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European Transport Workers' Federation  
Fédération Européenne des Travailleurs des Transports  
Europäische Transportarbeiter-Föderation  
Federación Europea de los Trabajadores del Transporte

Brussels, 23 December 2011

European Commission  
Vice-President Siim Kallas  
Commissioner for Transport

**Dear Vice-President,**

**Re: Your speech at the conference “EU Passenger Law Towards 2020” at the Catholic University of Leuven on 6 December 2011**

The ETF has been made aware that at the end of your speech on “A European vision for passengers: protecting EU passengers’ rights in tomorrow’s transport”, you asked the following question “Should an airline be obliged to compensate passengers if air traffic controllers go on strike, or should the air traffic controllers compensate?”.

The ETF regrets that the most basic passenger right is not mentioned: the right to a safe flight!

You wonder what exactly an “extraordinary circumstance” is. As you know, Regulation (EC) N°261/2004 related to compensation and assistance to passengers in case of denied boarding and of cancellation or long delay of flights, it is written under the Whereas n°14 that “As under the Montreal Convention, obligations on operating air carriers should be limited or excluded in cases where an event has been caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken. Such circumstances may, in particular, occur in cases of political instability, meteorological conditions incompatible with the operation of the flight concerned, security risks, unexpected flight safety shortcoming and strikes that affect the operation of an operating air carrier”.

Under this “Whereas”, it is clear that strikes do not lead to compensation.

Therefore why does always the Commission come with the issue of the strikes of the ATCOs? ETF is disappointed about the pressure and attempts coming from European institutions to minimize and reduce the right of strike and its impact. This can only lead to new social tensions.

We do not need to remind you that in its White Paper, the Commission repeatedly refers to removing barriers, minimum services, “preserving the mobility of passengers and goods in crisis situations”, prevention of conflicts and disturbance of minimum services.



**President** vacant

**General Secretary** Eduardo Chagas

**Vice Presidents** Alexander Kirchner  
Brigitta Paas



The Commission elaborates on a mystification over industrial disputes ignoring that the right to strike is a fundamental social right to which trade unions only turn as a last resort, instead of elaborating on how effective social dialogue and participation of social partners to find common solutions can be strengthened which would in fact help to prevent such situations from happening.

It is the ETF view that the Commission's proposal to "establish Europe-wide minimum service for workers" goes against Article 153 of the TFEU, which leaves the right to strike outside of the EU competences. Therefore, the ETF has strongly demanded the Commission to withdraw this proposal, which is in excess of its competences and is an attempt to reduce the right of transport workers to hold industrial actions and strikes and to limit the benefits of meaningful social dialogue and consultation to find socially balanced solutions.

While admitting that conflicts exist, the ETF would like to point out that industrial unrest is a legitimate expression of labour dissatisfaction and long term frustration rather than the cause of disruption in what is called "a sustainable" economy. Measures that ignore the human factor are inadequate and can only lead to further social conflicts.

Recently, at the SES expert group meeting on 15 December 2011, ETF also learned that the Network Manager (Eurocontrol) is elaborating a strategic plan, which will contain a measure to improve the mitigation of the impact of the ATCO' strikes on the network. This strategic plan will be sent to the Commission for endorsement. After this endorsement, the Commission may take initiatives.

The ETF is totally opposed to any kind of initiatives in this field as the Commission is going in an area, which is from the competence of the Member States.

We are willing to meeting with you in order to discuss further this issue and certainly before the Commission takes any further initiative in this field.

Yours respectfully



**Riccardo Rubini**  
Chairman of the ETF ATM Committee



**François Ballestero**  
Political Secretary for Civil Aviation