

## SDC CGA Working Group – 13 April 2018 Minutes

### Present

#### TUNED

GLOSS Wilhelm	GÖD	Austria
SEEBAUER Stefan	GÖD	Austria
BOSSIO Silvana	CSC SP	Belgium
GILLES André	CGSP	Belgium
SUCHA Blanka	Statorg	Czech Rep.
LIIVAMÄGI Kalle	ROTAL	Estonia
DHAOU Leïla	CFDT Interco	France
FAYOLLE Matthieu	CFDT Interco	France
PARISOT Alain	UNSA	France
SLZLIWKA Didier	CFDT Interco	France
MOOS Christian	DBB	Germany
DOLGYRAS Ilias	Adedy	Greece
KARAVASILEIADOU Vaiola	Adedy	Greece
DOBROVITS Orsolya	KKDSZ	Hungary
PETRAITIENE Irena	LTUSE	Lithuania
OUWEHAND Marco	FNV	Netherlands
FRIAS Carolina	FSC CC.OO	Spain
LEJON Britta - Chair	ST	Sweden
LINDSTRÖM Anders	SSR	Sweden
ÖSTBERG-SVANELIND Maria	SSR	Sweden
KEMPEN Peter	USF	

#### TUNED Secretariat

SALSON Nadja	EPSU
BEAUDRY Charlotte	CESI
GILLES Noémie	EPSU trainee
GASSNER Diane	EPSU

#### EUPAE

PAPPENSCHPELLER Thomas	Federal Ministry Civil Service + Sport	Austria
DRUART Jacques	FPSPS	Belgium
NECKEBROECK Bruno	FPSPS	Belgium
CZUDEK Michal	Ministry of the Interior	Czech Rep.
CHNEIDER Jean Marc	DGAFP	France
LOREAL Simon	DGAFP	France
MAIWALD Christian	Bundesministerium des Innern, für und Heimat	Germany
VALENTI Andrea	Presidenza del Consiglio dei Ministri – Dip. della FP	Italy
ŠARMAVIČIUS Osvaldas	Civil Service Department	Lithuania
LORRANG Anne Catherine	Min. of Civil Service + of Admin. Reform	Luxembourg
GANHAO Theresa	DG for Admin. + Public Employment	Portugal
SPATARU Steluta	National Agency of Civil Servants	Romania
FORGÁČ Gabriel	Government Office of the Slovak Rep.	Slovakia
CASADO LOPEZ Hector	Min. de Hacienda y Función Pública	Spain
GUTIÉRREZ CRESPO Pedro	Min. de Hacienda y Función Pública	Spain
SILES SUAREZ Teresa	Min. de Asuntos Exteriores y de Coop.	Spain

#### Guest speakers

MAUCHER Mathias	EPSU
MOHRS Simone	HOSPEEM
BARRERO FLOREZ Adela	EC
HAJKOVA Miroslava	EC
SCHIMAZI Sarah	EC

**9:00-10:00 Separate preparatory meetings - TUNED with interpreters**

**10:15 Plenary meeting**

## 1. Welcome, announcements, adoption of the agenda

The chair, Britta Lejon, welcomed participants and announced changes to the order of the agenda items which were adopted.

## 2. Adoption of the minutes of previous meetings (20 October 2017)

The minutes were agreed unchanged together with the report on the monitoring of the SDCCGA agreement on quality administrations.

## 3. Updates on EU social initiatives

Presentations by the European Commission:

- ✓ Update on discussions in Council on Work/life balance directive, <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1494929657775&uri=CELEX:52017PC0253> :  
Ms Sarah Schimazi
- ✓ Proposal for a regulation on European Labour Authority,  
<http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=9061&furtherNews=yes>  
Ms Miroslava Hajkova

The Commission's presentation on work/life balance was sent to the SDC CGA members on the day of the meeting.

Further to a previous presentation of the work/life balance package that includes a communication and a directive, the objective was to be kept informed of the latest developments.

**Ms Schimazi** reminded that the proposed directive aimed to increase women's participation in the labour market by tackling the unequal sharing of caring responsibilities, that remained to a large extent on women's shoulders, inadequate family leave and flexibility arrangements. The proposed measures included the introduction of a right to 10 days' paternity leave (which would represent a positive step forward in a number of member states), a ban on the transferability between both parents of the 4 month parental leave, both leaves would be compensated at sick leave level until the child reached the age of 12 (instead of 8). The proposal also introduced a right to 5 days' carer leave and further arrangements for flexible working hours. It was said that when working fathers took up paternity leave, where it was available, they would also take up parental leave.

The proposal applies to both the public and private sectors.

**TUNED-Netherlands** asked about the criteria for rejecting a request for flexible working hours. The Commission said that there was no obligation for the employer to send the employee a reasoned refusal of his/her request.

**EUPAE-Belgium** queried about the Commission's logic regarding the application of EU labour law to public administrations, whilst the Commission recently refused to implement by law the SDC CGA agreement on information and consultation rights on the ground of subsidiarity, it was interesting to note that under this new proposal public administration employees were fully covered. He also queried about the definition of "worker". The Commission said that the definition was based on EU case-law i.e. *Any natural person who for a certain period of time performs services for and under the direction of another person in return for remuneration*".

**TUNED-secretariat** welcomed the proposal and its application to the public sector, and queried also about the Commission's internal coherence for including or not public administrations within

the scope of its legislative proposals. The Commission confirmed that the discussions in Council might be difficult with a number of unsupportive governments.

**Ms Hajkova**, presented the proposal for the establishment of a European Labour Authority - ELA- its objectives, tasks, staffing and impact on the current institutional set up.

Her presentation was sent to the SDC CGA members on 16 April.

The objectives were to provide easier access to information and labour mobility services for individuals and employers, strengthen cooperation between national authorities in cross-border enforcement, including inspections, and mediate between national authorities including in case of labour market disruptions such as restructuring. It was addressed to workers, especially cross-border workers estimated to be in the range of 17 million, all companies, and public authorities. Its tasks would be to carry out analyses and risk assessments on issues of cross-border labour mobility, support capacity building of national authorities through guidance, mutual learning and training, and mediate in disputes between Member States on the application of EU law concerning labour mobility.

A total staff of 144 (incl. national liaison officers and other seconded national experts) and a budget of 51M€ were foreseen, together with an advisory group composed of EU social partners and public authorities.

The aim was to have the proposal adopted in Council and Parliament at the end of 2018, for the new EU authority to be up and running in 2019 and fully operational by 2023.

The chair thanked the Commission for the presentation of a very ambitious proposal.

Both proposals were noted.

#### **4. Psycho-social risks at work (PSR EC-funded project)**

- ✓ *Progress with dissemination and promotion of the guide, video and background study at national level, all project materials can be found here in 8 languages*  
<https://www.epsu.org/article/tackling-bullying-and-burnouts-workplace> and  
<https://www.fonction-publique.gouv.fr/OSHProject> - for discussion

##### Tour de table

An extract of a video of a conference on well-being at work organized for the French civil service human resources managers earlier this year was shown as an example of what can be done at national level level to disseminate the guide.

**EUPAE-France** said that it had been very useful to have the trade unions at the conference, that the presentation of the guide was well-received and that it had been a good opportunity to promote the work in general of the SDC CGA. EUPAE-France also presented the guide to the civil service social dialogue bodies.

**TUNED-France (UNSA)** reported on a conference his union organized in June on violence and harassment, which was attended by TUNED secretariat. He said that the multi-sectoral guidelines to prevent third party violence would prove very relevant as part of the follow-ups to the project.

**EUPAE-Germany** said that the guide had been published on their website, distributed to all federal authorities dealing with sickness arrangements and public insurance.

**EUPAE Chair (Spain)** also said that the guide had been disseminated to relevant stakeholders and that presented to representatives of central as well as local and regional governments.

**EUPAE-Portugal** said that the guide had been translated into Portuguese and published on the website of the Portuguese authorities. **EUPAE-Italy, Czech republic and Slovakia** also said that the guide were available on their respective websites.

**EUPAE-Romania** said that a conference was being planned on the subject.

**TUNED secretariat** welcomed the useful feedback and said that the ETUC was planning a campaign for a directive on psycho-social risks that might be a useful hook for further work in the SDC CGA on the issue.

The above was noted.

- ✓ *Following the SDC CGA statement on psycho-social risks of 20 October last, we will discuss the relevance of the Multisectoral guidelines to tackle third-party violence and harassment for central governments, with representatives of the Social Dialogue Committee for the hospital sector, one of the signatories of the Guidelines (see text of the guidelines <https://hospeem.org/activities/socialdialogue/multi-sectoral-guidelines-to-tackle-third-party-violence-and-harrassment-related-to-work/>) - For decision*

*Speakers: Mr Mathias Maucher, EPSU officer, and Ms Simone Mohrs, Hospeem*

The joint presentation of both speakers was sent to SDC CGA members just after the meeting.

In the hospital sector, the multi-sectoral guidelines, adopted in 2010, proved very useful to raise awareness, develop dedicated policy for the sector and at the workplace, adapted to the specific challenges and “solutions”, elaborate (joint) guidance, put TPV on the workplace and policy/political agenda in the context of activities to address OSH risks and aspects of work organisation, disseminate work, and also improve relationship between trade unions and employers’ organisations, e.g. in Bulgaria and Czech Republic. The guidelines were not which had been subject to monitoring reports on their application continue to prove useful in view of the resurgence of third party violence and psycho-social risks affecting a large number of hospital staff with consequences in terms of long term sick leave.

To conclude, the hospital social partners encouraged the SDC CGA to endorse the guidelines that would enhance the representativeness of the signatories. Whilst not legally binding, with the active commitment of national social partners, the guidelines could potentially help overcome initial fears or resistance to deal with the matter, provide a more focused approach on this particular health and safety risk especially in countries or sectors where this remained a taboo subject. It was added that in some countries as in the Netherlands, the activities in the hospital sector proved inspiring to other sectors such as the police, fire department, education and public transport.

**The chair** thanked the speakers and said that much improvement on how to tackle the issue had been done over the past ten years but more needs to be done. She asked **EUPAE chair (Spain)** for his views on behalf of EUPAE regarding a possible endorsement of the guidelines as part of the follow-ups to the SDC CGA psycho-social risk project. This was agreed by EUPAE.

#### Decision

The SDC CGA agreed to sign up to the multisectoral guidelines on prevention and tackling third-party violence and harassment. TUNED secretariat will follow-up with the guidelines signatories.

#### **5. Legislative implementation of the Agreement on information and consultation rights**

## adopted on 21/12/15

### *Discussion on the state of play*

- ✓ *EUPAE/TUNED response to EC letter of 5 March 2018 – final draft by the SDC CGA steering attached*
- ✓ *next steps, discussion*

The discussion was held without the participation of the Commission.

The aim was to go through the background and reasoning of the Commission for not putting forward the agreement to Council as expressed in a letter dated 5 March addressed to TUNED and EUPAE that did not explain sufficiently the reasons of the decision, and discuss next steps including the EUPAE/TUNED letter to Commissioner Thyssen in response to the Commission's negative decision.

During the discussion, **EUPAE and TUNED** representatives expressed their strong disappointment and concerns regarding the Commission's negative decision. The fact that it was based on a blanket exclusion of public administrations was challenging the legitimacy and "raison d'être" of the SDC CGA. It was reiterated that only legislative implementation of the agreement would ensure universal application to all state sector employees. It was said that the Committee must maintain its determination and commitment to reach legally binding agreements when it sees it fit.

**TUNED** proposed to update the survey on information and consultation rights in central governments that was carried out in 2014, ahead of the negotiations of the Agreement.

The Committee was also informed that EPSU might decide shortly during its next Executive Committee meeting on 7 May to challenge the Commission's decision in the European court.

### Decision:

- The letter on behalf of the SDC CGA to Commissioner Thyssen was approved and sent on the day of the meeting. The letter expressed surprise and disappointment towards the Commission's rejection of the SDC CGA request to implement the agreement by a proposal for a directive to Council and asked for a meeting with the Commissioner to discuss the future of the SDC CGA.
- The Committee will reflect further on the implications of what amounted to de facto discrimination of central government employees, and next steps to address the matter;
- The matter will remain on the agenda of the SDC CGA for an undetermined period of time.

## **6. Working conditions of personnel involved in migration and asylum services**

*The SDC CGA working group of 20 October last agreed, in line with the SDC CGA workprogramme 2016-2018, to prepare a "possible" questionnaire on the working conditions of personnel in migration and asylum services – draft questionnaire on behalf of the SDC CGA chairs for discussion and adoption – attached in EN and FR*

*Presentation of the questionnaire by TUNED secretariat and Ms Noémie Gilles, EPSU trainee*

The questionnaire, available in En and FR, was presented.

**Ms Gilles** reminded that the proposal to conduct a survey on working conditions of staff in services dealing with economic migration and asylum claims stemmed from the SDC CGA

workprogramme as part of the monitoring plans of the implementation of the SDC CGA Agreement for a quality administration.

The **SDC CGA chair and EUPAE chairs** thanked Ms Gilles for the good presentation. Divergent views were however expressed regarding the conduct of the survey.

**TUNED chair, Secretariat, Spain, Greece, Netherlands** reiterated the importance of bringing the views of employees on the frontline in the very polarised debate in Europe on migration and asylum. **EUPAE – the chair, Austria, Italy-** however raised concerns regarding issues of competence, i.e. migration matters being dealt with by the interior ministry and services being delivered at local level.

**TUNED chair** said the competence matter was always potentially an issue for our sector however she asked what about proposing to the local and regional government social dialogue committee whether they would be interested in conducting a joint survey. **TUNED-Greece** added that there were clearly pressures of different natures on migration services that needed to be taken care of seriously.

As a compromise, **EUPAE** chair proposed to examine first quantitative data regarding who is responsible with what, the real impact of migration in member states, number of asylum claims and how it matches or not staffing levels. This preliminary analysis would be further discussed at the next SDC CGA steering committee ( possibly mid-May).

This was agreed.

**7. Content of the draft directive on Transparent and predictable working conditions (revision of the written statement directive), see here**

<http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=9028&furtherNews=yes>

*Presentation at 3 p.m. by the European Commission, Ms Adela Barrero Florez*

The presentation of the Commission was sent to the SDC CGA members on 16 April.

Ms Barrero Florez explained that the legislative proposal, that was part of a revision of the written statement directive, stemmed from a number of reasons, the fact that some workers get no, incomplete or too late written information on their working conditions, increase of precarious jobs and unpredictable working conditions, the lack of sufficient enforcement of the rules, and the different rules across member states.

The proposal sought to widen the personal scope of the existing rules by using a broader definition of workers based on the EU case law definition of worker "*Any natural person who for a certain period of time performs services for and under the direction of another person in return for remuneration*". There was one possible exclusion for work relationships of less than 8 h/month that will be left to Member State decision, but not if these concerned zero-hours work contracts. Compared to today, there would be an additional 2-3 million more workers entitled to receive written information about their jobs (casual workers, short-term contract of less than a month, platform workers).

The information covered by the directive were identities of the parties, place of work, starting date, brief overview of job content, in case of temporary contract, the expected duration, the components of remuneration and the amount of paid leave, length of normal working day or week, length of period notice, collective agreements applicable, duration and condition of the probationary period, if any, training entitlement provided by the employer, if any, and social security matters.

The proposal also included new rules regarding probation period which should not exceed 6 months (article 7) and the possibility of holding a job in parallel (article 8), as well as **minimum**

**predictability of work** if work schedule was variable and determined by the employer (Article 9). Workers could be required to work only within reference hours and days and if notified reasonably in advance. Workers still were free to accept other assignments - but they may not be penalised for refusal, and support for transition to another form of employment and on training. New enforcement rules were also proposed as the Commission found that enforcement through court was not always effective.

The proposal applies to both the public and private sectors

**TUNED** secretariat welcomed the proposal and its application to the public sector.

The **chair of EUPAE** reported that in the Council working group a number of governments expressed opposition to the inclusion of the civil service in the scope of the directive. The articles regarding the maximum duration of probation, which in the civil service can be longer than 6 months and the possibility to hold a second job were deemed problematic. EUPAE-Belgium added that the probation period in the civil service was longer due to the security of employment.

The **Commission** asked whether there was any reason why civil servants should not be consulted and that there was no blocking minority at that stage in Council. It was added that Member States may allow social partners to conclude collective agreements which establish arrangements which would differ from Article 7 to 11.

**TUNED Netherlands** added that Recital 19 of the proposal provided for longer probationary periods longer than six months where this is justified by the nature of the employment e.g. managerial positions and where this was in the interest of the worker, e.g. in the case of long illness or in the context of specific measures promoting permanent employment notably for young workers.

**TUNED** reiterated that all employees should be entitled to EU minimum social standards.

The proposal was noted with further discussions in the steering group planned.

#### **8. Follow-up data collection on gender pay gap**

- ✓ *Request to Eurostat and commitment by governments to provide data –letter to Eurostat to follow – for noting*
- ✓ *EU/Mediterranean conference on gender and employment with the participation of EUPAE and TUNED on 21 March, Brussels – for noting*

**EUPAE Belgium** said that the draft letter to Eurostat would be prepared in cooperation with TUNED secretariat.

The above was noted

#### **9. Digitalisation and work/life balance project**

For noting, the launch of the project has been postponed to early May

*New dates for the project meetings will be circulated at the meeting*

The dates were circulated and noted.

#### **10. Dates of next meetings (2018)**

12 June and 31 October

#### **11. AOB**

No AOB was raised.

The chair thanked the participants and the interpreters.