Transparent and predictable working conditions in the European Union

2017/0355(COD) - 21/12/2017 - Legislative proposal

PURPOSE: to improve working conditions by promoting more secure and predictable employment while ensuring labour market adaptability.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure on an equal footing with the Council

BACKGROUND: the evaluation of Directive 91/533/EEC on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship ("Written Statement Directive") has highlighted weaknesses in the scope of the Directive and indicated how its effectiveness could be improved.

This Directive no longer corresponds to the evolution of the labour market, in particular as regards the new "non-standard" forms of employment which have appeared in the last ten years.

Since 2014, more than five million jobs have been created, of which almost 20% in new forms of employment. The adaptability of new forms of employment to changes in the economic context has enabled new business models to develop, including in the collaborative economy, and has offered entry into the labour market to people who previously would have been excluded.

In response some Member States have put in place new regulations and national social partners have developed new collective agreements, leading to an increasingly diverse regulatory system across the EU.

This initiative is one of Commission's key actions to follow up on the European Pillar of Social Rights, jointly proclaimed by the European Parliament, the Council and the Commission at the Social Summit for Fair Jobs and Growth in Gothenburg on 17 November 2017. It also responds to the resolution of the European Parliament of 19 January 2017 requesting a framework Directive on decent working conditions in all forms of employment, and of 4 July 2017 on working conditions and precarious employment, calling for a revision of the 1991 Directive to take account of new forms of employment.

IMPACT ASSESSMENT: the preferred combination of measures shows that a substantial improvement of working and living conditions is expected. Most notably, at least **2-3 million non-standard workers** will enter into the scope of the Directive. Enhanced predictability for some 4-7 million workers should have a positive impact on work-life balance and health. Some 14 million workers might request a new form of work.

Lack of exclusivity clauses will allow some 90 000-360 000 on-demand workers to seek additional work and earn EUR 355-1 424 million per year extra.

Non-quantified **benefits for employers** include higher retention and loyalty, improved worker relations, fewer complaints and court cases, better resource planning, contributing to an overall increase in productivity.

CONTENT: the proposed Directive aims to replace the 1991 Written Statement Directive with a new instrument that ensures **transparency** about working conditions for all workers and defines **new substantive rights** to improve predictability and security of working conditions, particularly for those in precarious employment.

The proposal:

- **extends the scope of the Directive to forms of employment which are today often excluded**, such as domestic work, casual workers (for instance those carrying out on-demand or intermittent work), short-term employees, domestic workers, platform workers or voucher-based workers.
- Member States could decide to exclude very short-term assignments of less than 8 hours per month from the scope of the Directive;
- **provides that workers will receive up-to-date and detailed information** (paper or electronic) from their first day of work. This information will cover: (i) probation (if any); (ii) training provided by employer; (iii) arrangements and remuneration for overtime; (iv) information on working time for workers on very variable schedules; (v) social security institution where contributions are paid;
- **establishes minimum rights that apply to all workers in the Union**: (i) limit the length of probationary periods to 6 months, unless longer is objectively justified; (ii) right to work for other employers, with a ban on exclusivity clauses and restrictions on incompatibility clauses; (iii) right to predictability of work: workers with variable working schedules determined by the employer (i.e. on-demand work) should know in advance when they can be requested to work; (iv) possibility to request a more stable form of employment and to receive a justified written reply (within 1 month; for SME's within 3 months and orally for repeated requests); (v) right to cost-free mandatory training;
- **introduces two alternative procedures for addressing missing information**: positive presumptions (if no relevant information supplied, no probation, permanent and/or full time employment relationship); administrative procedure to issue injunction to employer to supply missing information.

The proposal also introduces provisions based on existing social acquis on compliance, right to redress, prevention of adverse treatment, burden of proof on dismissal, and penalties are introduced.