway sector. The report demonstrates that violence against female staff comes mainly – but not only – from the customers. In a considerable number of cases, also colleagues and superiors did such things. Particular important: often female colleagues did receive no or non-satisfying support in case they reported such incidences, on the contrary they were discouraged. Leading to a desperate situation and poorer performance of these women.

Based on the study ETF has recommended to lobby for the ratification of the Istanbul Convention by all Member States; for an ILO convention on ‘Violence and harassment against women and men in the world of work’ and to take up the topic in the social dialogue.

She invited the members of the Committee to have an in-depth look at the study and the supplementary report. While the main report provides a rather analytical overview of the situation, the supplementary report illustrates the problems referred to with concrete examples.

CER thanked for the presentation, confirmed the relevance of the topic also indicating that the Women in Rail survey is already touching on the topic.

In this context Ms. Marzola also recommended EU Recommendation 131/1992 for reading, which includes practical elements how to prevent and avoid sexual harassment at the workplace.

5. A.o.B

Ms. Marzola asked Ms Caspar to provide at the next meeting an update on relevant gender-related policy developments in the Commission.

Mr Gobé and Mr. Aufrère informed about the situation of workers in the railway sector in France and the reasons for the ongoing strike. The national railway undertaking is about to be transformed into a société anonyme, following decrees (ordonnances). The trade unions perceive this as privatization without adequate political discussion and it is expected to have a negative impact on the working conditions and on the number of jobs. Furthermore, the trade unions see themselves as the victims of a disinformation campaign, which aims to discredit their activities towards their clients and the broader public.

The trade unions have formed a common platform to work together. They have jointly organized the ongoing strike. Referring to a judgement of the European Court of Justice from 26/05/2016 (concerning a French energy company) they argued that European

legislation should not be misunderstood as obliging Member States to privatize the provision of a service.

6. Joint Recommendation on the Concept of Employability in the Rail Sector – discussion on a project proposal

The new work programme foresees to set up a joint project related to the review of the joint recommendation which the sector adopted in 2007. In the work programme it was agreed that beyond the text of the recommendation as such the impacts of digitalization and automation on the rail sector should also be considered. This enlarged scope was an explicit request by ETF.

CER had agreed to put together a first draft, which they expected to share with ETF soon. So far, CER plans to develop employability into a framework concept and consider digitalization and automation as trends, which have an impact on this employability. The topic is part of the CER work programme, indicating that CER is motivated to work on the project. So far it is not yet decided which CER members will be actively involved in the project work.

Ms. Trier confirmed that employability as such was not a ‘hot topic’ for ETF and its affiliates, whereas digitalization, automation and the impact these processes might have on employment and workers are. While acknowledging its limitations, she wished for an inventory of (upcoming) technologies. She agreed that putting digitalization/automation into the perspective of employability might lead to an interesting, potentially even innovative approach. She considered it important to link between this project and the Shift2Rail initiative. A further specific suggestion on the union side was to pay attention to the way in which new technologies are introduced, as depending on the way of implementation consequences and acceptance of new technologies might differ.

In the 2007 recommendation, ETF saw four main elements decisive for employability: a) a preventive HR policy, b) skills and qualifications, c) health and safety at work and d) a social dialogue approach. A priori these elements seemed to ETF still relevant. On the other hand warned ETF against an approach towards digitalization/automation, which sees it only as tools to cut costs, arguing that this would neither be in line with the idea of social dialogue nor improve the quality of the service towards the customers.

ETF and CER assured each other to respect the different starting points and aim at a joint product valuable for both sides. The secretariats will continue to work on the project proposal.

II. Working Group: Adaptability and Interoperability

The meeting was chaired by Barbara Grau. The minutes of the previous meeting and the agenda of this meeting were adopted.

1. Update on the project ‘Rail Mobile Workers’

Ms Caldana informed the working group about the state of the project. It has proven to be a complex task to analyse the application of the agreement. The final report will consist

of a legal and a scientific part (market analysis). For both parts draft final reports are almost available.

The market analysis concludes that the proportion of workers concerned by the Directive has remained at the low level identified in previous studies. It can, however, be expected that with the changes in the legal environment and more cross-border traffic the figures will increase in the future.

The legal analysis shows that the clauses of the agreement are implemented in different ways at the national level and with very diverse rules on the ground. In some cases, national social partners agreed on standards below those defined in the Directive. This came at least partly as a surprise to ETF and CER and raised a need for further discussion, potentially a clarification of some definitions or guidance on how to interpret those provisions.

Where it is not the social partners but public authorities (labour inspectorates) to monitor compliance, such monitoring is missing. Along this line, ETF was also disappointed about hardly being able to involve authorities (NSA's, labour inspectorates, labour ministries) in the project (despite efforts undertaken by CER and ETF).

It was agreed that the draft conclusions of the project should first be discussed in the project steering group. The steering group will have two meetings to agree on the conclusions and on next steps.

ETF and CER agreed on the importance and usefulness of the project.

Ms Trier raised the issue that cooperation with the legal experts was frequently disappointing as interesting questions were not answered, but considered as too complex to respond to within the assignment.

2. ERA presentation of ongoing and planned work with relevance for railway personnel

Mr Mette (ERA) informed about a survey to the railway companies which was about to be launched as part of the 'rules cleaning up programme' (ppt). The rules cleaning up programme targets national legislation and aims to avoid that national differences hinder interoperability. In case national legislation is identified as redundant or not meeting the requirements, the Member State will be asked to revise or repeal the rules in question. The final report is expected to be ready by April 2019.

He focused in his presentation on rules concerning staff executing safety-critical tasks as the topic of direct concern for the social partners. He explained that the exercise might also allow discussing the links and relationships between the rules of public authorities and the safety management system at company level.

During the discussion, Mr Mette highlighted the need to distinguish rules concerning the competences of the personnel from those related to the operation. He clarified the scope of this initiative, informing that it will neither resolve problems concerning the non-implementation of minimum standards set by the TSI's, nor that ERA would be in a position to draw political conclusions. He reiterated that the main purpose of the initiative was to provide an inventory of the situation, as it is also in view of the question

to what extent rules are already harmonized and/or whether further harmonization would be desired.

Asked whether the NSA's monitor the working time in rail companies, Mr Mette replied that a team within ERA is preparing for pilot data collection to enter into monitoring NSA's activities. He also highlighted, that for working time the NSAs are not formally responsible (it is the labour inspectorates), still the NSA has to monitor the SMS (safety management system), which in turn is important for the safety certificate. While stressing that the work on monitoring NSA's is only in preparation, he confirmed that it would be the company for which e.g. a train driver is driving which has to take responsibility and submit the certificate and not the agency. This responsibility could not be moved to a temporary work agency e.g. in the case of a temporary agency worker.

The questionnaire will be sent to the representative bodies, CER and ETF, who are asked to follow-up. Mr Mette stressed that for him the broad reasoning of the social partners would be particularly important and agreed to be available for further discussions with CER and ETF.

III. Final remark

At the next working group meeting the group 'Adaptability and interoperability' will start the meeting, employability and equal opportunities will be for the afternoon.

Participants

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| <p>Employers 10 (3 ♂, 7 ♀)</p> <p>CER Ms Busschots (BE) Ms Caldana (CER) Ms Grau (FR) Ms Kürzl (AT) Ms Lang (CH) Ms Lemut (SL) Ms Sciola (IT) Mr Svetkovsky (CZ) Mr Vollmuth (DE) Mr Wojciechowicz (PL)</p> <p>EIM --</p> | <p>Workers 13 (6 ♂, 7 ♀)</p> <p>ETF Mr Aufrere (FR) Ms Carstens (DE) Mr Gobé (FR) Mr Komiljovics (HU) Mr Martin (BE) Ms Marzola (IT) Ms Mindum (HR) Ms Rathgeb (AT) Ms Rolle (IT) Ms Trier (ETF) Mr Tschigg (IT) Mr Zlati (HU) Ms Zlatkova (BG)</p> |
| <p>European Commission Ms Caspar (EMPL) Ms Marin-Combeaud (MOVE)</p> | <p>ERA Ms Liégeois Ms Gherghinescu Mr Mette</p> |

