Transparent and predictable working conditions in the European Union

2017/0355(COD) - 16/04/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 466 votes to 145, with 37 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on transparent and predictable working conditions in the European Union.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

Promote more transparent and predictable employment

The Directive shall lay down minimum rights that apply to every worker in the Union who has an employment contract or employment relationship as defined by the law, collective agreements or practice in force in each Member State with consideration to the case-law of the Court of Justice.

Provided they meet the criteria established by the Court of Justice to determine the status of a worker, domestic workers, on-demand workers, intermittent workers, voucher based-workers, platform workers, trainees and apprentices could fall within the scope of this Directive.

Member States may decide not to apply the obligations of the Directive to workers with an employment relationship in which their predetermined and actual working hours that amount to an average of three hours per week or less in a reference period of four consecutive weeks.

Obligation to provide information

All workers shall be informed in writing (in paper or electronic form) from the first day of work and no later than 7 calendar days of the main aspects of their contract, such as the identity of the parties to the employment relationship, the workplace, and a summary description of the work, the start date of the employment relationship and the end date in the case of a fixed-term employment relationship, the duration and conditions of the probationary period and the remuneration per normal working day or reference hours for those whose working hours are unpredictable.

Other information such as the right to training granted by the employer, the duration of the paid leave to which the worker is entitled or the formal conditions and periods of notice shall be provided individually to the worker in the form of a document within one month from the first working day.

Workers posted or sent to a third country shall also receive additional information specific to their situation before they leave.

Probationary period, parallel employment

Member States shall ensure that, where an employment relationship is subject to a probationary period as defined in national law or practice, that period shall not exceed six months. Member States may, on an exceptional basis, provide for longer probationary periods where justified by the nature of the employment or in the interest of the worker.

In the case of fixed-term employment relationships, Member States shall ensure that the length of such a probationary period is proportionate to the expected duration of the contract and the nature of the work. In the case of the renewal of a contract for the same function and tasks, the employment relationship shall not be subject to a new probationary period.

Member States shall ensure that an employer neither prohibits a worker from taking up employment with other employers, outside the work schedule established with that employer, nor subjects a worker to adverse treatment for doing so.

Minimum predictability of work

Member States shall ensure that where a worker's work pattern is entirely or mostly unpredictable the worker shall not be required to work by the employer unless both of the following conditions are fulfilled: (i) the work takes place within predetermined reference hours and days; (ii) the worker is informed by his or her employer of a work assignment within a reasonable notice period established in accordance with national law, collective agreements or practice.

Where one or both of the requirements is not fulfilled, a worker shall have the right to refuse a work assignment without adverse consequences.

The worker shall be protected against loss of income resulting from the late cancellation of an agreed work assignment by means of adequate compensation.

Additional measures for on-demand contracts

Member States which allow the use of on-demand contracts or similar employment contracts shall take measures to avoid abusive practices, such as:

- the limitation of the use and duration of on-demand employment contracts or similar contracts;

- the rebuttable presumption of the existence of an employment relationship with a guaranteed amount of paid hours based on hours worked in a preceding reference period.

Mandatory training

Where an employer is required by national or Union law or collective agreements to provide training to a worker to carry out work for which they are employed, such training shall be provided free of charge, be considered as working time and be organised, as far as possible, during working hours.