

# Rail Mobile Workers -

**Assessment of the social partners of the implementation and application of the agreement on certain aspects of working conditions of mobile workers engaged in interoperable cross-border services in the railway sector**

## Project description



As at 11 January 2017

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## 1 Short summary of the action

The project is a follow-up to the binding Agreement on certain aspects of the working conditions of mobile workers in cross-border transport concluded by the rail social partners CER and ETF and is one of the main topics in the work program of their social dialogue committee. Through the project, CER and ETF will assess the impact of their initiative on a European scale. In order to fulfill this task, the social partners need information about experience gathered with the implementation and application of the agreement in EU member states.

In three steps the project will achieve the following objectives:

With the first step the aspects of the agreement which have to be analysed, as well as relevant current legal questions, will be identified.

The second step will collate information on the implementation (=legal implementation of the agreement in national law) and application (=concrete application of the agreement provisions) of the provisions of the Agreement in cross-border services through desk research, a survey and multi-country workshops. Information will be gathered on the way of organising the service and the number of mobile workers, concrete working conditions of the mobile personnel in cross-border services and on the concrete needs of the workers and the companies. The analysis will embrace cross-border freight and passenger transport.

With the third step the social partners review the Agreement by discussing and if needed interpreting the results on the basis of the outcome of their activities. The social partners will assess the quality of the implementation of the provisions of the Agreement and consider a joint understanding about those aspects. Based on the results of their joint analysis, and at the end of the review process, the social partners will assess which joint conclusions of the EU social partners can be drafted.

The objectives will be achieved by legal and scientific research, 8 steering committee meetings and 5 workshops. The project duration will be 18 months.

## 2 Motivation and problem definition

This project is a joint activity of the European social partners in the rail sector CER and ETF, and as such it is part of the work program of the European Sectoral Social Dialogue for railways. In January 2004 CER and ETF signed a joint Article 155 agreement that was implemented as EU Directive 2005/47/EC “on the Agreement between the Community of European Railways (CER) and the European Transport Workers’ Federation (ETF) on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector”. The Directive and the agreement aim to set up rules to guarantee minimum standards for workers in cross-border services with the focus of working and resting time taking into consideration Article 2.2 of the Directive and Clause 9 of the Agreement. The directive had to be transposed in national legislation by 27 July 2008.

Since the entry into force of the EU Directive implementing the Agreement, the European Commission contracted two studies and conducted an implementation assessment. The TNO report from 23 September 2008 on the “Economic and social impact of the Agreement

concluded between the social partners on certain aspects of working conditions of mobile workers engaged in interoperable cross-border services in the railway sector” was carried out at the moment the implementation of Directive was taking place. The Commission Communication COM(2008) 855 to the Council on the “Economic and social impact of the Agreement”<sup>1</sup> is – among others - based on this report. The TNO report from 24 January 2012 on the “Implementation of Directive 2005/47/EC”<sup>2</sup> was part of the Commission’s implementation analysis and not for dissemination. The Commission report COM(2012) 627 “Implementation by Member States of Council Directive 2005/47/EC”<sup>3</sup> implements Article 3 of Directive 2005/47/EC<sup>4</sup> on state of implementation of the agreement.

The European social partners monitored the implementation of the agreement within an own project in 2008/2009: “Follow-up of the agreement on working conditions of mobile workers engaged in interoperable cross-border services”. The project was managed by FS Italia also during the implementation phase of the Directive.

Clause 12<sup>5</sup> of the agreement provides for a review of the agreement two years after implementation into national legislation. The transposition into national legislation had to be finalized in all countries in 2008. Therefore it is time for the social partners to conduct their assessment on the implementation and application of the agreement and to identify possible aspects that they could or should address jointly.

In its report COM(2012) 627 the Commission states that an increase in cross-border services linked with reductions in technical barriers and an increase in interoperable rolling-stock is expected. “One effect of EU rail policy may be that the European rail market will become increasingly integrated through mergers and acquisitions. This would result in more European-scale operators, competing with each other at a European level.”<sup>6</sup> Hence, the project will also allow to assess the state of application and impact of the Agreement in the context of the most recent developments in the sector.

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<sup>1</sup> Full title “Economic and social impact of the Agreement appended to Directive 2005/47/EC concluded on 27 January 2004 between the social partners on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector”

<sup>2</sup> Full title “Implementation of Directive 2005/47/EC on the agreement on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector”

<sup>3</sup> Full title “Implementation by Member States of Council Directive 2005/47/EC of 18 July 2005 on the Agreement between the Community of European Railways (CER) and the European Transport Workers’ Federation (ETF) on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector”

<sup>4</sup> *Article 3* Without prejudice to the provisions of the Agreement on the follow-up and evaluation by the signatories, the Commission shall, after consulting management and labour at European level, report to the European Parliament and the Council on the implementation of this Directive in the context of the development of the railways sector, before 27 July 2011.

<sup>5</sup> Clause 12 - Review “The parties shall review the above provisions two years after the end of the implementation period laid down in the Council Decision putting this Agreement into effect.”

<sup>6</sup> European Commission (2012): Report from the Commission to the European Parliament and the Council: Implementation by Member States of council Directive 2005/47/EC of 18 July 2005 on the Agreement between the Community of European Railways (CER) and the European Transport Workers’ Federation (ETF) on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector. P. 12.

The Agreement (and consequently the project) deals with certain aspects of the working conditions of mobile workers in cross-border transport (namely: working and rest time of mobile workers), and is concerned with the health and safety of the mobile workers engaged in interoperable cross-border services.

For a review of the agreement first a stock-taking exercise and evaluation of the state of implementation and application is necessary. The stock-taking will analyse the application of the agreement in cross-border services by the national social partners and collect practical examples. A Europe-wide survey will be conducted to collect information that the social partners will refer to when discussing the current situation and use as a basis for possible joint conclusions.

The stock-taking will also tackle the responsibilities and work of the national competent authorities and other competent bodies. The report from the European Commission states that problems with the practical application have occurred. "It appears that it can be difficult for authorities to have rapid access to records kept in other countries and to obtain a full overview where drivers are working for several operators."<sup>7</sup>

Based on the results of the aforementioned previous studies and project, some topics can already be mentioned as aspects to possibly analyse among the social partners during the stock-taking process in order to try and find joint interpretations. Those are, for example, the question about the applicable law when national law and Collective Bargaining agreements differ from the European law, the interpretation of the non-regression clause, and the interpretation of certain aspects such as scope, definition of mobile worker, notion of driving time, and joint reexamination of the rules regarding breaks (e.g. timing of the break within a working day, splitting of the break), driving time, weekly rest periods, Clause 8 on checks and the issue of the rest away from home (e.g. duration, number of rests away from home).

The social partners might be able to clarify ambiguities with the help of information and experience collated with the project activities. With the information gathered during the project implementation (namely during Step 2 – see below) the social partners will fulfill the obligation set out in Clause 12<sup>8</sup> ('Review')<sup>9</sup> of the Agreement and on that basis they will discuss if a revision<sup>10</sup> of the agreement or a clarification of legal questions would be possible or necessary on the basis of the information compiled.

### **3 Specific objectives**

The project is a follow-up to the binding Agreement on certain aspects of the working conditions of mobile workers in cross-border transport concluded by the rail social partners CER and ETF and is one of the main topics in the work program of their social dialogue

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<sup>7</sup> European Commission (2012): P. 9.

<sup>8</sup> Clause 12 ('Review') of the CER-ETF Agreement states: 'The parties shall review the above provisions two years after the end of the implementation period laid down in the Council Decision putting this Agreement into effect.'

<sup>9</sup> The 'review' is a stock-taking/evaluation exercise of the implementation and application of the Agreement.

<sup>10</sup> If agreed upon by the social partners as a result of the review, a 'revision' would imply a renegotiation of the text that may result in a jointly-agreed change of the text or amendments to the Agreement.

committee. Through the project, CER and ETF will assess the impact of their initiative on a European scale. In order to fulfill this task, the social partners need information about experience gathered with the implementation and application of the agreement in EU member states.

In three steps the project will achieve the following objectives:

### **Objectives step 1:**

The first step shall lay the basis for the further work. With the first step the aspects of the Agreement which have to be analysed, as well as relevant current legal questions, will be identified. The analysis will naturally take into account the outcome/findings of the aforementioned previous studies by TNO and the European Commission and the results of the European social partners' own project. During this phase, the social partners will agree on the aspects of the agreement which shall be examined in detail and how this will be done.

### **Objectives step 2:**

The second step will collate information on the implementation (=legal implementation of the agreement in national law and/or CBAs) and application (=concrete application of the agreement provisions) of the Agreement in cross-border services with a survey, interviews and workshops. This will also include clarification of legal questions.

The project will analyse the state of play and development of cross-border freight and cross-border passenger transport including local/regional cross-border passenger services taking especially into account rail freight corridors and major international passenger connections. This research will include information on the way of organising the cross-border services and the number of mobile workers concerned, in line with the definitions provided in the Agreement.

The main objective of step 2 is the collection of information on the application of the provisions of the Agreement in practice. Namely, information will be gathered on concrete working conditions of the mobile personnel in cross-border services, on the concrete needs of the workers and the companies, and on the specific concerns of national social partners and the national railway sector.

In addition the project will provide an overview of the relevant social partners, the applied collective agreements and the coverage for the professional groups concerned.

With step 2 also the role of national competent authorities and bodies and their role in ensuring the correct application of the Agreement provisions will be investigated. For instance, a question would be, how the minimum standards of the Agreement are applied and how their application is monitored and enforced in the companies and on the track by competent bodies.

### **Objectives step 3:**

With the third step the social partners participating in the Steering Committee will complete the review of the Agreement by discussing and if needed interpreting the results on the basis of the outcome of their activities.

The Steering Committee members will first discuss about the aspects of the agreement identified in step 1 and which were already examined in detail in step 2. With the support of the information and experience compiled in step 2, the interpretation of the aspects will be

facilitated. For example the question can be answered how the definition of “mobile worker engaged in interoperable cross-border services” in Clause 2.2 is practically applied.

Based on the evidence collected during the previous phases of the project, the Steering Committee members will assess the quality of the application of the provisions of the Agreement and consider a joint understanding about those aspects. For instance, they may assess the impact of different options to organize cross-border operations on the applied working conditions of mobile railway personnel.

The social partners will have the possibility to bring forward positions, concerns and needs vis-à-vis the application of the agreement for mobile workers assigned to cross-border services, the content of the provisions of the Agreement and the implementation of provisions at national level (social partners’ agreements, laws, regulations or administrative provisions) and in cross-border services. They will discuss what kind of problems trade unions and operators have reported as regards the application of the agreement and the specific provisions of the Agreement.

Finally the social partners will assess, if the objectives of the agreement, to avoid social dumping, ensure fair competition, assure railway safety and protect health and safety of mobile railway workers by creating common rules on minimum standard working conditions for mobile workers engaged in interoperable cross-border services have been achieved.

Based on the results of their joint analysis, and at the end of the review process, the social partners will assess which joint conclusions of the EU social partners can be drafted.

## 4 Duration of activities

### Working plan and time schedule

Month	Activity	Place	Participants	Duration
Feb 2017	SCM 1	Brussels	14 steering committee members, 1 EVA	1 Day
Feb-April 2017	Desk research, creating questionnaire for survey, creating interview guideline		Legal expert Scientific expert	
April 2017	SCM 2	Germany	14 SCM, 2 experts, 1 EVA	1 Day
April-July 2017	Stock-taking and collection of information,		Experts	
May 2017	Workshop 1	Germany	14 SCM, 2 experts, 1 EVA, 18 guests	2 Days

June 2017	Workshop 2	Poland	14 SCM, 2 experts, 1 EVA, 18 guests	2 Days
June 2017	SCM 3	following WS 2, Poland	14 SCM, 2 experts, 1 EVA	1 Day
Sept 2017	Workshop 3	Croatia	14 SCM, 2 experts, 1 EVA, 18 guests	2 Days
Oct 2017	SCM 4	Austria	14 SCM, 2 experts, 1 EVA	1 Day
Nov 2017	Workshop 4	France	14 SCM, 2 experts, 1 EVA, 18 guests	2 Days
Nov 2017	SCM 5	Following WS 4, France	14 SCM, 1 expert, 1 EVA	1 Day
Jan 2018	Workshop 5	Denmark	14 SCM, 2 experts, 1 EVA, 18 guests	2 Days
Feb 2018	SCM 6	Brussels	14 SCM, 2 experts, 1 EVA	1 Day
March 2018	SCM 7	Brussels	14 SCM, 2 experts, 1 EVA	1 Day
May 2018	Report to the Commission			

## 5 Implementation of the action

The project will combine preparation, main activities and follow-up activities in the following phases: preparation (step 1), workshops and data gathering (step 2), follow-up (step 3) and dissemination. The monitoring and evaluation activities will form an overarching process throughout the whole project. The methodological approach of the project will embrace a stock-taking to receive information on the organisation of cross-border services and the concerned workers through secondary research (desk research) and empirical research (survey) as well as by obtaining legal expertise on the relevant current framework. Both activities (scientific and legal research) will be sub-contracted to external experts. The information collected by the external experts in the first phase of the project will be supplemented by the collection of information and practical examples by the social partners and direct exchange among participants in multi-country workshops. A Steering Committee will be established that is guiding and monitoring the project implementation.

The project will last 18 months and will start in January 2017.

## **5.1 Preparation – step 1**

During the first step, the Steering Committee will choose the scientific and legal experts and identify the aspects of the agreement and its application which have to be analysed.

### **Tendering procedure external experts**

At the beginning of the project the scientific expert, who will do the research and survey for the study, and the legal expert who will do research on legal questions (e.g. legal advice on the relation between the provisions of the EU agreement applying to workers engaged in cross-border services and national legal and collective bargaining provisions; identification of national competent authorities and bodies in charge of monitoring the application of the provisions of the Agreement) are chosen. A tendering procedure will be organised right at the start of the project, detailing the tasks and the expected results. Criteria are fixed to choose the best value for money from the offers. If possible based on the offers received, the project will select a single candidate being able to carry out both the scientific and legal research.

The steering committee will be involved in the selection.

### **Steering committee meetings 1 + 2**

Two steering committee meetings are necessary in step 1. During the first steering committee meeting the participants will agree on the detailed project process, the empirical aspects, the questions related to the application of the agreement as well as the provisions of the Agreement which have to be analysed and the focus of the research work. The steering committee will agree on the relevant current legal questions the legal expert will have to answer. Venues and dates for the workshops will be fixed. The steering committee will choose the scientific and legal experts from the offers available. The second steering committee meeting will evaluate and validate the questionnaire and interview guidelines of the scientific expert and will assess first desk top research results.

## **5.2 Workshops and data gathering – step 2**

With the second step, the social partners will compile information on the application of the Agreement in cross-border services in the different countries as well as on legal questions through a survey and presentations during workshops.

### **Research, survey and selected interviews for stock-taking**

A legal expert will answer the relevant current legal questions identified by the social partners during the first steering committee meeting. The research and the survey on state of play of cross-border services and mobile workers concerned will be conducted by a scientific expert via desk-top research, questionnaires and selected interviews. Sources for the data collection will be Eurostat, DG MOVE, RNE, Corridor Coordinators, Member States, etc. In addition the European Commission's labour law experts will be consulted on up-coming legal questions.

The survey will be conducted among the member organizations of the European social partners. They will receive a questionnaire. A questionnaire will also be sent to National Safety Authorities (NSAs), Labour Inspectorates and other organisations that might be able to provide relevant information. External experts may conduct interviews with some of the survey respondents in order to obtain clarification about the answers provided and/or to deepen the level of information.

The main forum for gathering hands-on information will be the workshops.

### **Workshops**

5 Workshops will be organised with the objective to collect information on the practical application of the provisions of the Agreement and related problems. During the workshops the social partners will identify examples regarding the application and interpretation of the provisions of the Agreement and topics of divergence to identify possible loopholes in the agreement and/or topics for the development of the provisions of the agreement.

The workshops will take place in five countries with relevant cross-border activities. Experts from close countries will be invited following a cross-border services logic. The objective of the workshops is to get a deep understanding of the practical organization of cross-border services, the working conditions applied and thus the provisions of the Agreement. Experiences and possible problems with the monitoring and enforcement of the provisions will be a topic. Possible problems with the interpretation and/or wishes on the development of the provisions of the Agreement and any other information relevant for the objectives of the Agreement (recitals) will be another focus.

The project workshops will allow to cover and analyse the situation in all the main EU geographical areas in which cross-border traffic takes place (i.e. Western, Northern/Scandinavian, Central-Eastern and Southern Europe), thus allowing to achieve a complete picture of the application of the Agreement. During the workshops the situation in both freight and long-distance passenger services will be discussed. Aspects relevant for drivers and on-board personnel, such as driving time, breaks, quality of accommodation and rest facilities, etc. will be raised. The question of interpretation of the definitions and the different clauses of the Agreement will be topics in each workshop in order to map the situation in a maximum number of countries. During the workshops the responsibilities (e.g. role of competent authorities and bodies in charge of monitoring the application of the Agreement) and distribution of tasks among the different actors involved will also be an issue.

Workshop participants will be the members of the Steering Committee, the external expert(s) and the national experts of the respective countries: railway undertakings and trade unions, NSAs, Transport and Labour Ministries, etc.

The workshops will cover the following clusters of countries (the first country mentioned being the one in which the workshop will take place):

**WS 1: Germany** with the Netherlands, Luxembourg, UK, Belgium, France (April 2017, 2 days, 35 participants, 4 languages)

**WS 2: Poland** with Czech Republic, Slovakia, Hungary, Lithuania (June 2017, 2 days, 35 participants, 4 languages)

**WS 3: Croatia** with Austria, Slovenia, Italy (September 2017, 2 days, 35 participants, 4 languages)

**WS 4: France** with Spain, Italy, Belgium, Germany (November 2017, 2 days, 35 participants, 4 languages), Switzerland as guest without costs

**WS 5: Denmark** with Sweden and Finland (January 2018, 2 days, 35 participants, 4 languages), Norway as guest without costs.

This will cover 19 Member States from all regions of the EU with important cross-border activities.

### **Steering Committee Meetings 3-5 (1 separate and 2 in conjunction with workshops 2 and 4)**

In this phase **the Steering Committee meetings** are necessary to analyse the first draft of the final report by the external experts and address any issues that they may have encountered during the desk research or survey. The members will discuss the draft report of the external expert (presenting and analyzing the statistical and empirical data)

Two steering committee meetings in conjunction with the workshops will be necessary to discuss the planned progress and evaluate the workshop results.

Starting with Steering Committee Meeting 4 social partners should be already in the position to share and discuss their observations about the first preliminary results from the project activities.

### **5.3 Follow-up – step 3**

With the third step the social partners analyse and interpret the results of previous activities and assess which joint conclusions can be drafted on the basis of their discussions.

### **Steering Committee Meetings 6+7**

The social partners reflect on possible joint interpretation and conclusions on the interpretation, application and enforcement of the agreement. They may also consider whether to open negotiations in order to revise the agreement and if so, on which topics.

In this phase **2 Steering Committee** meetings are needed:

- a) To finalise the discussion about the draft report of the external expert
- b) For the Analysis and interpretation of the findings by the social partners
- c) Conclusions and follow-up

### **5.4 Dissemination**

The results of the project will be disseminated by CER and ETF, both internally within their organisations and externally through their communication channels and networks. Their national members will be closely involved throughout the whole project duration and will ensure the dissemination of results at country level.

### **5.5 Evaluation and monitoring**

#### **Steering committee meetings**

The steering committee will be in charge of preparing, evaluating and monitoring the activities and results. It will consist of representatives from both the employers and the employee representatives (CER and ETF Secretariats and selected members). Standing Steering Committee members will receive support from other members and affiliates if necessary.

## 6 Expected results

According to the project aims the following results are expected:

### Results step 1:

- A collection of aspects which have to be examined in detail;
- Selection of external experts;
- A questionnaire to address the companies, the trade unions and selected experts;
- Interview guidelines to address selected experts, employers and trade unions.

### Results step 2:

- A description of the current situation of cross-border freight and passenger transport (number of companies, number of trains per week/month), including the way of organising the service, the number of mobile workers, stock-taking on the application of the aspects of the Agreement in practice on the background of the current situation of cross-border services in the sector including concrete working conditions of the mobile personnel in cross-border services and the concrete needs of the workers and the companies;
- Overview of the relevant social partners, the applied collective agreements and the coverage for the professional groups concerned;
- Description of the role of national competent authorities and other competent bodies and the way they ensure the correct application of the Agreement provisions;
- Legal opinion on questions raised by the social partners.

### Results step 3:

- Analysis and evaluation of project results by the social partners;
- Mapping of concerns of the national social partners and the national railway sector related to the application of the Agreement;
- Assessment about whether the objectives of the Agreement – i.e. to avoid social dumping, to assure railway safety and to protect health and safety of mobile railway workers by creating common rules on minimum standard working conditions for mobile workers engaged in interoperable cross-border services - have been achieved;
- Consideration of a joint interpretation of some of the provisions of the Agreement;
- On the basis of the project results and of previous points, evaluation of the need to revise the Agreement;
- Assessment and decision about the content of social partners' joint conclusions.

## 7 Roles and responsibilities

**ETF** will be the project coordinator. ETF will monitor the implementation of the action in order to make sure that the action is implemented in accordance with the terms of the project grant

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agreement. ETF is the intermediary for all communications between the beneficiaries and the Commission.

The social partner **CER** will be co-applicant of the project. CER will be involved in the development and organization of the project to the same extent and with the same level of rights as the project promoter.

**Members of the European social partners CER and ETF** are responsible for monitoring and evaluating the project progress. They take part in the briefing of the external and the legal experts regarding the research work, in the steering committee meetings, in the workshops and reporting to the European Commission. 7 representatives from each ETF and CER will form the steering committee

**EVA Akademie** is co-applicant and responsible for the preparation, organization of the project meetings and events, organisation of the tendering procedure, support of scientific work and the coordination of production of the project report.

Composition of the steering committee:

#### **CER**

1. CER
2. AgvMoVe/DB, Germany
3. SNCF, France
4. ÖBB, Austria
5. FSI, Italy
6. Almega/ASTOC, Sweden
7. SNCB, Belgium

#### **ETF**

1. ETF
2. CGT Cheminots, France
3. EVG, Germany
4. Vida, Austria
5. ASLEF, UK
6. CGSP Cheminots, Belgium
7. SSSLO, Slovenia

## **8 Targeted groups and sectors**

The results of the project will be beneficial for the management and human resources departments of railway companies on the employers' side. On the workers' side trade union representatives and works councils are targeted. Both groups will participate in the project activities and will be invited to join the discussions. The final beneficiaries will be railway employees and railway companies. The targeted sector is the railway sector.

## 9 The transnational dimension

The project activities are initiated by the European social partners of the rail sector ETF and CER. They will integrate all their member companies and affiliated organisations in Europe with cross-border services in the project activities and the social dialogue process. The objectives and the results of the project therefore apply to the rail sector in whole Europe. All railway companies and trade unions in the EU are invited to take part in the activities and to support them with their expertise and knowledge. The information and invitation will be distributed via the European social partners ETF and CER. This will guarantee that all parties will have access to the information.

The steering committee will consist of representatives from 7 European countries (UK, Belgium, France, Germany, Austria, Italy, Sweden). The workshops will add participants from other countries.

Expertise and experience from several European countries regarding the implementation and application of the Agreement will be made available by a questionnaire with the companies and trade unions from all EU countries with cross-border rail services.

The 5 Workshops will have simultaneous interpretation into the languages needed to ensure the active and smooth participation of all participants (four languages for each workshop). The discussion and understanding will only be possible if all representatives can speak their mother tongue or a language of which they have a working knowledge. The final report will be available in English, German and French. It will be distributed to all member companies and organisations of the European social partners of the rail sector and to the European institutions. The project has the broadest transnational dimension possible for the rail sector.

## 10 Arrangements for evaluation and monitoring

In this project the steering committee together with the European social partners CER and ETF will be responsible for monitoring the project progress, the political approach and the results. It is also in charge of the outcome of the discussion and on the review of the agreement. As it consists of experts concerned with social aspects in the rail sector on the employers' and trade unions' side, well-balanced results are expected. The members will formulate the expected outcome of the project. On this basis they will analyse and discuss the output of the workshops and the report drafted by the external experts. Modifications of aspects will be suggested when necessary.

The social partners CER and ETF will include their member organizations in decision making processes, the development of documents and conclusions.

Each workshop will be evaluated by written feedback from the participants, which contains at least the following questions:

- Did the event meet your expectations?
- Could you gain relevant knowledge and information?
- Can you use this knowledge for your work?

With the results of the written evaluation the steering committee will discuss the following workshops and the draft reports and adapt content or structure if necessary.

## **11 Added value and innovativeness**

Beyond the objectives of the project itself, added value will be generated by the report on the impact of the Agreement, relevant for all European countries. The report will contain data and experiences of the application of the Agreement and relevant legal information on the implementation. So far, no such overview is publically available for the rail sector in Europe. The report will be available after the project duration for all members of the social partners, for other branches as well as for the European institutions and the public. The report will be published on the partner's websites in three languages.

The discussion of the social partners will have a real added value, as they have the opportunity to come to joint conclusions, which will be relevant for the whole European rail sector in the future. They will assess, if the objectives of the agreement, to avoid social dumping, to assure railway safety and to protect health and safety of mobile railway workers by creating common rules on minimum standard working conditions for mobile workers engaged in interoperable cross-border services have been achieved.

Furthermore, the project will provide the necessary background information for an impact assessment in the case the social partners decide at the end of the process that a revision of their Article 155 agreement would be necessary or desirable.

An additional added value will be the steering committee, which will form an expert network on the topic. A European-wide network of additional experts regarding the implementation and application of the Agreement in the countries and social dialogue processes will be at hand to provide the social partners with expert knowledge.

## **12 Use of results, multiplier effects and dissemination plans**

The results of the project, primarily the report on the experiences of the implementation and application of the agreement will be an important tool for the social partners to assess the current situation of certain aspects of working conditions of mobile workers in cross-border transport. The agreement shall ensure health and safety regulations for the workers. Therefore this project will contribute notably to the aim of the budget heading, to adapt social dialogue for the benefit of employment and working conditions. Scientific information and experiences will help the social partners to identify the relevant issues. Experiences in the form of case studies will provide concrete information on implementation and application measures. The results of the discussion of the interpretation of the information will be transferred into the bodies of the social partners. The member organisations of the social partners will function as multipliers during and after the project duration.

The project will use all means of communication and publication, which are available for the contractor and the social partners. The regular meetings of the social partners will be used as a platform to communicate the project progress and the results. The results of the project will be published on the websites and in newsletters of the social partners and the project promoter.

Moreover, the report will be available in English, German and French and will be distributed to all members of the social partners involved in the project.

Press releases by the involved associations will accompany the progress and the finalisation of the project. The use of several communication methods will increase the awareness on the topic among the social partners and the public in Europe.

## 13 Detailed work program

### Preparation

#### 1) Tendering procedure external expert

**Date, Duration:** January 2017, 1 month (the tender will be published ahead of the project start)

**Responsible:** EVA Akademie in consultation with ETF and CER

#### 2) Project Steering Committee Meeting 1

**Place:** Brussels

**Date, Duration:** February 2017, 1 day

**Participants:** 15 persons, 7 ETF, 7 CER, 1 EVA

**Language:** English, German, French

##### Program

- Overall project discussion
- Detailed working schedule
- Evaluation of the offers from external experts
- Identification of aspects of the Agreement which have to be analysed
- Questions for the legal expertise
- Design of the workshops

#### 3) Project Steering Committee Meeting 2

**Place:** Germany

**Date, Duration:** April 2017, 1 day

**Participants:** 17 persons, 7 ETF, 7 CER, 1 EVA, 2 experts

**Language:** English, German, French

##### Program

- Preparation and program of the following workshop
- Expectations on the contribution of the invited speakers
- Discussion of the legal research results
- Discussion of the questionnaire for the survey and interview guidelines to collect data and experience

### Main activities

#### 4) Survey and interviews for the report

**Date, Duration:** February-July 2017, 7 months

**Responsible:** external experts, support: ETF, CER, EVA, steering committee members

**The task of scientific expert** will be a stocktaking on the extend of cross-border rail services (freight and passengers) across EU main borders (which are the main services / routes; how many trains per week). The expert will draft an up-date on how those services are organized as regards the personnel (drivers and on-board personnel).

The expert will identify companies actually organizing cross-border freight and passenger services and he will identify, if applicable, other actors than companies involved. Further aspects as the number of mobile personnel involved in those cross-border services (freight and passenger) will be relevant for the scientific research.

**The legal expert (European labour law)** has to solve different tasks. A Collection and presentation of national laws implementing Directive 2005/47/EC on the CER/ETF agreement (from the European Commission) is one aspect.

The Collection of information whether and/or to which extent provisions of the CER/ETF agreement have been implemented in rail collective bargaining agreements (from the rail social partners) is a second aspect.

The expert will also have to give legal advice on questions of the rail social partners as regards the relation between the Article 155 agreement (scope: mobile workers assigned to cross-border interoperable services) on the one hand and national working time legislation relevant for mobile railway workers and sectoral/company collective bargaining agreements on the other hand.

In addition a list of national competent authorities and bodies responsible for the monitoring and enforcement of working time rules for mobile workers is important for the project aims.

## 5) Project Steering Committee Meetings 3-5

**Place, Date, Duration:**

Poland, June 2017 (in conjunction with WS 2), 1 day

Austria, October 2017, 1 day

France, November 2017, 1 day (in conjunction with WS 4)

**Participants:** 17 persons, 7 ETF, 7 CER, 1 EVA, 2 experts

**Language:** English, German, French

## 6) 5 workshops

**Place, Date, Duration:**

**WS 1: Germany** with the Netherlands, Luxembourg, UK, Belgium, France (May 2017, 2 days, 35 participants, 4 languages)

**WS 2: Poland** with Czech Republic, Slovakia, Hungary, Lithuania (June 2017, 2 days, 35 participants, 4 languages)

**WS 3: Croatia** with Austria, Slovenia, Italy (September 2017, 2 days, 35 participants, 4 languages)

**WS 4: France** with Spain, Italy, Belgium, Germany (November 2017, 2 days, 35 participants, 4 languages), Switzerland as guest without costs

**WS 5: Denmark** with Sweden and Finland (January 2018, 2 days, 35 participants, 4 languages), Norway as guest without costs.

**Participants** per Workshop: 35 participants (14 CER, 14 ETF, 2 EVA, 2 experts, 3 speakers)

### **Program**

The five workshops will have the same structure and will analyse the specific conditions in the countries. The program will focus on:

- Short information on the legal implementation of the Agreement in national law
- Detailed information on the application of certain aspects of the agreement in the countries. Reports from experts, company and trade union representatives
  - Current cross-border freight and cross-border passenger transport including local/regional cross-border passenger services, taking into account rail freight corridors and major international passenger connections.
  - Information on the way of organising the service and the number of mobile workers, as defined in the Agreement
  - Information on concrete working conditions of the mobile personnel in cross-border services and on the concrete needs of the workers and the companies.
- Discussion of the role of national competent authorities and bodies and their role in ensuring the correct application of the Agreement provisions
- Discussion of concerns of the national social partners

### **Social partners responsibility during workshops**

Collecting information on the actual application of rules (which rules) for mobile workers assigned to cross-border services through questioning the country experts (company reps and trade unions) during the workshops (participants should receive a list of questions prior to the workshops);

Assessment of the provisions of the agreement in discussion with the country experts in the workshops and identification of possible ambiguities

Exchange with competent monitoring and enforcement authorities on their practices during workshops

Joint evaluation and conclusions

## **Follow-up**

### **7) Project Steering Committee Meetings 6-7**

**Place:** Brussels

**Date, Duration:** February 2018, 1 day

**Date, Duration:** March 2018, 1 day

**Participants:** 17 persons, 7 ETF, 7 CER, 1 EVA, 2 experts

**Language:** English, German, French

During the last two steering committee meetings the social partners will finalise the review the Agreement by discussing and if needed interpreting the results on the basis of the outcome of their activities.

- Aspects of the agreement identified in step 1 and findings on these aspects of step 2
- Interpretation of the aspects
- Assessment of the quality of the implementation of the provisions of the Agreement
- Considering a joint understanding about those aspects
- Discussion of the kind of problems trade unions and operators have reported as regards the application of the agreement and the specific provisions of the agreement
- Assessment which joint conclusions of the EU social partners can be drafted

## Reporting

### 8) Report to the European Commission

**Date, Duration:** May-June 2018, 2 months

**Responsible:** project coordinator ETF