

*ECA Submission for the Plenary Meeting of the Sectoral Social Dialogue Committee
on Civil Aviation*

The impact of the crisis

1. Where are we?

Spanair, Malev, Cimber Sterling, Skyways Express; BMI Baby ceasing operations in September; the future being uncertain for many others such as BMI Regional, TNT Airways, PanAir, (these 2 latter are being bought by the American UPS but the 2 companies run the risk to lose their AOC if less than 51% of the ownership and control remains into European shareholders' hands). In total, more than 1.500 pilots and many other employees have lost their jobs due to bankruptcies since the beginning of this year.

At the same time many other airlines go through severe restructuring:

- Iberia transfer 40% of its operations to new low cost subsidiary
- Air France studies severe cost reductions
- Austrian Airlines performed deep cost cuts in the structure of the company
- Air Malta, Cyprus Airways...

The result of this situation for pilots is outsourcing and reduction in pay and conditions.

European pilots are leaving Europe. 40% of Maltese pilots left their country to work in the Middle East and Asia. Significant numbers of Greek, Hungarian, Spanish and UK pilots leave Europe because of the difficult working environment in Europe.

2. How did we get here?

The economic climate and the financial crisis in particular is largely responsible for the current difficulties (inability to get credit and increase of fuel prices). However, the bankruptcy/restructuring of some airlines is also due to structural factors and specifically due to the existence unfair competition conditions:

- **Internal unfair competition:** Continued erosion of the traditional airlines through unlawful/dubious business practices such as refusal to pay social security of employees, abuse of temporary work, the set up of bogus self-employment (to avoid associated labour and operational costs), and blackmail of regional authorities to obtain subsidies and the overlooking of other legal requirements.
- **External unfair Competition from the EAST:** following the restructuring/bankruptcy of EU airlines and the decrease of working conditions, European pilots are migrating to the East. Eastern airlines benefit from a highly qualified workforce without investing in their training. These airlines' state aid and social policies are not acceptable but the EU prefers closing their eyes to allow the EU aircraft

manufacturing industry to sell their airplanes to subsidised airlines. The EU will provide the airplanes to the airlines that will end up with the European air industry.

- **External unfair Competition from the WEST:** The EU/US air transport services agreement is showing its unbalanced nature in favour of the US, especially in the Cargo sector. Thanks to this agreement UPS and FEDEX have an almost duopoly situation in the European Cargo market. In addition to the unbalances in the agreement, this is possible due to very permissive labour permit concessions by some countries that accept US crews working in the EU without paying EU social security and taxes but rather get advantages of US expats conditions which include very low taxation rate. This system allows a company to offer lower salaries to its pilots as they will benefit from a lower taxation regime. Two EU airlines (TNT Airways and Panair) are about to disappear due to this unacceptable situation.
- **External Competition within Europe:** There are increasing incidences of wet leased operations by operators from outside the EU, taking place within the EU. This area is presently a regulatory and oversight “black hole”, with considerable opportunity to breach the spirit of EU market rules without hindrance.

3. What to do?

- Internally:
 - The joint action of the air crew working group of the social dialogue committee succeeded in promoting the designation of the home base as the place where aircrews should pay social security. This is a step forward in the prevention of social dumping and in the consolidation of a coherent legal system for aircrews to grant crews the labour, the social security and the safety protection of the place where they are based.

The joint effort to prevent social dumping should continue. The fight against the abuses of temporary / agency work and against bogus self-employment is a priority for ECA.

- A debate on how to retain European employees in EU airlines must take place. European crews feel that they are no longer partners in their airlines but solely adjustable costs. The working relationship has suffered remarkably. European crews find now better conditions and easier relations with managements outside the EU. This was not conceivable only a few years ago.

EU crews and airlines must stop confronting and return to a situation of mutual trust and dialogue. Airlines and crews should not act as enemies but as partners.

- Resuming a dialogue means also the recognition of all the parties' rights. ECA thinks that the current situation after the Viking and Laval cases make this dialogue more difficult. Our sector should promote the establishment of a Social Progress clause in the Treaty and the respect of fundamental labour rights in the same manner as economic freedoms, i.e. requesting the EU to ensure that these rights are respected and that they cannot be restricted. As perhaps the sector most affected by these issues, we believe it is necessary

to pursue a sector specific joint proposal in this area. If we wait for the whole of industry to adopt a solution, it will be too late.

- Effective dialogue between employers and employees needs to be able to take place at the appropriate level. This means not only at national level, but where the structure of the employer is trans-national, there must be a trans-national level for the employees too.

Considering the importance and the scope of the collective labour agreements for pilots, there must be equal provisions for employers and employees to negotiate, conclude and enforce them at trans-national level. If the EU could have one set of rules applying to EU trans-national airlines this would facilitate the recognition of our system by non-EU countries whenever rules on airlines ownership and control are relaxed.

- Externally

- We need to stop social competition at global level. ECA is favourable to engaging in international social dialogue initiatives that are being organized to prevent social dumping at global level and raise global standards.
- We need to ask the Commission a review on the functioning of the different air services agreements concluded by the EU and identify the unbalances in terms of jobs and opportunities. Together, as Social Partners, we should ask the EU to make sure that EU flights are flown by EU crews.
- A stricter interpretation of rules on wet leasing and the robust enforcement of these rules is necessary.

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