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ATM European Social Partners Recommendations on Mobility of workers within the ATM sector

I. Introduction & Background

In November 2011 ATCEUC, CANSO & ETF, the European Social Partners for the Air Traffic Management sector (ATM SPs) with the support of the European Commission, have organized the Venice Conference on “The Role of the European social dialogue in the implementation of the Single European Sky”.

The Action Plan produced at the end of the conference resulted in a list of 10 items on which the ATM SPs are working. In the context of one of the ten identified items, the 5th pillar – Human Factor –, the ATM SPs agreed to work together to address the issue of staff mobility.

The right to move and reside freely is one of the pillars of the European Union. Such freedom of movement shall entail the abolition of any discrimination based on nationality among Member States' workers as regards employment, remuneration and other conditions of work and employment.

Several years have passed since the ATCO licence directive was adopted (2006). As the legislative package already in place (European treaties, SES legislation and the new ATCO licence regulation) provides the framework for ATCO mobility, there is no need for further legislation. However, there has only been a few examples of ATCO mobility based on individual bilateral agreements between ANSPs since 2006.

The ATM SPs are expressing the need for an overall assessment and analysis of the European Commission aimed at addressing the way Member States and ANSPs have implemented the mobility aspect of the ATCO licence regulation by indicating which concrete actions have been put in place at national level to favour it. This study could help to get an overview of the present situation as well as to learn the lessons from the few past initiatives regarding ATCO mobility.

In the context of this paper, the ATM SPs intend to speak only about International Mobility, considered as the workers mobility that crosses the national borders.

The ATM SPs recommend their national members to use these recommendations when they plan to utilise the mobility of workers.

If well and appropriately managed, mobility is an added value for both employers and workers.

II. Different Kinds of Mobility

The ATM SPs have identified different kinds of mobility:

- Short term mobility
- Medium/Long Term mobility
- Permanent mobility

These are described in more detail below:

Short term mobility

Short term mobility for all categories of workers even ATCOs and management can exist; this includes mobility for training purposes, project work, international activities where staff are sent to another country for a short time e.g. less than one year. For the same purposes we can foresee also medium to long term mobility where staff or managers are sent abroad for the purpose of setting-up an overseas office or for a medium/long term project.

In line with the ATCO licence regulation, sufficient training time is necessary for ATCOs to be safely trained and to get their unit endorsement; this training also has to take into account the local environment from a geographical, technical and operational perspective.

For these reasons, the ATM SPs do not consider any short term perspective of ATCO mobility for operational purposes to be realistic. However, ATM SPs support short term mobility engagements for ATCOs for any projects, which are not linked with an “on-board” activity of the ATCO (e.g. providing ATCO knowledge/experience in a system development within a FAB).

The same concept should be applied to all jobs where equipment or tools new to individuals are to be used and where some training time is necessary to adapt to the new local environment.

Medium/Long term mobility

In the last years the ATM SPs have observed a few examples of medium term international mobility where ATCOs have been sent for a few years to an ANSP abroad. Typically medium/long term mobility will not extend beyond 3 years.

This mobility should be based on the rules applicable within the ANSPs as regulated in the collective agreements. It can be the case that new rules to manage this unusual situation should be set-up.

In these examples international mobility appears to be very complicated and time-consuming to arrange and resolve all the related challenges (see paragraph “Challenges arising from mobility” for details).

This kind of mobility may be facilitated by FAB implementation through medium/long term capacity plans resulting from ANSPs' cooperation. However,

this kind of mobility must be agreed between management and trade unions within the Social Dialogue framework of the providers/countries involved.

As managed in the few examples of mobility based on bilateral agreements between ANSP, it should continue to be on voluntary basis.

Permanent mobility

Permanent mobility is intended as lifetime mobility to another country.

In the last years the ATM SPs have observed very few examples of workers migrating to an overseas ANSP by their own initiative.

ATM SPs support the voluntary mobility and the right to move and reside freely.

To avoid ¹social dumping, workers must benefit from & be bound to the same collective agreement (employment and working conditions, rostering, wages, pensions etc.) within the ANSP of destination, regardless of where they come from.

Also this kind of mobility may be facilitated by FAB implementation with long term capacity plans resulting from ANSPs' cooperation. This kind of mobility must be agreed between management and trade unions within the Social Dialogue framework of the providers/countries involved and should continue to be on voluntary basis.

III. Challenges arising from mobility

The ATM SPs have identified many future challenges arising from the workers mobility.

In order to be attracted to mobility, workers need full clarity in relation to the conditions underlying their mobility engagement (employment, finance, pension, social security, tax rules, pension, welfare, healthcare, etc.).

Past experience shows that understanding and establishing all of these conditions needs time and effort as international mobility involves local, national and international laws. There can be many complexities involved in addressing these issues, in particular issues of taxation and social security compliance, where such rules can be subject to frequent revision.

Experience has also shown that the situation is more complex when family is involved, finding arrangements not only for the workers but also for their families and children (e.g. school, career).

Cultural and language aspects remain an obstacle for workers mobility.

¹ Social dumping results from differences in direct and indirect labour costs, which constitute a significant competitive advantage for enterprises in one country, with possible negative consequences for social and labour standards in other countries.

Local language proficiency is not mandatory from an EU legislative perspective for ATCO licencing requirements. However, it may be a requirement of the receiving country. Additionally, local language proficiency will be a requirement for the families of workers and for other categories of workers for example engineers, management professionals etc.

Local language can become a factor of success in the training processes and is a real factor of integration for an expatriate worker. The team resource management (TRM) is an important element in ATM and ATC services; it should not be underestimated. TRM and good communication amongst people is necessary in so far as this has an impact on safety and efficiency as practical coordination among air traffic controllers may become harder in the presence of language barriers. For other categories of workers the local language is the only language used for daily activities within an ANSP.

Furthermore, local language proficiency is a requirement for some aspects of the job, especially to communicate with other non-English speaking staff (ground staff, support staff). Local language knowledge is also helpful to remove cultural barriers that could remain among people from different countries inside the same unit.

IV. ATM Social Partners recommendations

Voluntary mobility will give staff the opportunity to work in different environments as well as to experience new challenges. At the same time it will create opportunities and challenges for the ANSPs. It is acknowledged that there has been, for several years, a mutual recognition of ATCO licences which is seen as an aid to mobility.

Mobility represents a means for gaining expertise and investing in human capital but it should not be used to replace appropriate human resources planning.

The ATM Social Partners recommend the following:

1. Foreseeing that forced mobility will lead to social tensions, the ATM SPs recommend that mobility issues should be agreed between management and trade unions within the Social Dialogue framework of the providers/countries involved and should continue to be on a voluntary basis.
2. The ATM SPs have highlighted the requirement for an overall assessment and analysis of the lessons learned from past initiatives of mobility in the ATM- and other sectors to be carried out by the European Commission. The ATM SPs will address this requirement from within the social dialogue process.
3. To promote the workers mobility clear provisions have to be included both in the ANSP procedures and in the collective agreements in order to provide guarantees on employment terms for expatriate workers but also for workers already based in the destination countries.

4. If these provisions are not already included in existing agreements, an ad-hoc agreement between management and trade unions within the Social Dialogue framework of the providers/countries involved should be set-up in order to address the mobility issues.
5. These provisions should cover all the challenges arising from workers mobility, setting clear employment and economic conditions including accommodation, considering possible consequences for the pension scheme, the social security, the tax rules (incl VAT), welfare and healthcare.
6. In the case of medium/long term mobility there should also be consideration of the workers' family and needs. Support in finding accommodation and schooling for the workers' children (e.g. international school, language course, etc...) should be included in the mobility package.
7. Due to the relevance for training and daily activities, an integration language programme and cultural awareness training should be provided to the expatriate workers.
8. The ATM SPs recommend that the spirit of the Commission Regulation (EU) No 805/2011 on ATCO licences which clearly specifies in its recital that "the implementation of the ATCO licence must not lead to circumvention of existing national provisions governing the rights and obligations applicable to the employment relationship between an employer and applicant air traffic controller" should be endorsed.

The recommendations of the ATM SPs will avoid the introduction of social dumping and assist in the prevention of social tensions between TUs and management in addressing international mobility issues. Additionally they will assist in the integration of expatriate workers into the local community.