



EUROPEAN COMMISSION  
Employment, Social Affairs and Inclusion DG

Employment and Social Governance  
**Social dialogue**

**SECTORAL DIALOGUE  
COMMITTEE  
CIVIL AVIATION**

**DRAFT**

**Minutes of the Air Crew working group meeting**

**11 March 2016**

Chair: Michael Collins (workers)

**1. Adoption of the agenda**

The agenda was adopted with one more point regarding an exchange of views on Norwegian Air International (NAI) and possible actions (see point 4).

**2. Follow-up of the Joint Declaration against EU-based Flags of Convenience in Aviation (5 June 2014)**

ETF and ECA complained about the lack of response from the Commission to the SSDC Joint Declaration of 5 June 2014 and that Commissioner Bulc did not meet with the social partners before the adoption of the 2015 Aviation Strategy.

Regarding the follow-up to the Declaration, AEA pointed out to the evolving circumstances since 2014 and that a reflection about the home base to be defined as the real workplace is needed.

ETF also complained that DG MOVE and DG EMPL are not cooperating enough on those issues. DG EMPL responded that both services are cooperating well; however it could be improved if the social partners will address their requests to both Commissioners and inform the unit responsible for the SSDC.

The Chair regretted that despite the Commission's commitment to reinforce the social dialogue, the SSDC's Joint Declaration was not officially responded and stressed that the home base is very important as well as the principal place of business in order to protect mobile staffs (see point 6 for the follow-up).

**3. Presentation by ETF on a draft statement (notably on aircrews from third countries working on board of EU registered airlines, aircrew bogus-self-employment and the social dimension of the external aviation policy)**

ETF circulated the day before the meeting a draft statement to be adopted by the SSDC in response to the Commission's Aviation Strategy. The draft covers a range of issues regarding job and working conditions for air crew and includes some concrete proposals. AEA first comments related to the lack of concrete proposal regarding a single home base definition (modifying the 883/2014), social partners' positions should be more

precise on bogus-self-employment, address the concept of unfair competition and should also link with security issues. In addition, ECA pointed out that the role of social partners should be more concrete through consultative committees.

DG EMPL informed about two Commission's initiatives which touched upon the issues under discussion in the AC working group, the Communication from Commissioner Thyssen regarding the reform of posting of workers (adopted on 8 March 2016) and the launch of the social platform for undeclared work.

#### **4. Exchange of views on Norwegian Air International (NAI)**

ECA informed about the more recent concerns with NAI and the coming discussion on the authorisation of NAI at the next Joint Committee between the EU and US on April 19 on the implementation of the Air Transport Agreement. The social partners would like the Commission to address at this occasion the issue of social dumping. A draft text was agreed among the social partners to be sent to Commissioner Bulc and DG MOVE.

#### **5. Chapter 'Reinforcing the social agenda and creating high quality jobs in aviation' of the Commission 'Aviation Strategy for Europe'**

DG MOVE (Frederic Lagneaux) provided a presentation on the social aspects of the Commission's communication on the Aviation Strategy adopted in December 2015 (see slides).

The social partners took the opportunity of the presence of DG MOVE to complain about the absence of Commission's response to their Joint Declaration, the content of the Aviation Strategy and the lack of proper consultation of the SSDC.

They also underlined unfair competition between airlines; for instance the use by the low cost sector of letterbox companies which represents a threat to the whole EU aviation market. They asked clarifications regarding the use of third-country nationals operating on intra-European routes and transnational collective labour agreements.

They added that some airlines are not operating in line with EU laws, underlined the need to address the issue of applicable law regarding the "very mobile workers" and pointed to a problem of definition regarding the figures used by DG MOVE to qualify the proportion of self-employed in the aviation sector.

The Chair stated that accurate statistics for self-employment in civil aviation were not the issue and that this form of engaging staff was inappropriate for the sector.

The social partners are expecting: i) a formal answer to their Joint Declaration, ii) to be consulted on all Commission's initiatives having a social impact, iii) have the SSDC represented at the Market Access Committee / Expert Group (MAC/MAEG).

- DG MOVE replied that bilateral contacts are taking place with the social partners and that they would be in favour of continuing. When preparing the Aviation Strategy attention was paid to address the issues included in the Joint Declaration against EU-based Flags of Convenience in Aviation. On the Market Access Committee / Expert Group (MAC/MAEG), according to their rules of procedure, the social partners could only be invited on an ad-hoc basis which was the case twice in a total of four meetings.

- On the applicable labour law and third-country nationals working on board EU-registered aircraft, DG MOVE informed that DG HOME is preparing a revision of the

Single Permit Directive in 2016 and about the preparation by DG JUST of a cross-sector practice guide on Jurisdiction and applicable law in international disputes between the employee and the employer. As regards the statistics presented in the study on employment and working conditions in air transport and airports, these have been thoroughly checked and are correct, based on authoritative sources, including Eurostat.

## **6. Presentation by ECA on bogus self-employment**

This point was foreseen as part of the statement to be discussed under point 3. The main message is that the aircrews should be considered as employees. Based on the different judgements, ECA asks the Member States and the European Commission to take action and consider the presumption of employment (see slides). DG EMPL expressed some reserves regarding the definitions used in the slides.

ERA added that more emphasis should be put on the link between the employment status, business model and safety and quality perspective. By comparison with other hazardous sectors the proportion of self-employed in the nuclear industry is much lower than in the aviation.

Both employers' organisations supported a statement in that area. ECA and ETF will provide a draft letter to be signed by the Chair and Vice chair and sent to Commissioners Bulc (copy Commissioner Thyssen) as a single joint action. It was agreed that a Joint Statement on proposal to improve the situation of aircrews (notably from third countries working under an airline with an AOC from a member state, the concept of home and on the external policy) must be annexed to this letter. The Chair also informed that a meeting is planned with Commissioners Bulc in June. The social partners insisted that each social partner's organisation should be represented.

## **7. Social partners' project on legislative gaps and good practices linked to aircrews in order to protect quality jobs**

ETF orally presented suggestions for a project to be submitted under the call for proposals on social dialogue to be published in April 2016. The general idea is to improve the legal knowledge regarding a series of topics relevant for the Air Crew working group. AEA and ECA were in favour of a more targeted and concrete approach. ETF will present a written draft to the other social partners later on. The project needs to be supported by the Employer 'side and this would request contacts with the EU airlines associations.

## **8. AOB**

DG EMPL also presented the consultation on the social pillar launched on 8<sup>th</sup> March<sup>1</sup>. The aim is to assess the current EU social "acquis". The results of the consultation will contribute to identify the scope of future action where necessary. The consultation will run until 31 December 2016 and a consolidated version of the European Pillar of Social Rights should be presented early in 2017.

### **Annexes:**

- 1) Presentation of the Aviation Strategy (DG MOVE)
- 2) Presentation on Bogus self-employment (ECA)

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<sup>1</sup> <http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=2487&furtherNews=yes>

## List of participants 11 March 2016

<p><u>3</u> <b><u>Employers</u></b> (3 ♂, 0 ♀)</p> <p><b><i>AEA</i></b> Mr Emmanuel Jahan (Vice-chair) Mr Jean-Francois Certain</p> <p><b><i>ERA</i></b> Mr Russell Dudley</p> <p><b><i>IACA</i></b> Not represented</p>	<p><u>17</u> <b><u>Workers</u></b> (12 ♂, 5 ♀)</p> <p><b><i>ETF</i></b> Mr Michael Collins (Chair) Mr François Ballestero Mr Josef Maurer Ms Hülya Grünefeld Mr Jaime Quintana Mr Anu Hietala Ms Valérie Delage Ms Elisabetta Chicca Mr Alberto Mazzei Mr Mauro Mari Mr Vegard Einan Mr Arnaud Michel Mr Mark Jensen Anders Ms Sharon Owens</p> <p><b><i>ECA</i></b> Mr Dirk Polloczek Mr Ignacio Plaza Ms Sarah Kamer</p>
<p><b><u>European Commission</u></b> Ms Sylvie Finné (DG EMPL A2) Mr Frédéric Lagneaux (DG MOVE/E.4) Ms Noura Rouissi (DG MOVE E/4) Ms Sophie Marin-Combeaud (DG MOVE D/4)</p>	