Opinion of the European Economic and Social Committee on ‘Social policy within a pan-European system for regulating inland-waterway transport’

(2006/C 24/15)

On 1 July 2004, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on Social policy within a pan-European system for regulating inland-waterway transport.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 15 June 2005. The rapporteur was Mr Etty, the co-rapporteur Mr Simons.

At its 420th plenary session, held on 28 and 29 September 2005 (meeting of 29 September 2005), the Committee adopted the following opinion by 92 votes to 7 with 12 abstentions:

1. Introduction

1.1 Taking the ambition of the European Commission to develop the large potential of IWT as a point of departure, the 2004 own-initiative opinion (1) concentrated on the current fragmentary legal regime. The opinion stated that legislation should be harmonised and unified, in particular now that enlargement of the EU would cause even more complications than before (reconciling and drawing together the Rhine/EU and the Danube regimes). As part of the new policy of the European Commission the aim was to strike a new balance between the various modes of transport. IWT was named as one way of establishing a more balanced transport market. In order to be able to make full use of the strengths of this mode, a number of obstacles had to be removed which currently hindered the full development of this sector.

1.2 As regards social policy issues and the labour market situation, the opinion noted, i.a.:

— the need for harmonisation of training as an important element of a harmonised European crew legislation;

— potential communication problems between crew members and between the various participants in shipping on European waterways and the desirability to address these problems in order to contribute to increased safety;

— the Rhine regulations apply to all members of crew (employees as well as self-employed) and contains no specific conditions for employees, whereas the EU regulations concentrate on the protection of employees and do not take into consideration the specific circumstances and legislation on crews in IWT. A social dialogue at Community level is necessary in order to attune these two regimes to one another.

2. General observations

2.1 Traditionally, technical and social regulations for IWT have been intimately intertwined. This regards in particular crew regulations which, in close connection with technical requirements concerning the ship, address both overall safety and protection of the workforce.

2.2 Technical regulations for the Rhine have been laid down in the Mannheim Act, on which the authority of the Strasbourg based Central Commission for Navigation on the Rhine (CCNR) rests. Some member states apply the Rhine regulations on all their waterways.

Furthermore, for navigation on the Danube, the Belgrade Convention also exists. As the latter has a different structure (the Danube Commission issues recommendations instead of regulations) and, moreover, limited EU legislation also applies, this constitutes a complicated patchwork regulation in Europe.
The Mannheim Act can become one of the technical cornerstones for fully-fledged EU legislation on IWT.

2.3 In addition to crew regulations, the major social aspects of IWT dealt with by CCNR are the regulations in hours of navigation for the ships and rest for the crew members.

2.4 The Danube countries are currently in the process of revising the Belgrade Convention with a view to granting the Danube Commission comparable powers to the CCNR. The revised Convention should be adopted in the very near future. It should be open to all interested countries.

2.4.1 With a view to growing economic interests (Traffic on the Danube is expanding at a high pace) the Danube countries consider this to be a priority issue. Four main goals are being pursued by the Danube Commission:

a) mutual recognition of patents, professional qualifications and technical certificates;

b) equivalence of the parameters for IWT;

c) opening of the European IWT market;

d) integration of social policies;

2.4.2 A major problem for navigation on the Danube is the relatively poor technical state of maintenance of the Danube fleet. This is a consequence of, among other things, out-of-date construction and equipment, and of long-term under use because of the blockade at Novi Sad.

IWT in the Rhine states faces a considerable lack of personnel from these countries.

2.4.3 According to the DC, apart from the recommendatory character of the Belgrade Convention, there are no major discrepancies as regards technical requirements and social regulations between the Rhine and the Danube regimes. To a large degree, social policy in IWT on the Danube is left to national legislation and to collective negotiations.

The main problem in the social field, in the view of the Danube Commission, is the severe limitation of access of captains from the Danube States to the Rhine.

2.4.4 A comparative study of IWT social legislation and regulation in the Member States has never been made by the DC. Interest in this aspect of IWT has apparently been lacking so far, in spite of it being a factor in competition.

2.5 Major social problems facing workers in IWT in both the Rhine and the Danube Member States as identified by the trade unions are, in addition to those related to manning rules and working/rest time, differences between national social security provisions, insufficient knowledge of different relevant national legislations and regulations, as well as collective agreements.

Employers in the Rhine States consider that the main problems in the social field for them have to do with the rigidity and complexity of regulations, and differences between national legislations. This has a strong impact on their competitive position, leading companies to shop for the most favourable law and/or transfer personnel with the purpose of circumventing labour and social obligations. In this way, they try to take advantage of differences in wage and social security costs.

2.6 Approximately 40,000 people find employment in the sector; 30,000 in the ‘old’ Member States of the EU and 10,000 in the ‘new’ ones. Of the latter, some 7,000 are currently working on the Rhine. Roughly half of those working in IWT in the ‘old’ Member States are wage earners, the other half are independent.

2.7 In the CCNR, social partners are consulted on issues which concern social policy. However, the trade union movement considers these consultations to be insufficient.

In the Danube countries there is no such consultations. A majority of workers is organised in trade unions, but on the employers’ side there is a transitional situation due to the process of privatisation.

2.7.1 Social dialogue between workers and employers in the IWT sector is poorly developed in the ‘old’ and not at all in the ‘new’ EU Member States, as well as in the candidate member states. It is of great importance for a genuine social dialogue that there be independent and representative employers’ and employees’ organisations. This must be a matter for attention in the Danube countries.

2.7.2 This, in combination with the long-standing dominance of technical legislation/regulation, explains why the human factor in IWT has been underrated for a long time. Shipowners have the following point of view on this matter. Most IWT ships being privately owned it has always been in the owners’ interest to control all operational risks including the human factor. Therefore, compared to other transport sectors, the need for legislation relating to the required qualifications has been relatively low.

2.8 Is there a potential for positive change as far as this is concerned, following the growing interest in strengthening the part IWT can play in the future EU transport policy and in increasing coherence between the different IWT regimes? Three recently published reports and an important European conference, all dealing with the future of this sector, suggest that this is not the case.
2.8.1 The CCNR report 'Ships of the Future' (1) explores the future of IWT mainly from a technological perspective.

2.8.1.1 As regards social issues, it focuses almost exclusively on the future captain, who is pictured as an ‘operator’ and for whom very few physical tasks will be left but who must be able to act adequately in the case of emergencies. For the time being, this is not a realistic picture, but it draws the attention to the strong influence of technological developments on the social context of IWT. On the basis of this thesis, the report advocates an active social policy for the sector.

2.8.1.2 In the scenario presented by the report, the sector’s needs seem to be restricted to highly educated personnel. That, too, is not realistic. Employment opportunities for lowly skilled workers may decrease, but IWT will not be able to do without this category of workers altogether.

2.8.1.3 With respect to the labour market, the report mentions the importance of regular leisure time, broadening of the supply of functions and mobility of labour.

2.8.2 The PINE-report (2) sketches the future of IWT mainly from an economic point of view. The main social policy issue it addresses is the effect of free movement of labour within the EU on the financial and economic parameters of the sector.

2.8.3 The EFIN-report (3) explores the potential for a principal framework of cooperation, including the States and institutions concerned. The EESC will deal with the proposals developed in this report in a separate opinion in the near future. The role of social partners is not at all addressed which suggests that it is considered irrelevant for the issues discussed in the report.

2.8.4 At the Congress The Power of Inland Navigation (10-12 November 2004, The Hague), organised by the Netherlands’ Presidency of the EU in order to highlight the contribution of IWT to economic growth and to progress of society at large, social aspects were, once more, hardly considered.

2.8.5 The content of the three studies and the discussions at the conference mentioned here seem to illustrate that Governments and many who are active in the sector are still considering social policy issues of only marginal interest for IWT.

2.9 The same is suggested by the fact that social partners in the sector were in no way involved by the authors and the organisers. The PINE Report was the exception. That is to say, the European Commission did involve the social partners in the drafting of the report, although, as noted above, relatively little attention was paid to social issues which are considered to be of great importance by them (and certainly by the trade union movement).

2.10 The Committee’s earlier opinion Towards a Pan-European system of IWT left out a detailed discussion of the sector’s social policy with a view to its complex architecture but referred to this follow-up opinion. The points made above supply additional arguments for taking a closer look at this. It is about time to emancipate social policy from the long standing dominance of technical issues and to deal with it in a more balanced way, fully involving all the parties concerned, both in the Rhine and the Danube states, in the ‘old’ and the ‘new’ as well as in the candidate member states, and —where relevant — also in other countries concerned.

3. Specific observations

3.1 What the EESC has in mind is a social policy based on a broad uniform blueprint, in which there is room for regional as well as local distinctions. Social partners must be involved as closely as possible with this policy.

3.2 Crew regulations

3.2.1 The core of the crew legislation in the Member States of the CCNR is in Chapter 23 of the Regulations for the inspection of ships on the Rhine. This means that the classification of the ship and the daily navigation hours determine the size and the composition of the crew. It is most important that compliance with these crew regulations is properly monitored, because it appears that in practice they are quite frequently contravened.

3.2.2 The European Commission started work as long as two decades ago on a European instrument. However, work has not progressed very much during this period. Partially, this can be explained by the long-standing wish of the Member States concerned to await the review of Chapter 23. The envisaged European instrument should have to deal with rules for the composition of crews, operating hours of ships, and compulsory periods of rest for crew members.

(2) Prospects of Inland Navigation within the enlarged Europe (March 2004), Study commissioned by the European Commission.
(3) European Framework for Inland Navigation. A new institutional framework for IWT in Europe (2004). This report was published at the request of the government of the Netherlands with the support of Belgium, Germany, France and Switzerland.
3.2.3 In the Rhine States, crew regulations are an area of controversy between Governments and employers/self-employed on the one hand and the trade unions on the other. The revised crew regulation of July 2002, drawn up by the CCNR, is inadequate according to the trade unions. They think that minimum manning provisions are too low and professional training and qualification requirements unsatisfactory. In combination with the prevailing hours of work and rest these regulations put the safety of inland navigation in jeopardy in their view.

The employers’ organisations maintain that the existing crew regulation fully contributes to safety in the sector. They think that further flexibility is desirable. This could simplify the intake of workers from other maritime sectors. Crew requirements for ships with state-of-the-art equipment could be relaxed.

3.2.4 Under the Danube-regime, minimum manning rules are apparently not a problem. Relevant texts in the Belgrade Act mainly deal with captains and engineers and do not have much to say on lower ranking crew. Compared to corresponding categories of crew members in the Rhine States, the level of education of captains and engineers is high.

The Danube States intend to start working on unification of their national crew regulations as from 2005. They intend to involve employers’ organisations as observers. According to the DC ‘the employers will represent their workers’. That is certainly not the point of view of the trade union movement in the countries concerned.

3.2.5 Manning regulations are not infrequently disregarded in the Rhine States which underscores, according to IWT trade unions, their concerns about safety. Monitoring of compliance with these rules in practice is weak in the sector.

The organisations of employers and of the self-employed declare that adequate enforcement of manning rules is important, not only with a view to safety but also to fair competition. They also stress that these rules must be formulated in such a way that innovation in IWT is not impeded but rather stimulated.

3.3 Hours of work and rest

3.3.1 As stated above, hours of navigation for the ships and rest for the crew members is the major social policy issue in the Rhine regime. Existing rules only take into account the hours worked when the ship is operational and not the hours actually worked. Consequently, inspection disregards the latter.

3.3.2 The sector is characterised by work schedules with very long daily working hours. Usually, the crew stays on board a vessel during fixed periods — for example, 14 days — but some live on board permanently. While relevant regulations specify hours of rest, the crew has to be available (incidentally) during rest periods.

3.3.3 When consulted by the CCNR, trade unions have objected against the fact that only the sailing time of ships is monitored and not the actual hours worked. However, these objections have so far been ignored by the treaty states.

3.3.4 Hours of work are not defined in existing IWT legislation and regulations (which apply to both the self-employed and to workers). Legislation in the Rhine States deals with the operational time of the ship, the composition of the crew and the compulsory hours of rest for the crew in an interconnected way.

3.3.4.1 According to parties concerned, the EU Directive on the Organisation of working time (which is currently under revision) is insufficiently adapted to the specific conditions prevailing in IWT. Therefore, they have raised objections. Social partners in the sector at the EU level have committed themselves to finding an agreement on the issue as a matter of priority in the social dialogue, which has recently restarted after a dormant period.

3.3.5 On the Rhine, as well as on some other waterways in the Rhine States, the minimum period of rest in 24 hours is eight hours, six of which must be without interruption.

3.3.6 On the Danube, no regulation exists for the operational time of the ship or for manning. In practice, a minimum crew of four is maintained. With this crew, the ship can be operational for 24 hours; no compulsory rules for hours of rest exist.

3.3.7 The differences between the various regulations on the European waterways call for common minimum standards. The agreement sought by social partners referred to in paragraph 3.2.4.1 can also be of great importance for that endeavour.

In order to create a level playing field, similar regulations are urgently needed on the Rhine, Danube and other waterways. Moreover, these regulations should be mutually compatible and transparent.

3.4 Occupational health and safety

3.4.1 Like other elements of current social policy in IWT, occupational health and safety rules are intimately linked to technical requirements of ships. Largely, regulations in this area have been laid down in the Regulations for Inspection of Ships on the Rhine and related national legislation in the form of rules for the construction and equipment of ships.
3.4.2 For the protection of workers in the EU, Directives dealing with health and safety issues exist. These instruments oblige employers to engage in risk assessment and evaluation. This is not always the practice in IWT.

3.4.3 European health and safety legislation is criticised by some in the sector who complain that it does not take into account important realities and specific circumstances in IWT and does not link up to existing IWT legislation which covers all crew members: the Directives are limited to the protection of wage earning workers and do not cover the self-employed. It should, of course, be noted here that this situation also exists in other sectors of economic activity. For road transport, for instance, a specific Directive was adopted on the organisation of working time on the basis of Articles 71 and 137 (2) of the Treaty (1).

3.5 Labour inspection

3.5.1 In addition to uniform and enforceable regulation, serious, regular and competent inspection is of great importance in a sector where many self-employed (or semi- or quasi-self-employed) work side by side with employers with a wage-earning workforce and with the inherent risk of downgrading protection of the latter and/or unfair competition.

3.5.2 However, labour inspection in IWT is weak and is facing particular difficulties specific for the sector. A special problem for inspection is the rather unique situation on board of vessels where, unlike what is usual in most other economic activities, private life and working life is difficult to separate. It is not uncommon in this situation that inspectors are treated unpleasantly.

3.5.3 In many countries, inspection shows serious shortcomings (Germany and Switzerland are relatively positive exceptions as far as the Rhine countries are concerned). Inspection services are struggling with lack of personnel. In the Netherlands and in Belgium, in particular, this leads to very sparse activities by the labour inspectorate (in practice one inspection per ship every two/three years). It should be further noted that the construction and equipment of ships is subject to supervision by the national shipping inspectorate and that implementation of legislation is enforced by the river police.

On the Danube, there is hardly any inspection at all.

3.5.4 Not only legal requirements are frequently being disregarded in the sector. There are also problems concerning compliance with collective labour agreements.

3.5.5 Whenever large scale inspection takes place, in a large number of inspected vessels violations of regulations are being registered.

3.5.6 Despite the reputation of relative safety of IWT as a mode of transport, accidents do of course occur. However, registration of accidents is limited to fatalities and other catastrophies. There is no clear-cut definition of what an accident is in IWT. With a view to the intensification of IWT and against the background of earlier observations on the compliance in practice with crew regulations, these are matters which will require serious attention of all who have an interest in the promotion of this mode of transport in the future.

3.6 Education/training/examinations

3.6.1 For the future of employment in the sector, as well as for the preservation of its reputation of relative safety, good education and training is important. This will require clear and common educational standards, coupled with strong enforcement of such standards.

In the Danube States, the level of education (in particular of captains) is relatively high. In the Rhine States, there are significant differences in quality between individual countries.

The situation calls for the introduction of common minimum standards, preferably on a Pan-European scale.

3.6.2 The Central Commission for the Navigation on the Rhine (CCNR) has undertaken to do the groundwork for drawing up harmonised career profiles for the positions of crew member and boatmaster. The social partners are involved in this matter. These profiles, which are expected in 2005, can serve as a basis for the harmonisation of vocational training in the European IWT countries. The mutual recognition of qualifications can thereby be promoted as well.

3.6.3 Within the framework of the sectoral social dialogue, information on IWT education was recently obtained from the new EU Member States.

3.6.4 Harmonising education must go hand in hand with promotion of inland navigation as an interesting sector to be employed in for young people.

3.7 Communication

3.7.1 The PINE report observes correctly that shortcomings, caused by migration of workers and the increasing share of international traffic between east and west, exist in linguistic skills and in the knowledge of foreign waterways. These may lead to increased safety risks in inland waterway traffic.

3.7.2 The time may be ripe for the introduction of a common inland navigation language in international transport on the Rhine and the Danube for communication between ships as well as between ship and shore.

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3.8 Social dialogue

3.8.1 The input of social partners in the formulation of social policy in IWT by the CCNR and the DC has been very limited. This is an unsatisfactory situation which, in the first place, the social partners themselves should try to change. However, Governments of Member States, who have so far been less than eager to listen to what social partners have to say, will have to reconsider this position.

3.8.2 In developing the social dimension of an IWT policy for the enlarged EU, which tries to strike a new balance in transport by enhancing IWT, the European Commission, with its tried and tested tradition of consultation with social partners and of social dialogue, could do better than the CCNR and the DC.

3.8.3 In this connection, it is a welcome development that the social partners have opened their social dialogue, which has been dormant for some years in the sector. This is taking place in the Committee for social dialogue in IWT, in accordance with a decision taken by the European Commission at the request of the social partners.

Unfortunately, progress in this Committee has been slow so far. In Spring 2004 work started on the subject of the organisation of working time and in June 2005 the first plenary meeting took place.

3.8.4 Another subject, identified as a priority in the social dialogue, is the functioning of the EU labour market in IWT, including the free movement of workers.

3.8.5 The social dialogue is entirely a matter for the social partners themselves. With due respect to this principle, however, some encouragement of social dialogue by the European Commission is desirable. Requests for detailed opinions from the social partners come to mind and also encouraging opinions to be issued within a reasonable period of time, for instance by setting clearly defined deadlines.

3.8.6 Agreements between social partners at Community level on the basis of Article 139 of the EU Treaty can lead to specific regulations to meet the special needs of IWT. Such agreements, based on the minimum provisions laid down by the Council under Article 137, are appropriate, however, only when social partners agree that the additional specific rules are desirable.

4. Conclusions and recommendations

4.1 The EESC is of the opinion that the time is ripe to establish a Community social policy for IWT, preferably in a pan-European context. Such a policy would have to apply on all European waterways. It must have a broad European basis and provide scope for regional as well as local distinctions. The social partners must be closely involved in this policy.

4.2 What the EESC has said earlier in general terms with respect to the IWT legal regime in Europe must be said a fortiori for social legislation and regulations in the sector: it is badly fragmented and it should be harmonised and unified along the lines stated above, in particular now that enlargement of the EU would cause even more complications than before May 2004.

4.3 Social policy has, so far, always been a point of secondary interest in IWT. It is, in essence, part and parcel of technical legislation and regulation for ships. It is time that the human factor in IWT is emancipated from this second class status.

4.4 This will require a significant change of attitude of all parties concerned, in particular as regards the role of social partners in the development of a modern social policy, at par with efforts to modernise other aspects of IWT in Europe.

4.5 Many aspects will require careful analysis and well prepared and balanced decision-making. Presently, crew regulations and hours of work and rest appear to be priority areas, as well as the establishment of genuine and active social dialogue.

4.6 The European Commission is well placed to drive this process forward, building on the long tradition, the experience and the expertise of the CCNR and the DC. Looking at the way these two commissions have functioned through the decades, the place they have given to social policy in their work and the way they have so far involved social partners, it is nevertheless clear that reconciling and drawing together the Rhine and the Danube regimes would not be sufficient to create the optimal conditions for the development of modern social policies in IWT.

4.7 In drafting a new design for social policy in EU IWT, the European Commission should cooperate closely with the social partners, the CCNR and the DC. This approach requires that the CCNR and DC Member States enable their institutions to broaden their scope towards social policy issues and consequently extend their capacity in order to cooperate as fruitfully as possible with the European Commission. On the other hand, the European Commission will also have to make a greater effort to build up expertise with regard to IWT.

4.8 If the current problems in social policy in EU IWT will be addressed in this way, it will be possible to create a regime in this policy area that can balance the specific characteristics and problems of the sector and the interests of all who are working in it.

4.9 Maintaining a level playing field and increasing the attractiveness of the sector for those working in it as well as for those interested to work in it in the future during this process of review and revision is of the greatest importance, in particular with a view to the expected increase of competition — both within the IWT sector and between IWT and other modes of transport.
4.10 This process of change will take considerable time and will require full involvement and commitment of the social partners. Social dialogue at the sectoral level (at the national as well as at the European level) is the most important instrument to construct a bridge between the views of employers, self-employed and workers and the goals of EU policy. This is particularly true for legislation and regulation pertaining to manning of ships and hours of work and rest for crew members.

Brussels, 29 September 2005

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

Opinion of the European Economic and Social Committee on the ‘Proposal for a Joint Declaration by the Council, the European Parliament and the Commission on the European Union Development Policy — The European Consensus’

(COM(2005) 311 final)

On 29 July 2005, the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for External Relations, which was responsible for the Committee’s work on the subject, adopted its opinion on 8 September 2005. The rapporteur was Mr Zufiaur.

At its 420th plenary session, held on 28 and 29 September 2005 (meeting of 29 September), the European Economic and Social Committee adopted the following opinion by 84 votes to five, with six abstentions.

1. Introduction

1.1 The initiative of the Commission and the Council to revise the Declaration on Development Policy adopted in 2000 and, in general, to reshape the future of this policy is, from all points of view, extremely important. Developments on the international stage, new standpoints and consensuses on development policy in the international community and changes within the Union itself suggest that this revision is needed. Likewise, the growing problems of under-development, particularly in Africa, and the increasing differences between countries brought about by globalisation underscore the need for a revision of the Community’s development policy.

1.2 Some of the changes that have taken place at international level, and which have in one way or another affected development policies, are: increased security-related concerns following 9/11; the results of the 2001 WTO meeting in Doha and the subsequent process which forms part of the Development Agenda; the new international consensus on development reached at the Millennium Summit and echoed at the Monterrey, Johannesburg, Cairo and other conferences, on such issues as funding, the environment, gender mainstreaming and HIV/AIDS; the process of harmonising the development policies of donors launched by the OECD’s Development Assistance Committee (DAC); and the consolidation of a number of new instruments for planning and implementing aid, such as Poverty Reduction Strategy Papers (PRSP), Sector-wide Approaches (SWAP) and budgetary support. More recently, the High Level Forum on Aid Effectiveness, held in Paris in March 2005, made progress on this matter, with donors signing up to a number of commitments on ownership, results-based management and shared responsibility.

1.3 These changes have also been affected by the scant progress achieved, according to most indicators, towards the targets set five years ago for the Millennium Development Goals (MDGs). To ensure that these targets are not missed by the 2015 deadline, the international community must review