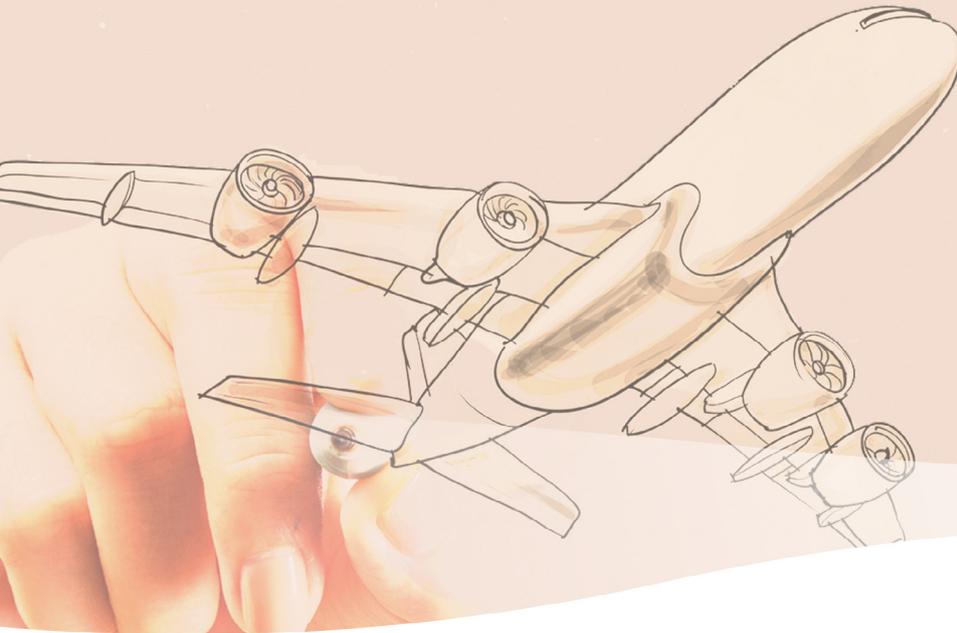


# ATYPICAL EMPLOYMENT IN AVIATION

## HIGH-LEVEL CONFERENCE



12-13 February 2015  
Hotel Novotel  
Les Halles, Paris

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## 12 February 2015

### DAY 1: “The Facts”

**08:30** Registration

**09:00** Welcome and Opening of the Conference

**11:20** National case studies

**12:45** Lunch

**14:00** Atypical employment in Europe, lights and shadows, how to address it

**15:00** Coffee Break

**15:30** Panel discussion

**17:15** Close of 1st day

## 13 February 2015

### DAY 2: “The Way Forward”

**09:00** Possible directions for future actions

**10:45** Coffee Break

**11:00** Round table “Future employment forms in the aviation sector” (Social partners’ views)

**12:15** Concluding remarks

**13:00** End of Conference

Lunch



Have your say on Twitter:

**#AtypicalEMPL**

## Editorial



**Emmanuel Jahan**  
Chairman Social Dialogue  
Committee

Globalisation and competition have led to fiscal and social optimisations as well as new employment models. In this context, new business models have been set up and their success calls into question air transport: Are the legacy airlines overtaken by these new labour and economic markets? Are these new competitors in accordance with growth of employment in Europe? With European law? With fair competition? Should the current regulations be improved or are they out of the scope of the future of European air transport?

The social partners of the Air Crew Working Group of the European Sectoral Committee of social dialogue for civil aviation had decided in June 2013 to launch a study funded by the European Commission. We need a clear picture to analyse the today's situation and weaknesses in order to improve the future to the mutual benefit of employees and employers. The impressive number of answers from pilots from numerous EU member states puts this survey beyond all dispute and makes it a precious tool!

Now, the time is right to sit together and discuss openly the long term stability of the European air transport!



**Jon Horne**  
Vice-Chairman Social  
Dialogue Committee

Aviation is the global infrastructure. It is the platform on which the globalised economy is built, and the value it adds to all sections of that economy is enormous – a fact often taken for granted.

And yet despite that value, and the huge revenues flowing through this steadily growing industry, we have started to notice a disturbing trend – that the people who actually work in aviation, who are the engine that drives it, are becoming isolated from it. For these citizens, their work and life becomes precarious and unstable, through the use of 'novel', complex contractual arrangements. Their work is frequently separated from the enterprise it benefits by multiple steps. This in turn results in their participation in the labour and tax regimes of their country being diminished or even totally bypassed.

With these significant problems spreading steadily around us in Europe, this study represents a real milestone – the most comprehensive, rigorous, and concrete attempt to quantify and qualify some of these problems in our aviation industry. But most importantly, this is an attempt to provide direction to fix those problems.

It is critical that we take this opportunity to analyse the findings of the study. The Social Partners in aviation collectively supported it, and in that same constructive spirit will tackle the findings it brings up – and we look forward to joining with other decision makers in this endeavour. I hope you enjoy the conference as it starts this process and that the wealth of material in the study can set us off in the right direction.

# Conference programme day 1

12 February 2015

Atypical Employment in aviation: The facts

**08:30 Registration**

**09:00 Welcome and opening of the Conference**

**09:45 Employment in the aviation sector: a statistical survey and key findings**

Prof Dr Yves Jorens & Ms Anneline Devolder, Ghent University, Ghent University (Belgium)

**10:15 Panel discussion**

Mr Evert van Zwol (Ryanair Pilot Group)

Mr Hans Ollongren (SAS)

Ms Anu Hietala (ETF-SLSY)

Mr Frank Collins (Vice President, CAE Parc Aviation)

Mr Kieran Grimshaw (Head of Employee Relations, easyJet)  
Representative from one Country in "case study" (tba)

**11:00 Coffee break**

**11:20 Atypical employment in the aviation sector: national case studies**

Prof Peter Turnbull (Cardiff University, UK) & Mr Frédéric Turlan, Editor Liaisons Sociales Europe

**11:45 Panel Discussion (same panelists)**

**12:30 Morning session take-away notes by moderator**

**12:45 Lunch**

**14:00 Atypical employment in Europe, lights and shadows, how to address it**

Mr Juan Menéndez-Valdés (Director Eurofound)

**14:30 The experience from the Maritime sector**

Mr Jean Marc Schindler (ILO)

**15:00 Coffee Break**

**15:30 Panel discussion**

Mr Michael Collins (ETF)

Mr Werner Buelen Construction Policy Secretary (EFBWW)

Mr Michel Botte (Inspector & advisor, Belgian Federal Public Service Employment, Labour and Social Dialogue)

Mr Emmanuel Jahan (Chair Social Dialogue Committee)

**16:15 Debate & Q&A**

**17:00 Afternoon session take-away notes**

**17:15 Close of 1st day of the meeting**



## Conference programme day 2

13 February 2015

Atypical Employment in aviation: The way forward

### 09:00 Possible directions for future actions

Prof Yves Jorens, Professor of European Social Law, Ghent University (Belgium)

### 09:30 Round table “Future employment forms in the Aviation sector” (The future legal framework)

Mr Yves Struillou, Directeur Général du Travail, Ministère du Travail, de l'emploi, de la formation professionnelle et du dialogue social (France)

Ms Jutta Steinruck, MEP

Mr João Aguiar Machado, Director General, EU Commission

Mr Armindo Silva, Director (EU Commission)

Keld Ludvigsen, Deputy Director General, Danish Transport Authority

Ms Inés Ayala Sender, MEP

### 10:45 Coffee Break

### 11:00 Round table “Future employment forms in the aviation sector” (Social partners' views)

Mr François Ballestero, Political Secretary for Civil Aviation and Tourism, ETF

Mr Jon Horne, ECA Vice-President

Mr Wim Kooijman, AEA— Executive Vice President HR, AirFrance/KLM

### 12:00 Main take-away notes by moderator

### 12:15 Concluding remarks

Prof Dr Yves Jorens, Professor of European Social Law, Ghent University (Belgium) and by Yteke de Jong (moderator)

### 12:30 Closing speech

### 13:00 End of conference

“ My tax situation is the greatest fear that I have.

[...] I pay income tax in the country where the airline is based and none in the country where I actually live. I have already been forced to leave one country because of tax investigations and I am in no way certain that this structure is even legal where I live now. \*

leg-is-la-tion

legis latio(n-)

# Background

## Why, who, what?

The European labour market is confronted with some fundamental changes, in particular characterised by growing flexibility and fragmentation, where some employers are more and more relying on the phenomena of outsourcing and downsizing. The labour market is more and more characterised by atypical employment including (bogus) self-employed workers situations with a great diversity in the range of different types of workers, all contributing to the growing pan-European labour market but creating, in some cases, distortion in the market.

These new forms of employment in the aviation sector have been the

subject of an independent scientific study (online survey & case studies in 11 countries) conducted by Ghent University (Department of Social Law). The study is co-financed by the European Commission and carried out on behalf of the European Sectoral Social Dialogue Committee for Civil Aviation, which comprises the social partners from the airlines, both employers and employees.

The objective is to provide social partners with objective data to assess the impact of new forms of aircrew employment emerging in Europe such as self employed, temporary and temporary agency crews, detect abuses and identify the subjective and

objective reasons that motivate airlines and aircrews to use or not use forms of employment different than traditional indefinite employment.

This conference is the final stage of the project and will serve as a starting point for possible future social partners' action on this topic.

# Moderator



**Yteke De JONG**  
Journalist

Yteke de Jong works as an aviation journalist with the Dutch Financial Daily, based in Amsterdam. She has graduated and worked as a CPA before she transferred to journalism.

With this background she writes a lot about strategic, financial and social issues in the aviation industry.

# Speakers Day 1



**Emmanuel JAHAN**  
Social Dialogue  
Committee Chairman

Since 2005, he has been a permanent social affairs representative of Air France-KLM in Brussels. He works on issues linked to applicable European labour law and social security law for mobile workers, transnational social agreements of workers, pensions, European works councils and corporate social responsibility.



**Dirk POLLOCZEK**  
ECA President

Dirk Polloczek is an active pilot flying for Lufthansa and presently a captain on A320. Prior to becoming ECA President, he has been Board Director for Professional Affairs supporting and overseeing ECA's work on transnational representation, fair competition, and industrial issues. Before joining the ECA Board, he was a member of the German Pilots' Association's Board.

# Speakers Day 1



**Evert van ZWOL**  
Interim Council Chairman  
Ryanair Pilot Group

Evert van Zwol has since long been involved in the professional representation of pilots. As president of the Dutch Airline Pilots Association he joined the efforts to help the pilots flying for Ryanair become organised. After leaving his VNV position he became the Interim Council Chairman of the newly formed Ryanair Pilot Group.



**Hans OLLONGREN**  
Head of Public & Regulatory  
Affairs, Scandinavian Airlines

Hans Ollongren has spent his entire professional career in the aviation industry with previous positions dealing with pricing, route management as well as in functions with a strong focus on international relations. He is also currently involved in the Swedish Federation of Airlines and Svenskt Flyg - a Swedish organization representing all stakeholders of the Swedish aviation industry.



**Anu HIETALA**  
Finnish Cabin Crew Union -  
SLSY

Anu Hietala graduated from Helsinki School of Economics and Business Administration in 2005. She worked six years as cabin crew for Finnair during which time acted also as shop steward and vice-president of the union, becoming a fulltime union representative in 2012. Anu Hietala is also a member of the steering group of the Cabin Crew Committee of ETF.



**Frank COLLINS**  
Vice President, CAE Parc  
Aviation

Frank Collins is Vice President and Global Leader for CAE Parc Aviation Limited. Frank joined Parc in 1998 as the Tax & Compliance Manager. He became the Director of Compliance & Regulatory Affairs in 2005 and has held his current position since October 2014.

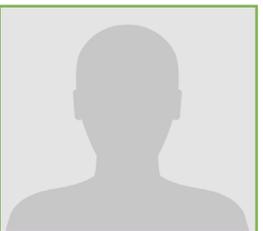
*If I want to keep my job I say nothing. I have no choice how much I work, therefore no stable income. I am forced to operate as self-employed so the company can keep its costs down and pass employment costs on to me. I don't understand all the tax legislation that the company forces onto me. They should be paying these costs. I should have proper employment contract... \**

*I have no  
rights,  
no job  
security,  
no say.*

# Speakers Day 1



**Kieran GRIMSHAW**  
Head of Employee Relations,  
easyJet



name tba  
French Ministry Representative



**Frédéric TURLAN**  
Editor Liasons Sociales Europe

Frédéric Turlan is a graduate in Labour law and has extensive experience in writing and editing industrial relations and labour law material for a practitioner and policymaker audience. He created, Liaisons Sociales Europe, a bi-monthly newsletter, and IR Share, which since 2010 is the national correspondent of the European Foundation for the Improvement of Living and Working conditions (Eurofound) for France, Luxembourg and for Bulgaria since 2014.



**Prof. Peter TURNBULL**  
Cardiff University

Peter Turnbull is Professor of Human Resource Management and Labour Relations at Cardiff Business School, Cardiff University. He has published numerous reports on the civil aviation industry for the International Labour Organisation, the ITF, ETF and ECA.



**Juan MENÉNDEZ-VALDÉS**  
EUROFOUND

Juan Menéndez-Valdés was appointed Director of the European Foundation for the Improvement of Living and Working Conditions (Eurofound) in December 2010. He leads a team of more than 100 researchers, communication specialists and support staff in the implementation of the work programmes, geared towards providing knowledge in the development of social and work-related policies.



**Jean Marc SCHINDLER**  
ILO

Following several years at sea on board French Naval ships, Rear-Admiral Jean-Marc Schindler clocked up 25 years' experience of both foreign affairs and maritime affairs. In 2001, in a smooth transition, Jean-Marc was appointed Chair of the IMO/ILO High-Level Tripartite Working Group on Maritime Labour Standards, which gave birth to the landmark Maritime Labour Convention 2006 (MLC).

## Speakers Day 1



**Michael COLLINS**  
National Secretary, Unionen

Michael Collins has been National Secretary of Unionen since 2001 - Unionen is the second biggest trade union in Sweden.



**Werner BEULEN**  
Construction Policy Secretary,  
EFBWW

Werner Buelen started as Political Secretary for the construction industry of the European Federation of Building and Wood Workers in Brussels. He is responsible for the overall EU trade union policy for the construction industry.



**Michel BOTTE**  
Inspector & advisor, Belgian  
Federal Public Service  
Employment

Michel Botte is responsible for among other the development of the computer applications (e-gov) and regional management. Michel Botte is also the initiator in various programs common to the inspections and Justice.

## Speakers Day 2



**Yves STRUILLLOU**  
Directeur Général du Travail,  
Ministère du Travail

Yves Struillou is the Director General for Employment in the French Ministry of Social Affairs and Employment. He has been a member of several commissions, including the French specialised body of civil servants in charge of the surveillance of employment and labour law in firms. Yves Struillou is the author and co-author of several works on labour law.



**Jutta STEINRUCK**  
Member of the European  
Parliament

Jutta Steinruck has been a member of the European Parliament and the Political group of the Progressive Alliance of Socialists and Democrats (S&D) since 2009. In 2014, she became the S&D Coordinator in the Committee on Employment and Social Affairs. Jutta Steinruck studied business economics and Personnel administration.



**João Aguiar MACHADO**  
European Commission

João Aguiar Machado is in charge of developing transport policies for the European Union. Its remit is to ensure mobility in a single European transport area, integrating citizen's needs, environmental policy and competitiveness. João Aguiar Machado studied economics both in Lisbon and at the College of Europe in Bruges.

# Speakers Day 2



**Armindo SILVA**  
European Commission

Armindo SILVA is Director for 'Employment and Social Legislation, Social Dialogue' in the Directorate General for Employment, Social Affairs and Inclusion of the European Commission. He started his career in the EC in 1988. He has held several management posts in the areas of employment policy, social protection, social inclusion and labour law.



**Keld LUDVIGSEN**  
Deputy Director General, Danish Transport Authority

Keld Ludvigsen has over 25 years of experience in aviation. Experienced in the fields of economic regulation in all parts of the aviation industry, he has for years been the national regulator for airports, air navigation service providers and airlines. He is the chairman of the working group that produced the Danish report on social dumping in aviation.



**Inés Ayala SÉNDER**  
Member of the European Parliament

Inés Ayala Sender is a Spanish Member of the European Parliament and part of the Group of the Progressive Alliance of Socialists and Democrats. She has been an active member of the Committee on Transport and Tourism since she joined the European Parliament in 2004.



**François BALLESTERO**  
Political Secretary for Civil Aviation and Tourism ETF

François Ballestero is a labour sociologist, expert in human resource management and in coaching. He has been ETF political secretary responsible for civil aviation since 2002 and previously held various positions in the European and Belgian trade unions.



**Jon HORNE**  
Vice President ECA

Jon Horne is an active pilot and Vice-Chair of the Sectoral Social Dialogue Committee. He has covered legal, regulatory and industrial affairs at ECA and spent many years as an elected representative in the UK pilots' union where he specialised in employment issues, scheduling, and disciplinary matters. Jon Horne has appeared as an industry expert and representative before both the UK and European Parliaments, and at the ILO.



**Wim KOOIJMAN**  
Executive Vice President HR at Air France/KLM

Mr Kooijman is also Member of the Executive Committee Air France-KLM; Chairman of the European Works Council Air France-KLM; Chairman of Board of Stichting administratiekantoor Aandelen Gebroeders Van Beek b.v.; B&A Supervisory Board Member; Commissioner ProRail; Chairman of the Dutch Association for Personnel Management and Organisation Development (NVP).

# Facts & figures

## A profile of European pilots today

Figure 1: Total participants



The study carried out by the University of Ghent consists of 2 pillars - a survey and an academic research. The first part - a quantitative survey - was carried out between September and November 2014.

In total 6633 respondents participated in the survey. The participants constitute more than 10% of the known

population of pilots currently flying professionally in Europe. This high participation rate makes it possible to give a clear overview of the current aviation sector trends. 15% of the respondents indicated they are French, 15% - Dutch and 11% have UK nationality. The largest group of respondents also indicated being aged between 30 and 40 years old and having more than 10 years flying experience.

Figure 2: Top 10 of the nationalities represented

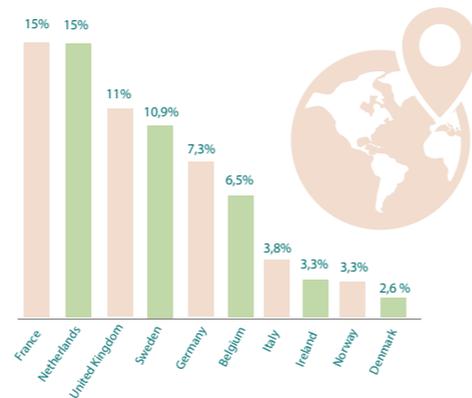


Figure 3: Years of work experience

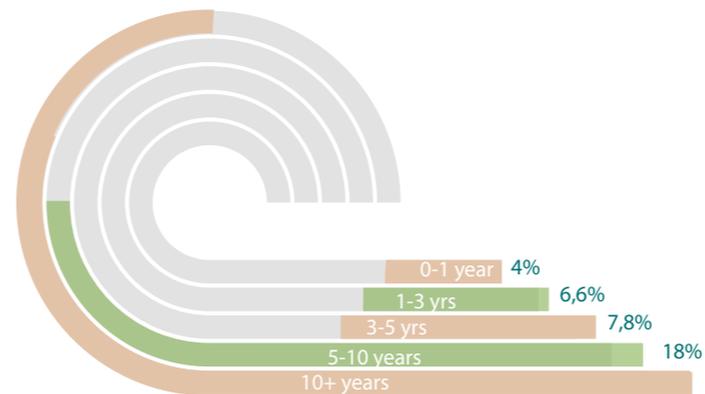
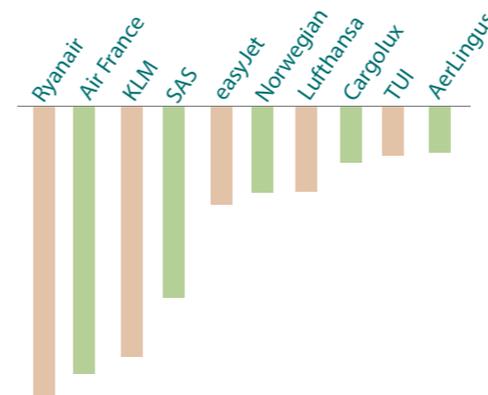
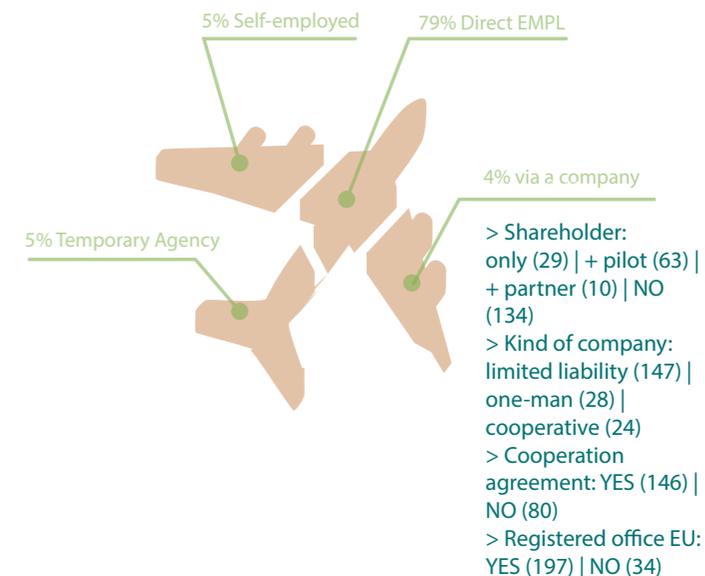


Figure 4: Top 10 participating airlines



79,3% of the total respondents in the study stated to have a direct employment contract with the airline they currently work for. This means that 1071 or 16, 1% of the respondents in this study reported another type of contract that is considered "atypical".

Figure 5: Types of employment





## Temporary work and Temporary Agency work

A significant part of the “atypical employment” is related to a group of employees working with via a contract with a Temporary Work Agency (TWA). According to the survey, carried out by UGent, 5.4% of all respondents reported to have such a contract.

The survey has shown some interesting data. 72% of respondents flying for an airline via a TWA reported to have a fix-term contract. Many report being paid per hour without a minimum number of flights guaranteed. A large number of these respondents indicated to work on fix-term and to be paid a lump sum with extras, which is rather surprising and might be a strong indicator of socially engineered construction or a bogus situation, i.e. replacing direct employment with a series of fixed-term temporary contracts at the expenses of the employees and of the competitiveness of socially responsible airlines.

Figure 7: Payment in relation to employment types

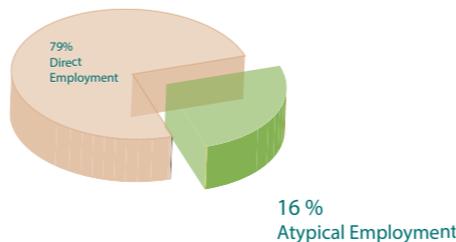


## Atypical Employment

More and more pilots and cabin crew are facing a situation where their employment status and relationship with the employer is unclear. They are no longer directly employed but rather find themselves in the ‘grey’ area between ‘traditional employment’ and (genuine) self-employment.

Excluded from social protection and uncertain about their legal status, these workers represent a growing phenomenon across Europe. This study has been able to pinpoint a concrete number for the first time: 16,1% of the air crew members is falling under the category “atypical employment”.

Figure 6: Direct vs atypical employment



## Self-employment

Self-employed pilots have also become a significant segment of the professional aviation community, according to the study. The study shows that this type of contract is prevalent in low-fare airlines (70% of self-employed respondents) and amongst young pilots. Respondents working in business aviation also tend to be self-employed more often than their colleagues working for network or regional airlines.

The higher percentage of self-employed pilots reluctant to take safety decisions or the fact that a large proportion of self-employed pilots only work for one company could however be considered as indicators for bogus self-employment.

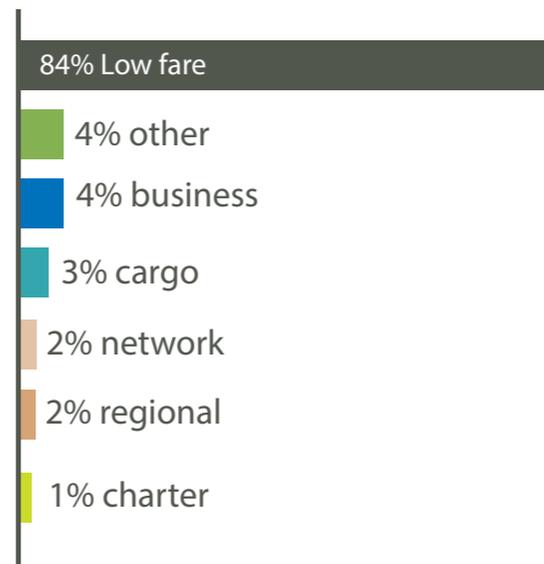
It appears that measures against 'fake' self-employment in the aviation sector have not been successful.



**What do you think about these figures?  
Have your say on Twitter:**

**#AtypicalEMPL**

Figure 8: Self-employment according to type airline



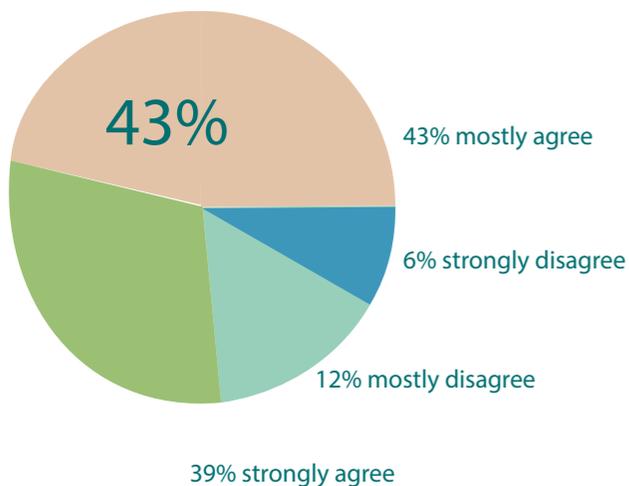
*I have had 5 bases in 4 countries in 3 years.*

*I am away from home most of the month, paying my own travel and accommodation to-from/at the "home" base. With a variable roster, planning your life is impossible.\**



\* quote by an anonymous pilot cited in the study report

Figure 9: Amending instructions



### Decision-making

Decision-making freedom is an interesting and important aspect of atypical employment. On the one hand, it is a factor in terms of liability and safety. On the other, it could also serve as indicator for a bogus employment relationship as self-employed pilots would be expected to have more freedom in the decision-making process than e.g. directly employed pilots. The survey results are reassuring when it comes to safety - a vast majority of pilots (82%) believes to be able to amend the instructions of their airline due to objections regarding safety and liability.

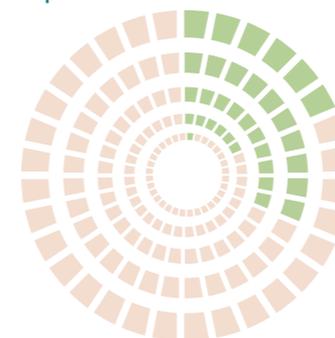
However, in comparison to directly contracted respondents a larger proportion of atypical workers report not to be able to do so. Moreover, atypically employed respondents believe their decision-making ability is affected by their employments status.

### Age

One of the most striking survey finding is that young pilots are the segment most affected by atypical employment and are the ones facing a deep decline in employment conditions.

Figure 10: Age of the respondents

- 18% - 20-30
- 29,8% - 30-40
- 28,6% - 40-50
- 19,4% - 50-60
- 3,3% - 60 or older

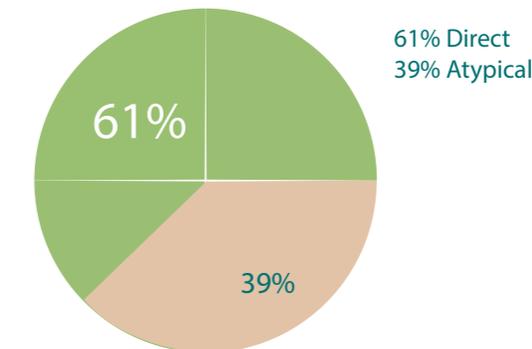


Younger pilots, at the age 20-30, are most often reported to fly for low fair airlines. They are also by far the largest population amongst self-employees. Some young pilots are tempted by pay to fly contracts where a pilot pays an

airline to fly one of its aircraft in order to gain flying hours and increase his/her chances to be hired. In these cases questions regarding authority, safety and liability are even more pressing.

The majority of flight crew directly employed in a network airline stem from another era: they have 20-25 years of experience and have witnessed the opening of the aviation market. In other words: they were recruited in a different time: a time where the open-ended labour agreement concluded directly with the airline was the typical employment relationship.

Figure 11: Direct vs. atypical employment in age group 20-30 years old



## Subcontracting chains

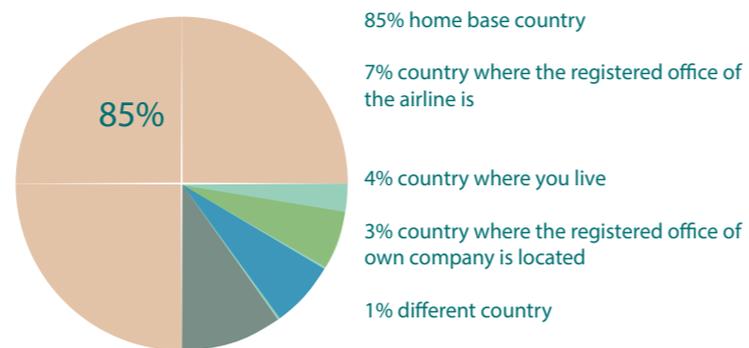
One of the main issues with the use of the forms of subcontracting that is typical for the aviation industry is the identification of the operator: is the end user the operator? Or is (one of) the intermediary subcontractor(s) the operator? Or can the self-employed pilot be qualified as an operator? This question is linked to the determination of the home base, and thus of the social legislation applicable.

## Home Base Principle

Operators assign each crew member to ONE airport from which duties start and end, the so-called "home base". It is a concept of utmost importance – it determines which law applies to the contracts, where crews pay social security but also which rules for minimum rest and working time apply to them.

85% of pilots pay their social security in the place where they home base is situated. A similar percentage – 80% – states to also be paying taxes in that "home base" country. This data show the acceptance of the principle of the home base as connecting factor for aircrew in relation to labour law and social security.

Figure 12: Payment of social contributions



However, the concept is fragile. 9% consider that they do not fly out of their real home base. This puts the question of fake bases. Although simultaneous home bases is a theoretical risk, data show that this situation is marginal according to the answers received (less than 7% of the total respondents states to have a second employment for another company, and this would only be an issue if the pilots would work for two different companies, having bases in two different Member States). However, the (often mala fide) use of successive bases and the lack of consistent definition of "operator" represent practical challenges for the enforcement of this principle.

9% DO NOT consider their base to be the real home base



Do you agree? Let us know on Twitter:

#AtypicalEMPL

## Final ideas

The basics of the EU and international aviation law stem from an era when typical employment was by far the only way flight crew would work for an airline. Aviation law, or at least large parts thereof, is in urgent need of an update. This exercise should be carried out in close cooperation with all the stakeholders as well as independent academics, bearing in mind the global, rapidly changing business models in the sector.

**If you wish to receive a paper copy of the report, news and information related to this study, please send us an email at:**

**conference@eurocockpit.be**

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## Social Dialogue Committee

The Sectoral Social Dialogue Committees are the official EU representative forum for the socioeconomic interests, established by Commission Decision of 20 May 1998. The Sectoral Social Dialogue for Civil Aviation is therefore the European Labour Management Body and expresses the genuine democratic position of employers and employees in the EU aviation sector. The European Cockpit Association (ECA), the European Transport Workers' Federation (ETF) and the Association of European Airlines (AEA) are among the members of the Social Dialogue.

**The project is carried out by the Social Law Department of the Faculty of Law at the University of Ghent under the leadership of its chairman, Prof. Yves Jorens.**

Prof. Jorens is teaching social security law, social criminal law, as well as in particular European Social law. He has research experience of nearly 20 years in the area of European social law with a particular focus on issues and social law problems of migrant workers. He holds a Ph.D. on social security situation of third-country nationals in the EU. Notably, he is director of the project FreSsco (Free movement of workers and social security coordination), the unique network that delivers legal expertise in the field of social security coordination and the free movement of workers to the European Commission.

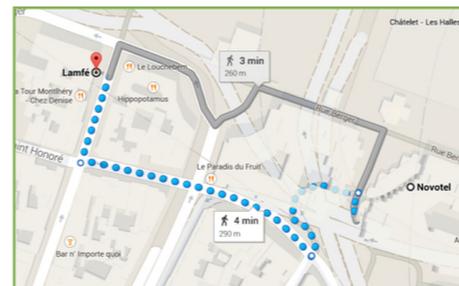
## Practical information



### Venue

**Hotel Novotel Paris-Les Halles**

8 Place Marguerite de Navarre, 75001 Paris  
France



### Dinner 12 Feb 2015

Dinner will take place at 20h at  
**Restaurant Lamfé**  
7 rue des Prouvaires | 75001 Paris

# About us

## European Cockpit Association (ECA)

[www.eurocockpit.be](http://www.eurocockpit.be)



**ECA** Piloting  
Safety  
European Cockpit Association

## Association of European Airlines (AEA)

[www.aea.be](http://www.aea.be)



**European Transport  
Workers' Federation (ETF)**

[www.etf-europe.org](http://www.etf-europe.org)



**Ghent University, Belgium**

[www.ugent.be](http://www.ugent.be)

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