



## EUROPEAN COMMISSION

DG Employment, Social Affairs and Inclusion

Employment and Social Legislation, Social Dialogue  
**Social dialogue, Industrial Relations**

Brussels, 16 September 2011

**SECTORAL DIALOGUE  
COMMITTEE  
TEMPORARY AGENCY WORK**

### **Minutes of the meeting of 7 June 2011**

#### **1. Adoption of the agenda and**

The meeting was chaired by the Commission. The agenda was adopted, adding an information point on a project on "Promoting European Works Councils in the private employment agencies" carried out by UNI Europa.

All participants introduced themselves. Eurociett informed the meeting that some observers from MK and TR were present today, the day before the final event of the project "Strengthening the capacity of employers' organisations of the agency work industry for participation in sectoral policy development and social dialogue" carried out by ITC-ILO.

#### **2. Adoption of minutes**

The minutes of the last meeting (6 April 2011) were approved taking into account the respective comments.

#### **3. Labour market policies**

The social partners had an exchange of views regarding the possibility to reach a joint declaration on the Europe 2020 Strategy's flagship initiative "An agenda for new skills and jobs"<sup>1</sup>.

Eurociett proposed a structure for such a joint declaration based on the joint texts adopted by the sectoral dialogue committee in the previous years. The text would refer to the following elements: (1) better job quality and working conditions; (2) develop a skilled workforce; (3) better functioning of the labour market and the sector's role herein (mapping and matching, etc.); (4) strengthening drivers for job creation (mobility/portability of rights, lifting unjustified restrictions, etc.).

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<sup>1</sup> <http://ec.europa.eu/social/main.jsp?catId=958&langId=en>

UNI Europa agreed to work along these four pillars identified by Eurociett. UNI Europa agreed with the most important aspects but added others: regarding (1), the equal treatment principle and vulnerable workers should be included in the picture; regarding (2), it would be important to ensure equal access to training and to recognise skills acquired on the job; regarding (3), the workers' organisation reiterated that they considered TAW as a means to facilitate the transition from a temporary to a permanent job; regarding (4), UNI Europa stressed that increased mobility and adaptability should be subject to social partner negotiation and that the security component of the flexicurity concept should be reinforced.

Eurociett considered that there was enough common ground to come to a joint paper. The secretariats were invited to start working on a draft. The Commission representative reminded the social partners of the existence of a helpful drafting checklist for social partner texts<sup>2</sup>.

#### **4. Promoting national social dialogue**

As a follow-up of the presentation of the Italian collective labour agreement in the TAW sector from the employers' side (see last meeting), Ms Riboni from the Italian trade union CGIL presented the situation from their perspective (see slide presentation). Eurociett thanked the other side for sharing this information and concluded that with NL and IT, there were now two Member States which had a system in place aiming at the stabilisation of flex workers. The present Italian workers' representatives answered some specific questions which were – amongst others – related to the difference between staff-leasing and open-ended contracts, to the balance between collective labour agreements of the user company and the agency, and to the EBITEMP fund.

The parties agreed that at the next meeting, a joint presentation (employers-workers) would be given of the situation in NL. For November, potential countries would be DE or FR.

#### **5. TAW regulation**

Social partner representatives from different countries (by order of intervention: DE, DK, ES, FI, FR, IT, NL, PL, PT, SI, IE, LV) reported on their countries' progress and the involvement of the social partners in the implementing process of Directive 2008/104/EC. They were asked to include information about the possible establishment of a qualifying period for equal treatment (see Article 5(4) of the Directive). According to the information received, such a qualifying period was not foreseen or planned in DE, DK, SI – this list being non-exhaustive since not all delegates could provide the information. According to Eurociett's own assessment, 20 Member States today applied the principle of equal treatment. Two Member States (UK, IE) did not apply it and in five Member States such a principle did not exist since there was no TAW-specific regulation yet. For UNI Europa this was useful information even though it would be interesting to further specify which aspects of equal treatment were covered. Eurociett asked for the next meeting to put more stress on the review of restrictions and the role social partners were playing in it. UNI Europa announced that they may add other elements.

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<sup>2</sup> See Annex 3 of the Commission Communication on social dialogue of 2004:  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2004:0557:FIN:EN:PDF>

The Commission representative informed the social partners that it had unfortunately not been possible for DG Home Affairs in charge of the proposal for a Directive on seasonal workers<sup>3</sup> to come to the meeting and inform the social partners about possible implications for TAW. Temporary work agencies were excluded from the scope of the proposal. UNI Europa considered that the Directive – if adopted – would give new rights to workers but potential legal loopholes could lead to unfair competition (social dumping). In this context, the workers' organisation referred to a working document of the European Parliament in which the rapporteur regretted "that the proposal does not contain any provisions on the role of recruitment agencies and intermediaries. It should be acknowledged that such agencies can indirectly contribute to exploitative practices and should therefore be subject to certain rules and monitoring"<sup>4</sup>. Eurociett confirmed its interest in the potential implications of the proposal on which their attention had only been drawn recently. Both sides of industry agreed that the spirit of the proposal should be presented at the next meeting. Eurociett and UNI Europa would send more elements by the end of June which DG EMPL would forward to DG Home Affairs.

The third item under this point of the agenda was the discussion on a possible joint document analysing and commenting on the main outcomes of the research reports related to posting of workers<sup>5</sup>. Eurociett presented a synthesis of these reports: there was a general lack of data; the conclusions of the legal study were interesting (containing a call for clarification between the TAW Directive and the Posting of Workers Directive); there was a need for better enforcement and a better exchange of information amongst Member States. UNI Europa also found the legal study more interesting and stressed that there were still a lot of social dumping practices. Therefore, the European trade unions were in favour of a full revision of the Posting of Workers Directive. Eurociett did not wish to revise this Directive and proposed to leave that fight to the cross-industry social partners. However, Eurociett and UNI Europa noticed that there were certain elements on which they could agree: to make clear the link between the two Directives and how they mutually reinforce each other; to have a better exchange of information on sending and hosting countries; better enforcement. Eurociett said that even though there were a lot of cross-border activities of agencies, these did not take place in the framework of the Posting of Workers Directive. Eurociett's members would usually give migrant workers a full contract in the host country. The studies had shown that the Commission lacked real figures related to cross-border mobility. UNI Europa wondered whether the social partners' observatory could play a role. It was agreed to finalise the fact sheets for FR and BE and to prepare further fact sheets on DE and UK. The parties also agreed to try to find a common position on the outcomes of the research reports and then officially request a written clarification on the link between the Posting of Workers Directive and the TAW Directive<sup>6</sup>. The two secretariats would prepare this work.

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<sup>3</sup> [http://ec.europa.eu/commission\\_2010-2014/malmstrom/archive/proposal\\_directive\\_seasonal\\_workers.pdf](http://ec.europa.eu/commission_2010-2014/malmstrom/archive/proposal_directive_seasonal_workers.pdf)

<sup>4</sup> Working document PE462.726v01-00 of 4.4.2011:  
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-462.726+01+DOC+PDF+V0//EN&language=EN>

<sup>5</sup> <http://ec.europa.eu/social/main.jsp?catId=471&langId=en>

<sup>6</sup> See also the minutes of last meeting.

## **6. Joint projects**

Eurociett presented the outline of the project on TAW & transitions in the labour market (see the sectoral social dialogue committee's work programme). The project would include the following possible joint actions: a study on the profile of temporary agency workers (where they work, what are their studies, etc.), the organisation of a stakeholder workshop and the organisation of a conference to disseminate joint conclusions. The project proposal could be submitted under the August deadline of the social dialogue call for proposals. UNI Europa agreed to prepare a joint project proposal and added more possible elements to be considered: how the equal treatment principle was applied in practice, the reasons for working as a temporary agency worker (choice or lack of alternatives?), address misuse even though not the rule, include the fight against precarious and undeclared jobs, etc. Eurociett was open to these proposals but asked to focus on the sector's stepping-stone function. At the same time, the employers' organisation claimed that the TAW sector be compared with other fix-term contracts, not with permanent jobs. UNI Europa also took note of Eurociett's statement that in the TAW sector, workers would never have full payment between assignments. The workers' organisation suggested aiming at joint recommendations as a result of the project.

## **7. Sectoral developments and the economic situation**

The parties exchanged information on the state of the TAW sector with regards to the economic situation. Eurociett reported that its monthly business indicator showed that in most countries, the sector was exiting the crisis (on average the growth rate was 10-15%). Some delegates from either side of industry broadly confirmed these trends and added more detailed information (FR, DE).

## **8. Any other business**

UNI Europa informed the participants of their project on "Promoting European Works Councils in the private employment agencies". The project covered three big companies in which different trade unions started to build alliances. The final conference of the project would take place on 21 June 2011. Eurociett thanked for the information which was related to information and consultation at company level. Therefore the subject would not be addressed within the European sectoral social dialogue committee.

Eurociett informed about the employers' project "Strengthening the capacity of employers' organisations of the agency work industry for participation in sectoral policy development and social dialogue". UNI Europa had participated in several activities within the framework of this carried out by ITC-ILO. The final event would take place tomorrow.

*List of participants 7/6/2011*

<p><b>Employers (8 ♂, 11 ♀)</b></p> <p>Mr Auth (DE, corporate member) Ms Bonnichon (FR) Ms Borodunova (LV) Ms Cordero (ES) Mr de Leeuw (NL) Ms Econopouly (UK) Mr Freytag (Eurociett) Ms Gaughan (IE) Ms King (IE) Ms Krohn (DE) Ms Muntz (NL, Eurociett President) Mr Pennel (Eurociett) Mr Pettineo (Eurociett) Ms Schaller (corporate member) Mr Schipper Stok (SI) Mr Soler Perez (ES) Ms Spangenberg (NL) Mr Tietze (DK) Ms Zielińska (PL)</p>	<p><b>Workers (6 ♂, 7 ♀)</b></p> <p>Mr Boton (FR) Mr Calado (PT) Ms Castaldo (UNI Europa) Mr Colapinto (IT) Mr Heikkila (FI) Ms Herrans (ES) Ms Jakabowits (FR) Mr Leblanc (FR) Ms Lelyte (UNI Global) Ms Østrup (DK) Mr Pennati (IT) Ms Pohjola (FI) Ms Riboni (IT)</p>
<p><b>European Commission</b></p> <p>Ms Durst (DG EMPL)</p>	