Basic information

2017/0355(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Transparent and predictable working conditions in the European Union **Subject** 4.15.04 Workforce, occupational mobility, job conversion, working conditions	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
EMPL Employment and Social Affairs	CALVET CHAMBON Enrique (ALDE)	21/02/2018
	Shadow rapporteur RADTKE Dennis (PPE) LÓPEZ Javi (S&D) MCINTYRE Anthea (ECR) LÓPEZ BERMEJO Paloma (GUE/NGL) MESZERICS Tamás (Verts/ALE) AGEA Laura (EFDD) MÉLIN Joëlle (ENF)	

Committee for opinion	Rapporteur for opinion	Appointed
TRAN Transport and Tourism	The committee decided not to give an opinion.	
JURI Legal Affairs	CHRYSOGONOS Kostas (GUE/NGL)	24/01/2018
FEMM Women's Rights and Gender Equality	ARENA Maria (S&D)	15/03/2018

Council of the European Union

Council configuration	Meetings	Date
Employment, Social Policy, Health and Consumer Affairs	3625	2018-06-21
Employment, Social Policy, Health and Consumer Affairs	3698	2019-06-13

European Commission	Commission DG: Employment, Social Affairs and Inclusion — Commissioner: THYSSEN Marianne
European Economic and Social Committee	
European Committee of the Regions	

Key events

Date	Event	Reference	Summary
21/12/2017	Legislative proposal published	COM(2017)0797	Summary
18/01/2018	Committee referral announced in Parliament, 1st reading		
18/10/2018	Vote in committee, 1st reading		
18/10/2018	Committee decision to open interinstitutional negotiations with report adopted in committee		
26/10/2018	Committee report tabled for plenary, 1st reading	A8-0355/2018	Summary
12/11/2018	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
15/11/2018	Results of vote in Parliament		
15/11/2018	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72 - vote)		
19/02/2019	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE636.031 GEDA/A/(2019)001486	
16/04/2019	Decision by Parliament, 1st reading	T8-0379/2019	Summary
16/04/2019	Results of vote in Parliament		
16/04/2019	Debate in Parliament		
13/06/2019	Act adopted by Council after Parliament's 1st reading		
20/06/2019	Final act signed		
20/06/2019	End of procedure in Parliament		
11/07/2019	Final act published in Official Journal		

Technical information

Procedure reference	2017/0355(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	Treaty on the Functioning of the European Union TFEU 153-p2

	Treaty on the Functioning of the European Union TFEU 153-p1
Mandatory consultation of other institutions	European Economic and Social Committee European Committee of the Regions
Stage reached in procedure	Procedure completed
Committee dossier	EMPL/8/11959

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE621.099	29/05/2018	
Amendments tabled in committee		PE623.835	28/06/2018	
Amendments tabled in committee		PE623.951	28/06/2018	
Amendments tabled in committee		PE623.952	28/06/2018	
Committee opinion	JURI	PE621.111	27/09/2018	
Committee opinion	FEMM	PE623.821	03/10/2018	
Committee report tabled for plenary, 1st reading/single reading		A8-0355/2018	26/10/2018	Summary
Text agreed during interinstitutional negotiations		PE636.031	15/02/2019	
Text adopted by Parliament, 1st reading/single reading		T8-0379/2019	16/04/2019	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2019)001486	15/02/2019	
Draft final act	00043/2019/LEX	20/06/2019	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2017)0797	21/12/2017	Summary
Document attached to the procedure	SWD(2017)0478	21/12/2017	
Document attached to the procedure	SWD(2017)0479	21/12/2017	
Commission response to text adopted in plenary	SP(2019)440	08/08/2019	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary

Reasoned opinion	SE_PARLIAMENT	PE619.115	05/03/2018	
Contribution	PT_PARLIAMENT	COM(2017)0797	07/03/2018	
Contribution	AT_BUNDESRAT	COM(2017)0797	10/04/2018	
Contribution	FR_ASSEMBLY	COM(2017)0797	14/05/2018	
Contribution	RO_CHAMBER	COM(2017)0797	14/05/2018	
Contribution	FR_ASSEMBLY	COM(2017)0797	24/06/2019	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CofR	Committee of the Regions: opinion	CDR1129/2018	05/07/2018	

Additional information

Source	Document	Date
European Parliament	Briefing	
European Commission	EUR-Lex	

Final act

Directive 2019/1152
OJ L 186 11.07.2019, p. 0105 Summary

Transparent and predictable working conditions in the European Union

2017/0355(COD) - 26/10/2018 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Employment and Social Affairs adopted the report by Enrique CALVET CHAMBON (ALDE, ES) 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 committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal as follows.

Objective: the Directive shall establish **minimum rights that apply to every worker** in the Union. Member States shall ensure that all the persons to which this Directive applies can make effective use of those minimum rights within the framework of national law or practice, including collective agreements.

The objectives of the Directive shall be in line with the **Charter of Fundamental Rights of the European Union and the European Social Charter** and shall contribute to the implementation of several of the principles set out in the European Pillar of Social Rights, in particular principles 5 (secure and adaptable employment) and 7 (information about employment conditions and protection in case of dismissals)

Self-employed workers who do not meet the criteria set out in the Directive shall be excluded from the scope.

Information on the employment relationship: workers shall have the right to be informed in writing (on paper or in electronic form) of their rights and obligations resulting from the employment relationship, **as soon as they take up their duties**, **regardless of the type of employment contract**. The basic information shall be provided in writing to them no later than the first day of the employment relationship. It shall be possible to extend this deadline by a maximum of 7 days for micro enterprises.

Members specified that this information shall also include:

- the full names and addresses of the parties to the employment relationship;
- the measures in place to enable the worker to travel to the site, where the employee works in different places;
- in the case of temporary agency workers, the name of the user undertaking;
- any **training entitlement** that the employer is required to provide pursuant to Union or national law and relevant collective agreements;
- the method for determining such notice periods as well as the formal requirements for the notice of termination and the deadline for bringing an action contesting dismissal;
- any other component elements indicated separately such as bonuses, overtime payments, payments in kind and other entitlements;
- **the length of the worker's standard working day or week**, and, where applicable, the arrangements for working outside the standard working day or week, including arrangements for shift changes and overtime, and reasonable advance notice of, and remuneration for, such work;
- the principle that the work schedule is variable, the number of guaranteed paid hours and the remuneration for work performed in addition to those guaranteed hours;
- the deadline for the employer to cancel that work assignment after the worker has accepted it;
- the contact details of the workers' or their trade unions' representatives;
- proof of registration with a social security institution where this is the employer's responsibility.

Trainees shall have access to all necessary information about their training and work plan.

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

Probation period: this period shall not exceed six months. In the case of fixed-term contracts of less than 12 months, the probationary period shall not exceed **25% of the expected duration of the contract**. In the case of the renewal of a contract, the employment relationship shall not be subject to a new probationary period.

Exceptionally, and after consultation with the social partners, Member States may provide for longer probationary periods not exceeding 9 months where the nature of the job justifies it, for example for managerial posts. Workers should enjoy their rights during this period.

Member States may provide for **probationary periods to be extended**, subject to the initial agreement between the worker and the employer, where the worker has been continuously absent from work due to a long illness or extended leave, in order for both the employer and the worker to verify if the work matches their respective expectations and requirements. Under no circumstances shall it be possible to extend a probationary period unilaterally.

Employment with other employers: employers shall not prohibit, attempt to prevent, sanction or penalise workers from working for other employers for this reason.

Predictability: Members proposed introducing measures to ensure greater predictability in employment contracts and relationships. Thus, Member States may prohibit any employment relationship that does not provide for a predetermined minimum volume of guaranteed paid hours before the beginning of the employment relationship.

Under the amended text, Member States shall:

- ensure that the **principle of equal pay and working conditions** applies to all workers, regardless of their employment status;
- implement the necessary measures to protect all workers, regardless of the type and duration of their employment relationship;
- allow trade unions to seek representative actions to protect the collective interests of workers;
- ensure that workers have access to **social protection**, regardless of the type of employment relationship;
- ensure that workers in variable work schedules and variable reference hours/days have access to **safety and health protection**;
- ensure that the introduction of '**zero hour' or similar contracts** is stopped;
- ensure that effective and adequate **inspections** are carried out to monitor and enforce the implementation of this Directive by national bodies or by social partners;
- provide effective mechanisms for workers to **lodge complaints** in the event of violations of their rights.

Lastly, Member States shall involve the **social partners** in the implementation of the Directive, in accordance with their national legislation and practices.

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.

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.

Transparent and predictable working conditions in the European Union

2017/0355(COD) - 11/07/2019 - Final act

PURPOSE: to make working conditions more transparent and predictable across the EU.

LEGISLATIVE ACT: Directive (EU) 2019/1152 of the European Parliament and of the Council on transparent and predictable working conditions in the European Union.

CONTENT: the Directive introduces new minimum rights and new rules on the information to be provided to workers concerning their working conditions. Its main objective is to respond to the challenges posed to the labour market by demographic changes, the digitalisation and new forms of employment.

The Directive does not constitute a valid justification for reducing the general level of protection already granted to workers in the Member States. It does not prevent Member States from adopting or implementing legislation that is more favourable to workers.

Scope

The Directive applies to all persons working more than 3 hours per week over a four-week period (i.e. more than 12 hours per month) who are bound by an employment contract or employment relationship within the meaning of the law, collective agreements or practice in force in each Member State.

Provided that they fulfil those criteria, domestic workers, on-demand workers, intermittent workers, voucher based-workers, platform workers, trainees and apprentices could fall within the scope of this Directive.

Certain categories of workers may be excluded from the application of some of the provisions, such as civil servants, the armed forces or members of emergency and law enforcement services. Genuinely self-employed persons should not fall within the scope of this Directive since they do not fulfil those criteria.

Information on the employment relationship

The Directive requires employers to inform workers in writing (in paper or electronic form), from their first working day and no later than the seventh calendar day, of the essential elements of the employment relationship, in particular:

- the identity of the parties to the employment relationship, the place of work and the nature of the activity;

- the start date of the employment relationship and the end date in the case of a fixed-term employment relationship, as well as the duration and conditions of the probationary period;

- the initial basic amount of remuneration and the duration of paid leave;

- the duration of the normal workday or week when the work rhythm is predictable;

- the identity of the social security body collecting social contributions, where this is the employer's responsibility.

Where the pattern of work is entirely or mostly unpredictable, employers shall inform workers of the reference hours and days on which they may be called upon to work, the minimum notice period that workers should have before starting work and the number of guaranteed paid hours.

Additional information for workers sent to another Member State or to a third country

Member States shall ensure that, where a worker is required to work in a Member State or third country other than the Member State in which he or she habitually works, the employer shall provide the relevant documents before the worker’s departure and the documents shall include at least the following additional information:

- the country or countries in which the work abroad is to be performed and its anticipated duration;

- the currency to be used for the payment of remuneration;

- information as to whether repatriation is provided for, and if so, the conditions governing the worker’s repatriation;

- where applicable, any allowances specific to posting and any arrangements for reimbursing expenditure on travel, board and lodging.

Minimum requirements for the employment contract

The Directive sets a number of other minimum rights for workers, including the right to:

- to limit the duration of the probationary period to a maximum of 6 months, longer probationary periods being allowed only when it is in the worker's interest or when the nature of the activity justifies it;

- to work in parallel with another employer outside the working hours established with the employer without being subjected to unfavourable treatment for this reason;

- to request, after at least six months' service with the same employer, a job with more predictable and secure working conditions and to receive a reasoned written reply;

- to benefit free of cost from training considered as working time when such training is required by Union or national law.

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.

ENTRY INTO FORCE: from 31.7.2019.

TRANSPOSITION: no later than 2.8.2022.