

“Atypical Employment in Aviation” Study and Conference

Key Findings, Views & Policy Recommendations

Summary document prepared by EU Aviation Social Dialogue Chairmanship¹

The liberalisation of Europe’s aviation market and the emergence of new business models – incl. Low Fares Airlines – has given rise to numerous new trends in employment relations for pilots and cabin crew. The study ‘[Atypical Employment in Aviation](#)’² – carried out by Ghent University (Belgium) – assesses the extent of these so-called “atypical” relationships (i.e. all types of work relations other than a direct employment contract) and their implications.

The study in short:

The study is the result of a survey among 6.633 European pilots and in-depth interviews with stakeholders from 11 countries, incl. air crew, airline representatives and labour inspectors.

Key findings:

- More than 1 pilot out of 6, among the surveyed, is under ‘atypical’ employment conditions; i.e. working through a temporary work agency, as self-employed, or on a zero-hour contract with no minimum pay guaranteed.
- Low Fares Airlines (LFA) are the largest ‘users’ of atypical employment, in what the researchers see as a clear divide in the employment market between the traditional network carriers and LFA:
 - In LFAs only half of the pilots are directly employed (53%), while 15% are self-employed, 11% fly for an airline via an own (e.g. limited liability) company, and 17% are working on a temporary agency contract. As regards self-employment, 7 out of 10 of all self-employed pilots surveyed state they work for a low fares airline.
 - In network carriers, these “atypical practices” represent a significantly lower share of their workforce: only 0.6% of pilots are self-employed pilots, 0.4% fly via an own company and 1.7% work on temporary agency contract.
 - Young pilots are most affected by precarious employment. With more respondents from the 20-30 year age category reporting to fly for LFAs, almost 40% of these young pilots have no direct employment contract with their airline. Some airlines offer cadets a position at deplorable conditions, or even resort to ‘Pay-to-Fly’ schemes where the pilot actually pays the airline to fly (revenue-earning) flights. This shows the labour market is deeply segregated between young and more experienced pilots.
- Greater diversification in contracts can, on the one hand, be a tool for more flexibility, on the other hand it can be used for “social and fiscal engineering”, i.e. schemes to ‘shop’ for more lenient laws, to avoid high social security contributions and reduce taxes for companies. For example, almost half of pilots working via an own company are mainly paid per hour with a minimum of hours guaranteed, which can be an indicator for a ‘bogus situation’; and many self-employed pilots state they have no say in the amount of hours they fly. These findings cast doubt on the genuineness of their self-employment status.
- Almost half (46.6%) of self-employed pilots (strongly) disagree with the statement ‘*I can amend the instructions of the airline based on e.g. objections regarding flight safety, liability, or regarding health & safety*’. This could raise serious flight safety concerns. The lack of control on flight hours, health & training are other matters linked to safety highlighted by the study.

¹ For further information please contact the Chairman of the EU sectoral Social Dialogue Committee for Civil Aviation, Emmanuel Jahan (chair.ssd.committee@gmail.com) and Vice-Chair, Jon Horne (jh@eurocockpit.be).

² Full study see: https://www.eurocockpit.be/sites/default/files/report_atypical_employment_in_aviation_15_0212_f.pdf

Key issues highlighted by the study & conference:

- Applicable labour law and social security legislation remain problematic. The ‘home base rule’ as the basis for the coordination of social security systems has solved some of the legal issues but others remain unresolved, and needs to be further improved to bring legal certainty.
- Civil aviation legislation dates from World War II and is not adapted to take into account the different forms of atypical work and outsourcing. This is also the case for labour law and social security regulations, which allow complex subcontracting chains and contractual bogus constructs to replace direct employment.
- Atypical work forms are frequently in tension with aviation safety culture. The ‘dependency’ created by conditional and precarious employment arrangements could place an employer’s commercial imperatives in conflict with the pilot’s legal duty to take independent professional safety judgments before other considerations.
- Young pilots are in a particularly weak and vulnerable position, due to the amount of financial debts they incur to finance their studies, combined with the (mostly low fares) airline policy to recruit young pilots only if they have a type-rating. In a context of a *mala fide* management style this could degrade some safety nets.
- Aviation risks drifting to the maritime model of ‘Flags of Convenience’ with ‘regulatory shopping’, tax and social engineering and hiring air crew from outside the EU to man and fly EU aircraft. Fair competition and worker rights are compromised by this development, safety could be difficult to monitor effectively and the current legislative framework is clearly inadequate. According to the Ghent University, “*its minutes past midnight*” and urgent action is needed.

Initial policy recommendations:

- Amending Reg. 987/2009 on the coordination of social security systems to strengthen the principle of home base. The establishment of European occupational pension funds and a better coordination of social security systems to improve confidence and control between Member states regarding the really applied criteria for issuing any social security forms. Ideally, the development of a dedicated European social security system for highly mobile workers should be pursued.
- Limitation and continuous monitoring and control through technical and labour regulations of the air crew operating aircraft as service providers or through a temporary contract. Restricting subcontracting in the civil aviation sector to meet a temporary increase of the workload and not a usual workload, and better regulating liability and crew management.
- Active prevention of bogus situations, especially of bogus self-employment by strengthening cross-border cooperation and oversight as well as an enhanced legislative framework that provides for a default assumption of direct employment for mobile workers unless concrete and robust criteria are met that prove otherwise.
- Better protection of whistleblowers, both legally and economically, through establishing adequate reporting mechanisms in tax, labour and social security.
- Development of global or European oversight system allowing for effective oversight of the social, labour and safety situations of aircrews.
- Banning Pay-to-Fly schemes at European level and/or globally. Revision of aircrew training structures and financing of such training.
- Mandatory publication by companies with more 1.000 employees, of an annual social report including data defined by the European social partners of air transport.³
- Development of a plan to prevent Flags of Convenience in Aviation, based on the Maritime experience covering safety, tax and social aspects. .

March 2015

³ See the report “managing change” of the Pehr Gyenhammar group - the European Parliament resolution on the Social Agenda for the period 2006-2010.