



EUROPEAN COMMISSION

DG EMPLOYMENT, SOCIAL AFFAIRS AND EQUAL OPPORTUNITIES

Social Dialogue, Social Rights, Working Conditions, Adaptation to Change
Social Dialogue, Industrial Relations

Social Dialogue in the construction sector EFBWW-FIEC Employment Working Group Minutes of the meeting held on 11 May 2010 in Brussels (09.30-13.00)

1. Welcome and introduction

The meeting is chaired by Mr Clappier (FIEC). He welcomes the participants and reads out the agenda which is adopted.

2. Approval of the minutes of the meeting held on 20 November 2010

The minutes are approved unanimously.

3. "Posting" Directive

- Updates of the website

Mr Campogrande (FIEC) reports on the current situation. In the first year, the updates will be done by the social partners themselves. Adjustments have been made for Germany and France concerning minimum wages. Further changes have been announced for Portugal, Slovenia and Finland, amongst others because of changes in legislation. Due to a better situation between the Swedish social partners, it is likely that a Swedish national report will arrive soon. Mr Buelen (EFBWW) adds that new collective agreements have been reached in Italy, the Netherlands and Norway.

The participants discuss the possibilities for financing the future updating of the database (European Commission budget lines, paritarian funds, other funds). The amount needed is not very high, in any case less than originally expected. FIEC and EFBWW agree upon the importance of a good promotion of the website in order to receive funding. Mr Schmidt-Hullmann (EFBWW) suggests improving the visibility of the website on internet searching engines like Google for example. Mr Detemmerman (FIEC) suggests putting a link between the Posting Database and the Service Directive "points of single contact". In answering a question on statistics from Mr Hagglund (EFBWW), Mr Campogrande (FIEC) makes reference to his presentation given at the last plenary meeting. Mr Clappier (FIEC) insists upon the necessity to keep the database regularly updated.

4. EFBWW campaign against "Illicit employment"

- Presentation and discussion

Mr Kerstens (EFBWW) gives a general outline of the recent developments concerning this matter and explains the two EFBWW campaigns (on asbestos and on the fight against illicit work). Mr Buelen (EFBWW), points out that the campaign concerning illicit work emphasizes existing rules and working conditions and does not call for new legislation. He stresses the European aspect of the matter and the willingness of the EFBWW to reach a substantial, effective and operational compromise with the FIEC and to find practical solutions. He insists upon the importance of the liability of the main contractor.

Mr Clappier and Mr Campogrande (both FIEC) indicate that FIEC shares the main objective of the campaign, namely to fight against illicit work. It would certainly be of common interest to be able to reach joint opinions on issues mentioned in the EFBWW's campaign in connection with the work of the European Commission on this matter. Discussions have already taken started on several issues (e.g. Social Identity Card, mandatory posting declaration, joint liability,...) with the aim of trying to reach a consensus.

5. "Flexicurity"

- Discussion on possible joint actions

Mr Campogrande (FIEC) makes reference to the EFBWW initial draft paper and to the changes proposed by the FIEC. He points out that it is important to complement the joint paper with national examples. Currently there are only examples from France. FIEC has forwarded to EFBWW a modified draft text but at the moment the EFBWW does not have a precise response and will go back to this item later.

6. Self-employment and bogus self-employment

- Follow-up

Mr Buelen (EFBWW) insists upon the high quality of the well balanced text of the joint FIEC-EFBWW declaration and its very good reception by all groups. He makes reference to the report on new developments in public procurement by MEP Heide Rühle (2009/2175(INI)) which is being discussed in a way which seems favourable to the joint EFBWW-FIEC declaration.

An initiative from the European Commission in the spirit of the EFBWW-FIEC document is required. Efforts at the national level should be undertaken in order to mobilize Member States to go along to put some pressure on the European Commission.

Mr Campogrande (FIEC) proposes a step-by-step strategy and points out that some steps into the right direction have already been taken and that some issues in the joint paper would concern developments at the European level which are to be tackled as well.

7. Economic crisis

- Follow-up

The joint paper entitled "Emerging from the crisis has been presented and discussed by EFBWW and FIEC during a meeting with the deputy head of cabinet of Mr Van Rompuy. Another similar meeting between the social partners and Commissioner Tajani unfortunately has been postponed to early June. Mr Campogrande (FIEC) underlines the fact that the joint paper would focus not only on social affairs, but also on other aspects, such as training. He insists upon the necessity to

- use the paper as a kind of public relations tool at the EU level,

- encourage the affiliated members at the national level to act in the sense of the joint document and
- continue the work on specific issues.

Mr Schmidt-Hullmann (EFBWW) makes reference to the increasing public debts and the shifting of money from funds for public investments to other purposes. He suggests giving the mandate to the secretariats to lobby in favour of the money being used as initially planned for public contracts.

8. First stage consultation on the revision of the "Working time" Directive

- Exchange of views

Mr Buelen (EFBWW) briefly reports on the current situation and points out that the "old" directive is focusing on quantitative, not on qualitative aspects (such as stress, e.g.). The new Commission seems to be pursuing a new strategy by looking for solutions at the sectoral level. The EFBWW position is that the existing Working Time Directive is a framework in which the current national social partners of the building industry can operate. The Member States that are applying the opting-out (general and partial) are increasing; in none of these cases this concerns the construction industry. In addition he refers that "on call work" hardly exists in the building sector. As such the EFBWW would be in favour of an "emergency Working Time Directive" and an "industry Working Time Directive". For strategic reasons, he suggests answering briefly and jointly to the Commission's consultation in order to allow a possible sectoral approach, if needed, later on in the legislative procedure. Mr Campogrande (FIEC) points out that the current Working Time Directive does not have any negative impact on the construction companies and that therefore FIEC does not intend to answer this first stage consultation. This would not forbid the social partners from starting such negotiations later. In any case, the secretariats will follow carefully the developments on this matter. If necessary, this issue could be put again on the agenda of the social dialogue committee.

9. Third country companies/workers in the EU

- Exchange of views

Mr Paetzold (FIEC) makes reference to a recent case of Chinese contractors winning public procurement contracts in Poland. He regrets that there do not seem to be any legislative instruments to protect the open European Internal Market. FIEC has tried to find solutions via the European Parliament and a meeting with the head of cabinet of Commissioner Barnier (responsible for the Internal Market and Services) in order to get support at the European level. Concerning this question, some articles have also been published in different newspapers (e.g. "Frankfurter Allgemeine"), and they back the social partners opinion.

Mr Kerstens (EFBWW) thanks Mr Paetzold and insists upon the necessity for joint actions. Mr Schmidt-Hullmann (EFBWW) suggests following external trade negotiations with other third countries, too. Mr Hägglund (EFBWW) proposes to invite the affiliates in Poland to work on an agreement on minimum standards in Poland, which could be made generally binding by the Polish government. Mr Paetzold (FIEC) expresses his doubts on the success of such an initiative. Mr Buelen (EFBWW) refers to article 1(4) of the Posting of Workers Directive, which until now has been a hollow provision and could be strengthened.

It was decided to elaborate a joint position paper and FIEC will send a first draft to the EFBWW in order to see if a consensus could be found.

10. Miscellaneous

- Conference on paritarian social funds in Bucharest (RO) 19/20 October 2010

FIEC has submitted a request for a grant under the social dialogue budget line 01 in March 2010 and is still waiting for the answer from the European Commission.

11) Next meetings

30/06/2010 SD Plenary meeting

19/11/2010 WG Employment

The chair thanks the interpreters and the participants and closes the meeting.

List of participants

EFBWW:

Mr Sam Hägglund, EU

Mr Werner Buelen, EU

Mr John Kerstens, NL

Mr Tomasz Nagórka, PL

Mr Frank Schmidt-Hullmann, DE

FIEC:

Mr Ulrich Pätzold, EU

Mr Domenico Campogrande, EU

Mr André Clappier, FR

Ms Nathalie de Girodon, FR

Mr Sebastian Richter, D

Ms Fenneker Lamaker, NL

Ms Katrin Kanderouff, D

Ms Pascale Dessen, FR

Mr Vincent Detemmermann, BE

Mr Riccardo Viaggi, EU