

Convergence necessitating social dialogue in EU aviation industrial relations

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Policy Considerations

- For EU governments to strengthen social dialogue in EU aviation sector industrial relations at EU-wide, Member State, and cross border levels.
- To enhance cooperation within EU aviation sector industrial relations amongst governments and the sector social partners, thereby connecting EU-wide efforts with Member State and local level activities.
- To establish an ameliorated framework for EU aviation sector social dialogue in preparation for a collective effort to address the myriad challenges facing the sector, notably climate change.
- For the EU aviation sector social partners to be brought into the collaborative efforts between the International Labour Organization and the International Civil Aviation Organization for the purpose of addressing the decent work issues affecting the aviation sector within the EU and beyond it.

Introduction

Drawing from research conducted as part of the EU-funded project VIRAL, this policy brief considers the nature and extent of social dialogue specific to EU aviation industrial relations within select Member States (Denmark, France, Germany, Ireland, Italy, Poland, Spain). We observe a convergence of issues that challenge EU aviation sector industrial relations. Policy considerations are put forward with the aim of facilitating an essential discussion leading to concrete steps being taken.

We identify concerns regarding social dialogue, as well as tangible benefits for a sector that will continue to confront obstacles, notably climate change. EU aviation industrial relations also have social security implications (see for example *INAIL and INPS, C-33/21, EU:C:2022:402*). We do not discuss these here. Although this policy brief focuses on the European Union, we also see scope for the subject matter of this brief to form part of the closer collaboration between the International Labour Organization (ILO) and the International Civil Aviation Organization (ICAO) set out in their 15 March 2022 agreement.

We are reminded of the late Marco Biagi's question that guides the following pages: are the social partners a forum for dialogue, or can a strategy for problem-solving based upon a partnership relation be achieved? In our assessment, the period 2020-2022 reveals the fragile state of EU aviation sector social dialogue. We contend that aviation sector social dialogue must be ameliorated so that the sector better manages how crises are handled. We see greater potential for social dialogue than suggested by the method employed this century of lurching from one emergency to another.

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An overview of EU aviation industrial relations

Aviation is a key facilitator of the free movement pillar of the EU, particularly with regards to territorial continuity for island countries (such as Ireland), as well as Member States whose jurisdiction includes islands (including, but not only, Denmark, Italy, and Spain). The EU aviation industry has been notably liberalised since the turn of the 21st century. Low-cost carriers (LCCs) have grown over this time, particularly by capitalising on consumer sensitivity to prices. Legacy airlines (those that were originally established as flag-carrying airlines representing a jurisdiction) have responded to these new entrants by reducing their costs, particularly through strategies surrounding industrial relations including forming their own low-cost subsidiaries. In some instances, industrial relations were not in an ideal state, such as at SAS where wage reductions and deterioration of working conditions had eroded trust for much of the 21st century. These developments preceded the Covid-19 pandemic.

Covid-19 affected the aviation industry to a staggering extent. Passenger numbers dropped in the period Q2 2019 to Q2 2020 by over 91% in all EU Member States (Eurostat). Effects on labour terms and conditions included: agreements on reduced work hours and wages; unilateral wage reductions; agreements on paid/unpaid leave; and lay-offs (International Labour Organization, 2020). On 28 April 2020, SAS announced a reduction of 1593 in its workforce of 4300. Air France revealed on 17 June 2020 job reductions of between 7000-10,000. Lufthansa stated on 11 June 2020 plans to lay off 22,000 of its 135,000 employees, with German workers constituting about half of the layoffs.

Many of the remaining EU aviation workers benefitted from government income support arrangements devised to assist businesses and workers. For workers, these included: temporary wage subsidies; increased unemployment allowance; means to assist working parents; sick pay; and assistance for the self-employed.

The period of 2020-2022 also tested the strength of EU social dialogue. Aviation was one of the most significantly affected industries. Although we see examples of social dialogue in the sector, the extent to which social dialogue has been engaged raises questions about its current health. We point to the present period also being one in which there are difficult questions being posed regarding the status of social dialogue, and the extent to which it may be effective in positively impacting EU-wide industrial relations. Amongst others, we have three considerations in mind: the areas of digitalisation and the right to disconnect, as well as the CJEU's decision in *European Federation of Public Service Unions (EPSU)*, C-928/19P, EU:C:2021:656. Strong social dialogue must be in place as the sector faces foreseeable challenges. In the 21st century alone, aviation has faced several crises: the US terror attacks of 11 September 2001; the 2010 Eyjafjallajökull (Iceland) volcanic eruption; SARS; Covid-19. This is not to overlook other challenges such as in Spain where the Association of Air Lines, an organisation representing a majority of airlines operating in Spain, expressed dissatisfaction with not only the air transport's exclusion from the anti-crisis measures contained in the renewed Shock Plan developed in response to the war in Ukraine, but also the fact that a Royal Decree Law of August 2022 imposed new economic obligations on the sector.

From social dialogue to industrial acrimony during the pandemic

A general movement is discernible during the years 2020-2022: commencing with social dialogue aimed at government intervention, by 2022 it turns to acrimony, leading in some instances to industrial action. Although there are generally examples of successful social dialogue during the pandemic (in Denmark, there were a total of twenty-one tripartite agreements made during the Covid-19 lockdown), their prevalence within EU aviation industrial relations is not as evident.

Aviation was clearly a vulnerable industry because limits to air travel were seen as a primary means of staving off the virus' spread. Governments supported the industry in differing ways.

Ireland and Poland provided little or no money directly to airlines. In contrast, the Austrian, Belgian, German, and Swiss governments¹ provided €9 billion to Lufthansa. The French Government contributed €7 billion to support Air France-KLM. The Spanish Government contributed approximately €839 million to Air Europa, Volotea, Air Nostrum and Plus Ultra. Airlines also benefitted from other measures such as Denmark's €17.3 million reduction to airport taxes (which benefitted all airlines flying into the country).

In the early stage of the pandemic, social dialogue was evident. See for example the joint declarations by the German social partners (Deutsche Gewerkschaftsbund (DGB) and Bundesvereinigung der Deutschen Arbeitgeberverbände (BDA)) in early 2020 that they would “push aside differences”. It may be contended that negotiation was the “most prevalent form of social partner involvement” (Eurofound). This is only part of the situation. The uncertainty in 2020 drastically affected workers' terms and conditions, irrespective of negotiated agreements. In France, the agreements of collective performance entailed wage cuts. Trade unions accepted cuts to wages to reduce the wage bill of companies during the crisis period. France also saw wage reductions through the derogation *in peius* at company level regarding working conditions laid down in collective agreements.² In all countries under this study, Ryanair reduced pay in 2020 by 10% for cabin crew and 20% for pilots, effective over a four-year period.

In 2021-2022, unions more overtly sought to revisit the changes to terms and conditions. The increase in consumer air traffic (particularly in Summer 2022) brought about more contentious relations between labour and management. A significant focus of the resulting industrial action has been the terms under which remuneration and working conditions will return to pre-Covid-19 levels. The collective performance agreements in France, for example, did not automatically terminate with the return to “normal” activity levels in Summer 2022. And so, remuneration cuts remained in place. There have been some compromises, though, on a timeframe for a return to previous working conditions. Ryanair/Malta Air, in the countries of this study, agreed to restore pay by 2023 (instead of the previously agreed date of 2024) if the company recovers profitability. The evaluation of the restoration scheme remains contentious.

The return to normalcy regarding wages remains a matter of company level negotiations across the sector. Following the collective bargaining “paralysis” of the pandemic years, social partners in Spain, for example, faced significant difficulties in renewing collective agreements that expired between 2020 and 2022. Even in countries with established social dialogue/mature collective bargaining, such as Germany, unions have been asserting their interests via collective action. It should additionally be noted that in December 2021 the national level Spanish social partners agreed to a reform that reduced the number of temporary contracts, incentivised by an increase in penalties for non-compliance.

LOT Polish Airlines is a good representation of the labour tensions in the period 2020-2022. In 2021, the airline agreed to improve working conditions: cabin crew returning to full-time work at 30 hours' pay; pilots being guaranteed 27.5 working hours (up from 20); an automatic return to the pre-COVID-19 pay rules when the agreement expires on 31 March 2024. And yet, while the airline terminated many contracts during the pandemic, its recruitment of new staff (when business started to improve), carried out through a subsidiary company, avoided these individuals. Instead, it hired inexperienced people, offering only business-to-business (B2B) contracts. The hiring of staff as self-employed, especially cabin crew, was one of the elements of union conflict before the pandemic.

¹ Austrian Airlines, Brussels Airlines, and Swiss Air are subsidiaries of the Lufthansa Group.

² Collective Performance Agreements (*accords de performance collective*) enable the employer to reduce wages and derogate *in peius* from applicable working conditions concerning working time and workers' mobility without requiring any guarantee on the employer's side in terms of investments or employment levels.

The state in action or a state of inaction

We have found that the industrial relations frameworks were not used to the extent to which they could have been. Negotiations were largely one-sided with workers conceding much in a short period of time. This outcome met the need at that time. However, with the benefit of being able to assess how matters unfolded, particularly with the increase in air traffic in Summer 2022, these agreements (for example in France) have fallen under significant scrutiny from the affected workforces. Although we appreciate a cautious approach being adopted by airlines and airports, equally the EU aviation workforce was working under strenuous circumstances at reduced remuneration.

Within the examples from the countries under study, a distinction can be drawn between quantitative and qualitative state involvement. States, apart from Ireland and Poland, financially supported airlines and airports. While Denmark continued its traditional, consensual tripartism, in other countries there was much less state involvement in industrial relations frameworks from a qualitative perspective.

Quantitatively, countries have financially supported aviation (airlines and/or airports) significantly. The aviation sector being a significant employer (Lufthansa employed 105,290 people in 2021) is a practical reason for government financial support. Provision of state money has been instructive: it demonstrates how EU aviation industrial relations is both a public and a private concern. Even where the state has not played a significant role in financially sustaining airlines, it remained financially involved in the operations of airports.

Qualitatively, the aviation industrial relations frameworks within the Member States under study have not benefitted from an equal level of support. Governments took steps that did not necessarily assist dialogue at this key time. Collective agreements and wage regulations were suspended by the Polish Government during the pandemic. This certainly facilitated the reductions in working time (and therefore salaries) imposed by LOT Polish Airlines. In France, to promote the rapid resumption of economic activity, certain time limits for the consultation of the Social and Economic Committee were drastically reduced. Consultation on matters relating to Covid-19 were reduced from 30 to 8 days. It is difficult to find examples when, in any of the countries under study, the State took the opportunity to use its influence and power (considerable, given the financial aid) to take measures to improve the quality of industrial relations in the sector, particularly looking strategically to the *medium/longer term*.

Sectoral social dialogue: vertical integration

Aviation industrial relations has largely been conducted at the company level. We see greater involvement on an EU-wide level as a requirement moving forward. (There will additionally need to be international commitment to aviation industrial relations.) This entails engagement from not only the social partners, but also governments, as well as cross-border cooperation. Vertical and horizontal cooperation is needed. By this we mean that cooperation from EU Government to Member State Government to local company level is necessary (vertical cooperation). As well, cross-border efforts must also be undertaken (lateral cooperation). The consistent use of EU- and Member State-level social dialogue groups focused on aviation is essential to meeting the current and foreseeable challenges to the industry. Strong social dialogue at EU and Member State levels presents a good forum in which to address the combination of public sector concerns and private sector aims. To these points, we call attention to Council Decision (EU) 2022/2296, Principle 8 of the European Pillar of Social Rights, as well as more recent commitments to strengthening social dialogue in the Porto Social Commitment (2021) and the 25 January 2023 European Commission proposal for strengthening social dialogue (though aviation is conspicuously absent in the latter proposal).

There is a European sectoral social dialogue committee in civil aviation which was formalised in 2000 (Degrise and Pochet), though informal arrangements date to the 1990s.

Amongst other points, it has focused on atypical employment, and the facilitation of transnational collective agreements at company level. The present comments are not a critical statement of this committee. Instead, we believe enriched activity from this committee is pivotal.

EU level social partners are better situated to address the significant challenges ahead. Still, a need for “vertical coordination” (Perin and Leonard) of social partners from EU to Member State levels remains. We recognise that this proposal suggests a more significant level of centralisation and that there can be resulting difficulties. We note the existence of frameworks in certain Member States, such as Italy.

We see challenges to and arising from centralised aviation industrial relations during the pandemic. In Poland, the state is at the centre of industrial relations. It used the crisis to actively downgrade the role of social partners. In Italy, there has been explicit social partner concern about the possible future downgrading of aviation within the overall transport sector. In France, the state actively promoted collective bargaining, but as a means for employers to derogate from sectoral standards.

The pandemic also challenged a centralised sectoral model of collective bargaining. Its impact may be seen in the example of Italy. Centralised sectoral collective bargaining commenced in 2013 with the General Part of the Air Transport Collective Bargaining Agreement (CBA). This CBA is unique in the Italian context because it includes, in practice, two types of national level agreements: the “General Part” of the Air Transport CBA and the six independent, sector-specific CBAs, one for each employers’ organisation. The General Part of the CBA was renewed in 2019. However, the sector-specific collective agreements were signed later. Missing one or more signatures to the sector-specific agreement prevents finalising the complete application of the General Part and therefore the Air Transport CBA. It is therefore likely that the contractual expiry date will be reached without renewing the Air Transport CBA in all its parts. Collective bargaining at the company level continues to fall short of offering longer-term solutions for workers. For example, in Italy, Italia Trasporto Aero (ITA) arose when Alitalia ceased operations in 2021.³ An ITA agreement has been signed by the application of the existing national sector-specific collective agreement for carriers, but benefiting from a “flexibility prerogative” reserved for start-up companies, such as a new salary regime (approximately 40% less). These examples demonstrate how decentralised forms of collective bargaining have affected a centralised framework in the period 2020-2022.

Measures could be taken (at national and EU level) to support social dialogue in the EU aviation industrial relations. Germany had tripartite summits during 2021-22 which focused on measures to make the industry competitive, efficient and sustainable. These summits also stressed the need for an international climate neutral strategy. In Ireland, the creation of some sectoral social dialogue groups in response to the crisis could lead to greater cooperative engagement in the future.

The challenge that climate change poses to aviation industrial relations evidences the importance of ameliorated EU aviation sector social dialogue. Climate cannot be singularly dealt with at company level, as has been the trend in the industry. Given aviation’s role as a dominant means of covering vast distances (in a relatively time efficient manner) within the EU Member States, EU aviation industrial relations requires tripartite social dialogue within the sector. A particularly important issue has been the decision to exclude airlines and airports from Next Generation EU funds because the sector violates the “no significant harm” principle due to its environmental footprint. Technological innovations can assist in meeting this aim. The Danish Government allocated €3.3million (“climate contribution”) for the development of

³ A condition required by the EU to approve the public financing of the new airline (as well as to protect ITA from liability) was that only Alitalia’s core aviation business could be purchased. Staff who were furloughed as employees of Alitalia could not be part of the formation of ITA.

green aviation fuel. Alone, however, it will not be enough. This is why we see a strong social dialogue framework as essential.

Conclusion

While Covid-19 caused tremendous upheaval, we suggest this is an example to take on board when addressing future crises: how can existing social dialogue frameworks better function in these severe circumstances? Even where parties collectively bargained, negotiations were used to facilitate the reduction of working terms and conditions at a time of initial panic, with the trade-off of providing some level of security for the remaining workforce. Workforce concessions soon became the source of tensions between employers and workers. Some disquiet should be registered regarding the speed with which EU aviation industrial relations reverted to previous (generally adversarial) patterns.

Additionally, it is unclear if these agreements lacked clear language on when or under what circumstances terms and conditions would return to 'normal'. Alternatively, it may be that aviation sector employers were reluctant to depart from these concessions since they were largely shut down for well over one year. Without making assumptions, there may be some merit in trade unions revisiting what concessions were made early in the pandemic, and the language (if any) in agreements regarding the parameters for the return to 'normal' terms and conditions.

References

Marco Biagi, "The Role of the Social Partners in Europe: From Dialogue to Partnership" (1999) 20 *Comparative Labor Law & Policy Journal* 485.

Christophe Degryse and Philippe Pochet, "Has European sectoral social dialogue improved since the establishment of SSDCs in 1998?" (2011) 17 *Transfer* 145.

Council Decision (EU) 2022/2296 of 21 November 2022 on guidelines for the employment policies of the Member States (OJ L 304, 24.11.2022, p. 67).

Eurofound, *Social dialogue and collective bargaining in the civil aviation sector during the COVID-19 pandemic* (Luxembourg: Publications Office of the European Union, 2022).

European Federation of Public Service Unions (EPSU), C-928/19P, EU:C:2021:656.

INAIL and INPS, C-33/21, EU:C:2022:402.

International Labour Organization, "Covid-19 and civil aviation" (9 April 2020).

Emmanuelle Perin and Evelyne Leonard, "European sectoral social dialogue and national social partners" (2011) 17 *Transfer* 159.