



Brussels, 2 October 2018

**SECTORAL SOCIAL DIALOGUE
COMMITTEE
TEMPORARY AGENCY WORK**

Minutes of the plenary meeting of 2 October 2018

Final

1. Adoption of the agenda

The agenda was adopted. Point 6 is postponed to the next meeting.

2. Approval of minutes from the last meeting (15 May 2018)

The minutes were adopted following a correction in the name of a participant.

3. Presentation and adoption of the EU sectoral social dialogue work programme 2019-2020

Mr. Delfosse, chairman for the employers' delegation, explained that the two delegations discussed and agreed on a new, more interactive format for future meetings, including more presentations from experts and discussion on the content. Mr Freytag presented the main chapters of the proposed work programme. The draft text was circulated to all participants before the meeting and drafting changes were exchanged and discussed. The work programme picks up from past activities in relation to sections 3 and 4, but new items have been added. The drafting changes were agreed, namely to keep the sentence on the option of derogations on page 3 but add the following phrase *"the social partners will monitor the principles of equal treatment and equal pay as articulated in and between the member states. This can lead to further studies on the issues at hand"*. BREXIT will be mentioned in the introduction and in section 4, but not as a separate sub-point. The work programme will reflect on policy and political developments and be reviewed at the end of 2019. Drafting will be finalised in written procedure and the final work programme will be send to the EC for publication in the database for EU social dialogue.

4. Tour de Table on national agency work regulation, collective bargaining and recent developments in the national sectoral social dialogue, including a special focus on the Netherlands, Italy, Norway and Spain.

In IT, there has been an important development influencing the negotiations for a new collective agreement. A ministerial decree converted into law (August) has muddled the rules to be applied between the general discipline of the fixed term work legislation and this new TAW legislation. The new law touches upon the maximum duration for TAW contracts, now set at 12 months extendable to 24 months in justified circumstances which however only applies to the user company and not to the TAW agency. Further, sanctions have been introduced and other

measures taken. A circular of the Ministry of Labour is anticipated in order to clarify the rules that apply. Both sides (employee and employer representatives) expressed concern and agreed that workers will suffer the most from this legal uncertainty. Ms. Barrero Florez from the labour law unit of DG EMPL underlined that her unit follows developments at national level, and DG EMPL will check that there is consistency between the new national legislation is in line with the EU acquis.

The Norwegian member also updated on a new agreement which results in less flexibility for companies and undermines the function of TAW as a stepping stone into employment. Ms Colclough highlighted that this may also push more workers into the platform economy.

In ES, a pre-agreement has been achieved for an agreement effective as of 19 October. Joint actions will be pursued to give workers more rights.

DK employers informed about the new collective agreement on platform work. The agreement was signed by a main trade union in Denmark. It is a standard CLA with the platform assuming employment status for the workers. This is likely to have an impact on the TAW industry and is monitored closely.

5. Follow-up on the joint project on "Online talent platforms, labour market intermediaries and the changing world of work"

-Feedback from the pan-European Conference to launch the project results

-Update from the World Employment Confederation Europe on the related discussions at the ILO-ITC Young professionals academy, at the EU council presidency conference on the digitalisation of the world of work and on other dissemination activity

-discussion among social partners on the project follow-up and dissemination activities

Mr. Freytag provided feedback from the pan-European conference on online talent platforms. The social partners are active in disseminating the results of the project respectively. The project has had a positive uptake and the discussions will continue with a follow-up within the social dialogue committee. Ms. Colclough referred to an interesting report by the ILO on the rise of non-standard employment and bogus self-employment. UNI Global Union is conducting work in Latin America, in relation to youth employment, temporary agencies and platforms, and will continue flagging the topic for a level-playing field in regulation. Mr. Pentenga referred to the work carried out in the Netherlands on platform work (status of employer for ABU).

6. Information from Eurofound (Barbara Gestenberger, Head of Unit Working Conditions - TBC) on features and possible sectoral profiles based on European Working Conditions Survey - Eurofound letter to sectoral social partners of 6th June 2018

Postponed

7. Application for joint project on "Social Innovation in the temporary agency work sector"

- Presentation of the project application submitted

- Information on the expected timetable to assess the replies to the call for proposals and the potential launch of the project (if funding is granted)

- Presentation of the Social Innovation map developed by the World Employment Confederation-Europe and discussion on social innovation practices developed at national level

Mr. Freytag presented the key objectives and main parameters of the new proposed joint project on social innovation. An application for EU funding has been submitted to the European Commission. The areas of focus include: access to training, access to social protection and the role of social partners and social dialogue in social innovation. If successful, the project will focus on expertise within the industry and on collecting best practice. It will be interactive and based on workshops. It will last 18 months. In Jan-Feb 2019, the work will focus on setting up the steering committee and selecting its respective members.

8. Updates from DG Employment on EU labour law dossiers

- Commission proposal for a Directive on transparent and predictable working conditions**
- Commission proposal for a Council Recommendation on access to social protection**
- Adoption of the revised Posting of Workers directive**

Ms. Barrero Florez from the working conditions unit of DG EMPL (B2) gave an update on the state of play of the proposal for a Directive on Transparent and Predictable Working Conditions. The Council adopted its general approach in June. Negotiations will now commence with the EP. There is pressure to agree before the next European elections in May. The EP EMPL committee is expected to discuss and hopefully adopt its report on 18 October. The adoption in the plenary will then give a mandate to the rapporteur to negotiate. The general approach of June differs from the Commission proposal on the following: definition of worker (refers to national definitions) and on exclusions to the personal scope from the directive which are however not supported by the Commission (precarious work also exists in the public sector i.e. for seafarers and fishermen). The enforcement chapter will undergo some technical clarifications but the main principles remain.

A discussion took place on the definition of a worker by the ECJ. Ms. Barrero Florez highlighted that the definition will apply (ECJ rulings) irrespective of whether it is included in the final directive or not.

Ms. Lucie Davoine from the access to social protection unit of DG EMPL (C2) briefly recalled the content of the Commission's proposal for a Council recommendation and presented the state of play. The proposal is currently being discussed at the social questions working party. Its overall objective has been well-received by the Member States but discussion is on-going on specific content. She recalled the four chapters being discussed: formal coverage, effective coverage, adequacy and transparency. She recalled that the proposal is based on an overall mapping of existing gaps and a review of systems in place, as well as on a behaviours study carried out.

On the posting of workers directive, Ms. Hadjianтони referred to the adoption by the Council on 21 June of the revision of the directive. Mr. Freytag mentioned that WEC-Europe participates in the expert committee on the posting of workers supporting the Commission's work. The social partners are happy to contribute with any information which may help with the implementation of the directive.

9. Any other business

The dates of next year's meetings will be circulated by email.



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 TEMPORARY AGENCY WORK**

List of participants 2/10//2018

<p><u>14</u></p> <p><u>Employers (8♂, 6♀)</u></p> <p>Chair: Mr. Delfosse (BE)?</p> <p>Mr. Pennel (WEC-Europe) Mr. Freytag (WEC-Europe) Mr. Bonardo (IT) Ms. Bonnichon (FR) Ms. Lucas (ES) Mr. Tietge (DK) Ms. Van Lieshout (NL) Ms. Hagelien (NO) Ms. Zielinska (PL) Mr. Bart (CH) Ms. Elfgren (SE) Mr. McGinty (IE) Mr. Russell (UK)</p>	<p><u>16</u></p> <p><u>Workers (8♂, 8♀)</u></p> <p>Chair: Mr. Pentenga (NL)?</p> <p>Ms. Colclough (CH) Ms. Belhouchat (SE) Mr. Borghesi (IT) Mr. Colapinto (IT) Mr. Barila (IT) Ms. Riboni (IT) Ms. Garrido Sousa (PT) Ms. Grossinho (PT) Ms. Jakabowits (FR) Mr. Nassar (SE) Mr. Prieto (ES) Mr. Spiller (HU) Mr. Toth (HU) Ms. Zeman (AT) Ms. Hoffritz (DK)</p> <p>Speaker:</p> <p>Mr. Valerio De Stefano</p>
<p><u>European Commission</u></p> <p>Ms. Hadjiantoni (DG EMPL.A2) Ms. Barrero Florez (DG EMPL.B2) Ms. Davoine (DG EMPL.C2) Ms. Milo (DG EMPL.A2)</p>	