



Brussels, 21 March 2016

**SECTORAL SOCIAL DIALOGUE
COMMITTEE RAILWAYS**

Minutes of the "Employability & Equal Opportunities" working group meeting

23 February 2016

The meeting was chaired by Ms. Maria Cristina Marzola (ETF/FILT-CGIL), chair of the working group.

1. Adoption of the agenda and of the minutes of the meeting on the 9 October 2016

The agenda was adopted and the minutes of the meeting on 9 October 2015 were approved. CER informed that, following new professional obligations of Ms. Viktoria Kalass, Ms. Sandra Pfaff will be the rapporteur (on CER side) for this working group.

2. On-going evaluation of the Train Drivers Directive and proposal about revision of Annex VI on language requirements

This agenda point, originally foreseen for WG I, was for timing reasons transferred to the afternoon session.

Ms. Mihaela Williams (DG MOVE – see ppt) explained that stakeholders had called on the Commission to come up with a proposal to revise Annex VI of the Train Drivers Directive (TDD). The revision shall provide the possibility to exempt train drivers going to the first station behind a border from the B1 language requirements.

Following two rounds of consultation with the Rail Interoperability and Safety Committee (RISC) and a positive opinion of the RISC, the draft proposal for revising Annex VI is now subject to the regulatory procedure with scrutiny by European Parliament and Council, which is foreseen to end in April. The formal adoption of the proposal by the Commission is foreseen for May 2016.

DG MOVE confirmed that in the proposal there is no exact definition of the first station behind the border. Moreover, the discussions in the RISC also showed the need for further clarification of some issues. Internal discussions e.g. with ERA and the Legal Service are aimed at seeing whether and how to provide clarifications on the raised issues.

Issues going beyond the current proposal for the revision of Annex VI, such as the language requirements in general are addressed during the on-going evaluation, which covers all the elements of TDD.

In parallel the evaluation of the TDD is ongoing. Depending on its outcome, the revision of TDD might follow. The work done and the reports produced by ERA will be taken into account during both evaluation and possible revision of TDD. In the context of the TDD evaluation, a public consultation will be launched in the coming weeks¹ with the aim of collecting views from all interested parties on what works well and what needs to be improved with regard to the certification scheme for train drivers. Stakeholders as well as any interested citizen are invited to complete the questionnaire; position papers from stakeholders are also welcome. DG MOVE considers the possibility of a workshop with stakeholders after the end of the consultation. The reports produced by ERA and the feedback received through the consultation process will feed into an evaluation report from the Commission, which is foreseen to be published as a Staff Working Document in the 3rd quarter 2016. Following this report, the Commission will decide whether to revise the TDD, a process which would need to be accompanied by an Impact Assessment and would indicatively take till around end 2017, before a revised piece of legislation could be proposed by the Commission.

DG MOVE indicated that the feedback received during the open consultation will be assessed very carefully, considering the quality of the issues put forward as well as the weight and importance of the respondent, also stressing that statistically speaking no weighting of the answers is possible. The social partners and in particular ETF highlighted the specific role of social partners and that the existing Directive originated from a social partner agreement. Social partners expressed the expectation that they would be given particular attention and be involved in the process from the very beginning. DG MOVE offered to check the possibility for a specific exchange of views with the social partners.

3. 4th Railway Package: State of the trilogue discussions, including the state of the art of the social aspects and the protection of staff in case of change of railway operator

Mr. Jan Scherp from the legal unit in DG MOVE, which is responsible for the PSO proposal of the 4th Railway package, presented the state of play of the negotiations of the market pillar following the 5th meeting of the Trilogue. The Trilogue discussions started in October 2015 and are expected to finish at a next meeting (probably) in March 2016.

The market pillar of the 4th Railway package is composed of an amendment of the PSO-Regulation (Regulation (EC) 1370/2007), an amendment of Directive 2012/34/EU, the so called Rail Recast Directive and a repeal of Regulation (EEC) No 1192/69 on common rules for the normalization of the accounts of railway undertakings.

Concerning the PSO regulation there remain a number of open issues:

¹ The public consultation has been launched on 3 March and will be open till 27 May 2016: http://ec.europa.eu/transport/modes/rail/consultations/2016-train-drivers-certification_en.htm

- a) Specification of provisions on public service obligation: while Parliament and Commission consider it necessary that competent authorities undertake a consultation before issuing a PSO Council does not.
- b) On direct award in case of exceptional circumstances an agreement can be found around the following elements: stipulating that the maximum duration should be proportionate to the nature of the exceptional circumstances addressed (max. 5 years) and that no repetitive use should be made of this instrument.
- c) Access to rolling stock: the competent authority has to assess whether non-discriminatory access to rolling stock is provided. The open question being, whether this assessment should be published, as requested by Parliament and Commission. An obligation to take measures is no longer under discussion. The text contains a list of possible measures.
- d) The transition period proposed by the Council (directly awarded contracts could last up to 2042 in extreme cases) is considered as far too long by Commission and Parliament.
- e) On the social provisions, Council offered to propose text for recitals aiming at the clarification of the existing rules, which are considered as sufficient by the Council. These recitals should also encourage competent authorities to assess whether measures of staff protection are needed. The S&D group of the Parliament proposed to require in the case of a change of contract a mandatory transfer of staff and the application of the Transfer of Undertakings Directive (Council Dir 2001/23/EC). The legal feasibility of this proposal was considered problematic. Neither Council nor Commission supported this initiative. The rapporteur had committed to present compromise proposals on this issue for the next Trilogue meeting.

Mr. Scherp concluded this part of his presentation by indicating that the social provisions and the duration of the transition period are in his views among the issues most difficult to find an agreement on at the next meeting.

For the governance pillar, the discussion on social issues is advanced. Agreement in principle has been reached on the idea to have social aspects not only included in the recitals but also some in the articles and in particular on:

- a) Compliance with binding collective agreements (where they exist) should become a requirement for licensing (Art. 19 of the Rail Recast Directive)
- b) The need for certification of on-board staff should be dealt with in the revision of the TDD – whereby it is not yet clear whether this shall be done in the recitals or in the Articles.
- c) The Directive will have recitals underlining the importance of sectoral social dialogue in rail at the EU-level and ensuring that market opening takes place under socially acceptable conditions.

Ms. Williams clarified that Article 28 of the current TDD refers to ‘other crew members’. Following the report drafted by ERA, this issue was not further pursued; the public consultation in the context of the TDD evaluation will touch upon the certification of other crew members.

During the following discussion Mr. Scherp confirmed that exceptional circumstances are only one of several possible reasons to allow for direct award. It was clarified that in the case of direct award for reasons of better performance the question whether an

independent validation by a rail regulatory body (as requested by the Parliament) would have to take place had not yet been decided.

ETF stated that mentioning social criteria in the recitals of the PSO only was not considered a serious proposal by the trade unions.

ETF explained that already in the current regime, competent authorities had the possibility to require the acquired rights directive to be applied. Subsequently it was expected that a revised PSO regulation should allow that such application should in the future be possible irrespective of an amendment of the legislation. DG MOVE responded that the EP legal service considered that moving in EU legislation from the optional application of Council Dir 2001/23/EC towards a mandatory application is seen as not foreseen extension of the scope of the directive, i.e. modifying a generally applicable legal act (Dir 2001/23/EC) by sectoral legislation (PSO regulation). ETF responded that the request was not to make it mandatory, but to provide a choice between the application of social standards or of Dir 2001/23/EC. The discussion ended by identifying that the paper provided by the S&D group required a mandatory application of Dir 2001/23/EC.

4. Women in Rail

a. Presentation and discussion of the results of the Survey 2015 and preparation of the survey 2016

Mr. Borkelmans (CER/SNCB) thanked the companies who had contributed to the survey and presented the results of the annual survey on the development of women's employment in the European railway sector (see ppt).

Following the presentation, some of the findings were put in question. Also some of the changes between years did not seem plausible to the national delegates. The slide on women in part-time was difficult to understand.²

Good examples were considered useful elements to help promote gender equality. However, some examples, such as the one from FS Group on general equal opportunity measures were not found suitable, by the national representatives and should be replaced.

The low response rate to the survey was very much regretted as well as the fact that the survey does not give the impression of much progress. Altogether the discussion arrived at the conclusion that the regular monitoring of the situation of women in the sector is important, however the survey as it was run recently does neither allow for clear conclusions nor does it allow for convincing time series.

CER agreed to prepare a short report on the survey, which should also help to better interpret the results. The social partners will jointly discuss how an interesting press release could look like.

² It also seems that different respondents might have understood the question differently: in the case of Belgium it seems realistic to assume that 21% of the women work part-time then to assume that 21% of the part-time workers are women. While for the managerial staff in Sweden it seems unrealistic to understand that all women with managerial tasks work part-time. Instead the meaning seems to be: looking at the part time workers with managerial tasks, all of them are women.

In the discussion it was highlighted that this activity should be linked with the priority of Csr. Bulc to promote women in transport; therefore the Committee intends to bring the survey – potentially building on the press release – to the attention of Csr. Bulc.

Ms. Zlatkova (ETF) will take care of the 2016 survey. ETF requested to consider including questions on harassment at work and gender-based violence in the 2016 questionnaire.

b. 'Strategic engagement for gender equality 2016-2019: information about the state of play

Ms. van Nistelrooij, DG JUST, presented the Commission's strategic engagement for gender equality (see ppt). She focused in her presentation on the first three priority areas (female labour market participation, reducing pay gap and equality in decision making). Different from previous documents this time the Commission had decided to publish a staff working document, which allowed being more concrete.

5. Follow-up of the discussion on security of railway staff and third party violence

Following the advanced time, the members of the committee were referred to presentation on third party violence and the summary of responses to the survey which were circulated to the members in advance. There was common understanding that this is an important topic. It was also agreed that the information provided for different countries was probably not (fully) comparable, e.g. indicating that in some countries the awareness of the problems is more developed than in others. Also the link between interventions and changes in registered incidences remains unclear, including the possibility that interventions can lead to a reduction but also to an increased awareness and reporting. Issues consensually identified: a need for a better understanding the situation; the potential of prevention and development of instruments to deal with aggression.

The committee also recollected discussions about ERA's involvement on that topic, recognizing that for the time being ERA's legal basis foresees only a role in the area of safety but not for security. However, the potential for ERA to contribute to prevention might need to be checked again.

It was concluded that the topic 'security of staff and passengers' should be kept on the work programme of the committee.

6. Information points

Ms. Caspar briefly informed that Eurofound's national correspondents had provided their national contributions to Eurofound and that the contractor and Eurofound were revising those. In early April Eurofound will inform EU level social partners about the national contributions and provide them with the possibility to comment. A draft final report is scheduled for June and could be presented and discussed at the plenary meeting of the committee in June. The increased attention given by the Commission to questions around representativeness was again highlighted.

CER and ETF plan a meeting to further substantiate the re-launch of the sectoral social dialogue in Rail for 23/03.

Two events of potentially high importance for European Social Dialogue are scheduled for March:

- The launch of a consultation around a European Pillar of Social Rights (8 March 2016 - http://ec.europa.eu/priorities/deeper-and-fairer-economic-and-monetary-union/towards-european-pillar-social-rights_en). Based on a number of documents the Commission consults broadly up until end 2016. To that purpose a former Director General of DG EMPL, Mr. Alan Larsson, has become special advisor to President Juncker, with the specific task to coordinate the consultation.
- The next Tripartite Social Summit (16/03/2016). This event is to be seen as an occasion to take stock of the achievements following the 'new start for social dialogue'.

Participants

<p>Employers 11 (5 ♂, 6 ♀)</p> <p>CER Mr. Borkelmans (BE) Ms. Caldana (CER) Ms. Grau (FR) Ms. Kürzl (AT) Ms. Lang (CH) Mr. Rohrman (DE) Ms. Tomassini (IT) Mr. Wallin (NOR) Mr. Wheale (UK) Mr. Wojciechowicz (PL) Ms. Zembaha (LT)</p>	<p>Workers 16 (9 ♂, 7 ♀)</p> <p>ETF Mr. Aslaksen (NOR) Mr. Aufrere (FR) Ms. Carstens (DE) Mr. Gobé (FR) Mr. Greivelding (LU) Mr. Lopez Castro (ES) Ms. Marzola (IT) Ms. Mindum (HR) Mr. Pejza (CZ) Mr. Piteljon (BE) Ms. Romanova (CZ) Mr. Tauchner (AT) Ms. Trier (ETF) Mr. van der Velde (NL) Ms. Villa Diez (ES) Ms. Zlatkova (BG)</p>
<p>European Commission Ms. Caspar (EMPL) Ms. Williams (MOVE) Mr. Scherp (MOVE) Ms van Nistelrooij (JUST)</p>	