



2017/0355(COD)

29.5.2018

*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council
on transparent and predictable working conditions in the European Union
(COM(2017)0797 – C8-0006/2018 – 2017/0355(COD))

Committee on Employment and Social Affairs

Rapporteur: Enrique Calvet Chambon

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	45

DRAFT EUROPEAN PARLIAMENT 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 (COM(2017)0797 – C8-0006/2018 – 2017/0355(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0797),
 - having regard to Article 294(2) and Article 153(1)(b) and (2)(b) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0006/2018),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Austrian Federal Council, the Romanian Chamber of Deputies and the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of 23 May 2018¹,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs and also the opinions of the Committee on Legal Affairs and the Committee on Women's Rights and Gender Equality (A8-0000/2018),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

**Proposal for a directive
Recital 1 a (new)**

¹ OJ C ... / Not yet published in the Official Journal.

(1a) Principle 5 of the European Pillar of Social Rights provides that regardless of the type and duration of the employment relationship, workers have the right to fair and equal treatment regarding working conditions, access to social protection and training, that employment relationships that lead to precarious working conditions are to be prevented, including by prohibiting abuse of atypical contracts, that any probationary period should be of reasonable duration and that the transition towards open-ended forms of employment is to be fostered. It further provides that the necessary flexibility for employers to adapt swiftly to changes in the economic context is to be ensured, in accordance with legislation and collective agreements.

Or. en

Justification

Complete the reference to Principle 5 of the European Pillar of Social Rights

Amendment 2

**Proposal for a directive
Recital 2**

Text proposed by the Commission

Amendment

(2) Principle 7 of the European Pillar of Social Rights, proclaimed at Gothenburg on 17 November 2017, provides that workers have the right to be informed in writing at the start of employment about their rights and obligations resulting from the employment relationship, including any probationary period, and that they have the right to access to effective and impartial dispute resolution and, in case of

(2) Principle 7 of the European Pillar of Social Rights, proclaimed at Gothenburg on 17 November 2017, provides that workers have the right to be informed in writing at the start of employment about their rights and obligations resulting from the employment relationship, including any probationary period, and that they have the right to access to effective and impartial dispute resolution and, in case of

unjustified dismissal, a right to redress, including adequate compensation.

Principle 5 provides that regardless of the type and duration of the employment relationship, workers have the right to fair and equal treatment regarding working conditions, access to social protection and training, that employment relationships that lead to precarious working conditions is to be prevented, including by prohibiting abuse of atypical contracts, that any probationary period should be of reasonable duration and that the transition towards open-ended forms of employment is to be fostered.

unjustified dismissal, a right to redress, including adequate compensation.

Or. en

Justification

Moved to a new recital 1a

Amendment 3

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Since the adoption of Council Directive 91/533/EEC,³³ labour markets have undergone far-reaching changes due to demographic developments and digitalisation leading to the creation of new forms of employment, which have supported job creation and labour market growth. New forms of employment **are often not as** regular or stable **as** traditional employment relationships and lead to reduced predictability for the workers concerned, creating uncertainty as to applicable rights and social protection. In this evolving world of work, there is therefore an increased need for workers to be fully informed about their essential working conditions, which should occur in a written form and in a timely manner. In

Amendment

(3) Since the adoption of Council Directive 91/533/EEC,³³ labour markets have undergone far-reaching changes due to demographic developments and digitalisation leading to the creation of new forms of employment, which have supported **innovation**, job creation and labour market growth. New forms of employment **can be less** regular or stable **than** traditional employment relationships and, **in some instances**, lead to reduced predictability for the workers concerned, creating uncertainty as to applicable rights and social protection. In this evolving world of work, there is therefore an increased need for workers to be fully informed about their essential working conditions, which should occur in a written

order adequately *to* frame the development of new forms of employment, workers in the Union should also be provided with a number of new minimum rights aimed at promoting security and predictability in employment relationships while achieving upward convergence across Member States and preserving labour market adaptability.

³³ Council Directive 91/533/EC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (OJ L 288, 18.10.1991, p. 32).

form and in a timely manner. In order *to* adequately frame the development of new forms of employment, workers in the Union should also be provided with a number of new minimum rights aimed at promoting security and predictability in employment relationships while achieving upward convergence across Member States and preserving labour market adaptability.

³³ Council Directive 91/533/EC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (OJ L 288, 18.10.1991, p. 32).

Or. en

Amendment 4

Proposal for a directive Recital 6

Text proposed by the Commission

(6) The Commission has undertaken a two-phase consultation with the social partners on the improvement of the scope and effectiveness of Directive 91/533/EEC and the broadening of its objectives in order to *insert* new rights for workers, *in accordance with Article 154 of the Treaty*. This did not result in any agreement among social partners to enter into negotiations on those matters. However, as confirmed by the outcome of the open public consultations carried out to seek the views of various stakeholders and citizens, it is important to take action at *the* Union level in this area by modernising and adapting the current legal framework.

Amendment

(6) The Commission has undertaken a two-phase consultation with the social partners, *in accordance with Article 154 of the Treaty on the Functioning of the European Union (TFEU)*, on the improvement of the scope and effectiveness of Directive 91/533/EEC and the broadening of its objectives in order to *establish* new rights for workers. This did not result in any agreement among social partners to enter into negotiations on those matters. However, as confirmed by the outcome of the open public consultations carried out to seek the views of various stakeholders and citizens, it is important to take action at Union level in this area by modernising and adapting the current legal framework.

Or. en

Justification

Establish is more accurate than insert according to the legal basis of the proposal

Amendment 5

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) In order to ensure effectiveness of the rights provided by **the** Union law, the personal scope of Directive 91/533/EEC should be updated. In its case law, the Court of Justice of the European Union has established criteria for determining the status of a worker³⁴ **which** are appropriate for determining the personal scope of application of this Directive. **The definition of worker in Article 2(1) is based on these criteria. They ensure a uniform implementation of the personal scope of the Directive while leaving it to national authorities and courts to apply it to specific situations. Provided that they fulfil those criteria, domestic workers, on-demand workers, intermittent workers, voucher based-workers, platform workers, trainees and apprentices could come within scope** of this Directive.

³⁴ Judgments of 3 July 1986, Deborah Lawrie-Blum, Case 66/85; 14 October 2010, Union Syndicale Solidaires Isère, Case C-428/09; 9 July 2015, Balkaya, Case C-229/14; 4 December 2014, FNV Kunsten, Case C-413/13; and 17 November 2016, Ruhrlandklinik, Case C-216/15.

Amendment

(7) In order to ensure **the** effectiveness of the rights provided by Union law, the personal scope of Directive 91/533/EEC should be updated. In its case law, the Court of Justice of the European Union (**Court of Justice**) has established criteria for determining the status of a worker³⁴. **The Court of Justice has defined a worker as a natural person who, for a certain period of time, performs services for and under the direction of another person in return for remuneration. Those criteria are appropriate for determining the personal scope of application of this Directive. Moreover, the Court of Justice has held that the performance of services is to be understood as the performance of work, and that an employment relationship is to be understood as one including a degree of dependency or subordination. The Court of Justice's case-law in this regard should be taken into account in the implementation of this Directive.**

³⁴ Judgments of 3 July 1986, Deborah Lawrie-Blum, Case 66/85; 14 October 2010, Union Syndicale Solidaires Isère, Case C-428/09; 9 July 2015, Balkaya, Case C-229/14; 4 December 2014, FNV Kunsten, Case C-413/13; and 17 November 2016, Ruhrlandklinik, Case C-216/15.

Or. en

Justification

This makes it clear which criteria apply in order for a person to be regarded as a ‘worker’ under this directive. Self-employed persons have been expressly excluded. It is important to emphasise that the scope of the directive is not determined by the categories in place in each Member State, but rather by whether the relevant requirements are met.

Amendment 6

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Self-employed persons providing services independently on their own responsibility and bearing the risk of their business do not fulfil the Court of Justice's criteria for determining the status of a worker and thus do not fall within the scope of this Directive.

Or. en

Amendment 7

Proposal for a directive Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) The Court of Justice's criteria for determining the status of a worker should ensure a uniform implementation of the personal scope of this Directive while leaving it to national authorities and national courts to apply it to specific situations. Provided that domestic workers, on-demand workers, intermittent workers, voucher based-workers, platform workers, trainees and apprentices meet those criteria, they fall within the scope of this Directive.

Or. en

Justification

This makes it clear that it will be for the national authorities and courts to ensure that all employment relationships meeting the relevant criteria are subject to the provisions of this directive.

Amendment 8

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) In view of the increasing number of workers excluded from the scope of Directive 91/533/EEC on the basis of derogations made by Member States under Article 1 of that Directive, it is necessary to replace these derogations with a possibility for Member States not to apply the provisions of the Directive to a work relationship equal to or less than 8 hours in total in a reference period of one month. That derogation does not affect the definition of a worker as provided for in Article 2(1).

Amendment

(8) In view of the increasing number of workers excluded from the scope of Directive 91/533/EEC on the basis of derogations made by Member States under Article 1 of that Directive, it is necessary to replace these derogations with a possibility for Member States not to apply the provisions of the Directive to *civil servants or to* a work relationship equal to or less than 8 hours in total in a reference period of one month. That derogation does not affect the definition of a worker as provided for in Article 2(1).

Or. en

Justification

This amendment introduces an option to exclude civil servants from the scope of the directive, meaning that Member States in which civil servants have a special status (i.e. a personal status rather than an employment status) will not be affected.

Amendment 9

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) Several different natural or legal persons may in practice assume the functions and responsibilities of an employer. Member States should remain free to determine more precisely the

Amendment

(10) Several different natural or legal persons *or other entities* may in practice assume the functions and responsibilities of an employer. Member States should remain free to determine more precisely the

person(s) who are considered totally or partially responsible for the execution of the obligations that this Directive lays down for employers, as long as all those obligations are fulfilled. Member States should also be able to decide that some or all of these obligations are to be assigned to a natural or legal person who is not party to the employment relationship. ***Member States should be able to establish specific rules to exclude individuals acting as employers for domestic workers in the household from the obligations to consider and respond to a request for a different type of employment, to provide cost-free mandatory training, and from coverage of the redress mechanism based on favourable presumptions in the case of missing information in the written statement.***

person(s) who are considered totally or partially responsible for the execution of the obligations that this Directive lays down for employers, as long as all those obligations are fulfilled. Member States should also be able to decide that some or all of these obligations are to be assigned to a natural or legal person who is not party to the employment relationship.

Or. en

Justification

The inclusion of other entities will cover forms of entities that are not legal or natural persons such as good. These entities will cover bodies without legal or natural personality such as a community of goods

Amendment 10

Proposal for a directive Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) Member States should be able to establish specific rules to exclude individuals acting as employers for domestic workers in the household from the requirements laid down in this Directive, to consider and respond to requests for different types of employment, to provide cost-free mandatory training, and to provide for redress mechanisms based on favourable presumptions in the case of missing

information in the documentation that is to be provided to the worker under this Directive.

Or. en

Justification

The specific situation of individuals acting as employer for domestic workers justifies the exclusion

Amendment 11

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) Information on remuneration to be provided should include all elements of the remuneration, including contributions in cash or kind, directly or indirectly received by the worker in respect of his or her work. The provision of such information should be without prejudice to the freedom for employers to provide for additional elements of remuneration such as one-off payments. The fact that elements of remuneration due by law or collective agreement have not been included in that information should not constitute a reason for not providing them to the worker.

Amendment

(13) Information on remuneration to be provided should include all elements of the remuneration, including contributions in cash or kind ***or other benefits***, directly or indirectly received by the worker in respect of his or her work. The provision of such information should be without prejudice to the freedom for employers to provide for additional elements of remuneration such as one-off payments. The fact that elements of remuneration due by law or collective agreement have not been included in that information should not constitute a reason for not providing them to the worker.

Or. en

Amendment 12

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) If it is not possible to indicate a ***fixed work schedule*** due to the nature of the employment, workers should know how their work ***schedule*** will be

Amendment

(14) If it is not possible to indicate a ***standard working day or week*** due to the nature of the employment, ***and*** workers ***have an on-demand contract or a similar***

established, including the *time slots in* which they may be called to work and the minimum advance notice they should receive.

employment relationship, employers should *inform workers* how their work *assignments* will be established, including the *timeslots during* which they may be called to work and the minimum *period of* advance notice *that they are to* receive.

Or. en

Amendment 13

Proposal for a directive Recital 15

Text proposed by the Commission

(15) Information on social security systems should include, where relevant, sickness, maternity and equivalent, parental, paternity, old-age, invalidity, survivors', unemployment, pre-retirement *or* family benefits. Information on social security protection provided by the employer should include, where relevant, coverage by supplementary pension schemes within the meaning of Council Directive 98/49/EC³⁶ and Directive 2014/50/EU of the European Parliament and of the Council.³⁷

³⁶ Council Directive 98/49/EC of 29 June 1998 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community (OJ L 209, 25.7.1998, p. 46).

³⁷ Directive 2014/50/EU of the European Parliament and of the Council of 16 April 2014 on minimum requirements for enhancing worker mobility between Member States by improving the

Amendment

(15) Information on social security systems *to be provided* should include *information on the receiving social security institutions and proof of registration with the social security authorities*. Where relevant, *it should include information on* sickness, maternity and equivalent, parental, paternity, old-age, invalidity, survivors', unemployment, pre-retirement, family benefits, *or benefits in respect of accidents at work and occupational diseases*. Information on social security protection provided by the employer should include, where relevant, coverage by supplementary pension schemes within the meaning of Council Directive 98/49/EC³⁶ and Directive 2014/50/EU of the European Parliament and of the Council.³⁷

³⁶ Council Directive 98/49/EC of 29 June 1998 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community (OJ L 209, 25.7.1998, p. 46).

³⁷ Directive 2014/50/EU of the European Parliament and of the Council of 16 April 2014 on minimum requirements for enhancing worker mobility between Member States by improving the

acquisition and preservation of supplementary pension rights (OJ L 128, 30.4.2014, p. 1).

acquisition and preservation of supplementary pension rights (OJ L 128, 30.4.2014, p. 1).

Or. en

Justification

The worker should be provided with the proof of registration with the social security authorities

Amendment 14

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) Workers should have the right to be informed about their rights and obligations resulting from the employment relationship in writing at the start of employment. The **relevant** information should therefore reach them at the latest **on** the first **day** of the employment.

Amendment

(16) Workers should have the right to be informed about their rights and obligations resulting from the employment relationship in writing, ***in paper or electronically***, at the start of employment. The ***basic*** information should therefore reach them ***in writing*** at the latest ***within*** the first ***three working days*** of the employment, ***but, where provided orally, from the first working day. It should be possible to extend the three-day deadline for providing the basic information to a maximum of one week in exceptional circumstances, such as in the case of abnormal functioning of the human resources services of the company. The remainder of the information should be provided within a reasonable period thereafter, but in any event within 15 days of the start of employment.***

Or. en

Amendment 15

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) Probationary periods allow employers to verify that workers are suitable for the position for which they have been engaged while providing them with accompanying support **and training**. Such periods may be accompanied by reduced protection against dismissal. Any entry into the labour market or transition to a new position should not be subject to prolonged insecurity. As established in the European Pillar of Social Rights, probationary periods should therefore be of reasonable duration. A substantial number of Member States have established a general maximum duration of probation between three and six months, which should be considered reasonable. Probationary periods may be longer than six months where this is justified by the nature of the employment **such as for managerial positions and where this is in the interest of the worker, such as in the case of long illness** or in the context of specific measures promoting permanent employment notably for young workers.

Amendment

(19) Probationary periods allow employers to verify that workers are suitable for the position for which they have been engaged while providing them with accompanying support. Such periods may be accompanied by reduced protection against dismissal. Any entry into the labour market or transition to a new position should not be subject to prolonged insecurity. As established in the European Pillar of Social Rights, probationary periods should therefore be of reasonable duration. A substantial number of Member States have established a general maximum duration of probation between three and six months, which should be considered reasonable. Probationary periods may, **exceptionally**, be longer than six months, where this is justified by the nature of the employment or in the context of specific measures promoting permanent employment notably for young workers, **but should in any event be no longer than 12 months. Member States should be able to provide for probationary periods to be interrupted, subject to agreement by the worker and the employer, where the worker has been absent due to a long illness or leave, in order to enable the worker to prove that his or her skills are aligned with the tasks required and to enable the employer to verify the suitability of the worker for those tasks.**

Or. en

Justification

A difference is made between those probationary periods that are longer than 6 months from the beginning and those that, finally, are longer because of the interruption of the initial term and only when both parties agree on it.

Amendment 16

Proposal for a directive Recital 20

Text proposed by the Commission

(20) Employers should not prohibit workers from taking up employment with other employers, outside the time spent working for them, within the limits set out in Directive 2003/88/EC of the European Parliament and of the Council.³⁹ Incompatibility *clauses*, understood as *a restriction on* working for specific categories of employers, *may be necessary* for objective reasons, such as the protection of business *secrets* or the avoidance of conflicts of interests.

³⁹ Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ L 299, 18.11.2003, p. 9).

Amendment

(20) Employers should not prohibit workers from taking up employment with other employers, outside the time spent working for them. ***Member States should ensure that such other employment falls*** within the limits set out in Directive 2003/88/EC of the European Parliament and of the Council.³⁹ ***Member States should be able to lay down conditions for the use of*** incompatibility *restrictions*, understood as *restrictions to* working for specific categories of employers for objective reasons, such as ***health and safety***, the protection of business ***confidentiality, the integrity of the public service*** or the avoidance of conflicts of interests.

³⁹ Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (OJ L 299, 18.11.2003, p. 9).

Or. en

Justification

It is clarified that only Member States can lay down incompatibility restrictions. Two more are added: health and safety and the integrity of the public service.

Amendment 17

Proposal for a directive Recital 21

Text proposed by the Commission

(21) Workers whose work *schedule is mostly variable should benefit from a*

Amendment

(21) Workers ***with on-demand contracts or similar forms of employment*** whose

minimum predictability of work where the *work schedule* is mainly determined by the employer, be it directly – for instance by allocating work assignments – or indirectly – for instance by requiring the worker to respond to clients' *requests*.

work *is unpredictable because the worker's employment contract does not provide for a standard working day or week or* where the *volume of work is variable and* is mainly determined by the employer, be it directly – for instance by allocating work assignments – or indirectly – for instance by requiring the worker to respond to clients, *should benefit from minimum level of stability and predictability at work*.

Or. en

Amendment 18

Proposal for a directive Recital 23

Text proposed by the Commission

(23) A reasonable minimum advance notice, understood as the period of time between the moment a worker is informed about a new work assignment and the moment the assignment starts, constitutes another necessary element of predictability of work for employment relationships with work schedule *which are variable or mostly determined by the employer*. The length of the advance notice *period* may vary according to the needs of sectors, while ensuring adequate protection of workers. It applies without prejudice to Directive 2002/15/EC of the European Parliament and of the Council.⁴⁰

⁴⁰ Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (OJ L 80, 23.3.2002, p. 35).

Amendment

(23) A reasonable minimum advance notice, understood as the period of time between the moment a worker is informed about a new work assignment and the moment the assignment starts, constitutes another necessary element of predictability of work for employment relationships with *an unpredictable* work schedule. The length of the advance notice may vary according to the needs *and uses* of sectors, while ensuring *the* adequate protection of workers. It applies without prejudice to Directive 2002/15/EC of the European Parliament and of the Council.⁴⁰

⁴⁰ Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (OJ L 80, 23.3.2002, p. 35).

Or. en

Amendment 19

Proposal for a directive Recital 24

Text proposed by the Commission

(24) Workers should have the possibility to refuse a work assignment if it falls outside of the reference hours and days or has **not** been notified **within** the minimum advance notice without suffering adverse consequences for this refusal. Workers should also have the possibility to accept the work assignment if they so wish.

Amendment

(24) Workers should have the possibility to refuse a work assignment if it falls outside of the reference hours and days or **where the worker** has been notified **outside** the minimum advance notice **period** without suffering adverse consequences for this refusal. Workers should also have the possibility to accept the work assignment if they so wish **and it should be possible to change the reference hours and days and the minimum advance notice period on an ad hoc basis upon agreement between the worker and employer. If the worker, once he or she has accepted the work assignment, is unable to complete the work because the employer delays assigning tasks to the worker, and the worker is not responsible for that delay, the worker should retain his or her right to remuneration for the work assignment.**

Or. en

Amendment 20

Proposal for a directive Recital 25

Text proposed by the Commission

(25) Where employers have the possibility to offer full-time or open-ended labour contracts to workers in non-standard forms of employment, a transition to more secure forms of employment should be promoted. Workers should be able to request another more predictable and secure form of employment, where

Amendment

(25) ***New forms of employment have been a driver of job creation and labour market growth and their adaptability has enabled the development of innovative business models and has facilitated entry into the labour market of people previously excluded. However, some forms of employment are more open to***

available, and receive a written response from the employer, which takes into account the needs of the employer and of the worker.

insecure and unpredictable working conditions. Where employers have the possibility to offer full-time or open-ended labour contracts to workers in non-standard forms of employment, a transition to more secure forms of employment should be promoted ***in accordance with the principles established in the European Pillar of Social Rights.*** Workers should be able to request another more predictable and secure form of employment, where available, and receive a written response from the employer, which takes into account the needs of the employer and of the worker.

Or. en

Amendment 21

Proposal for a directive Recital 25 a (new)

Text proposed by the Commission

Amendment

(25a) Council Directives 97/81/EC, 1999/70/EC and 2008/104/EC continue to apply and complement the provisions in this Directive with regard to the transition between one form of employment to another.

Or. en

Amendment 22

Proposal for a directive Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) The social partners are best placed to find solutions that correspond to the needs of both employers and workers and should therefore be given an important

role in implementing this Directive.

Or. en

Amendment 23

Proposal for a directive

Recital 27

Text proposed by the Commission

(27) Social partners may consider that in specific sectors or situations ***different*** provisions ***are more appropriate***, for the pursuit of the purpose ***of this Directive, than the minimum standards set in Chapter Three*** of this Directive. Member States should therefore be able to allow social partners to conclude collective agreements modifying the provisions contained in ***that*** chapter, as long as the ***overall level of protection of workers is not lowered***.

Amendment

(27) Social partners may consider that in specific sectors or situations, provisions ***can be adapted, supplemented or improved*** for the pursuit of the purpose of this Directive. Member States should therefore be able to allow social partners to conclude collective agreements modifying the provisions contained in ***Chapter III of this Directive***, as long as the ***minimum standards set out in that Chapter are not lowered***.

Or. en

Amendment 24

Proposal for a directive

Recital 28

Text proposed by the Commission

(28) The consultation on the European Pillar of Social Rights showed the need to strengthen enforcement of Union labour law to ensure its effectiveness. ***As regards Directive 91/533/EEC, the REFIT evaluation***⁴¹ confirmed that strengthened enforcement mechanisms could improve ***its*** effectiveness. It showed that redress systems based solely on claims for damages are less effective than systems that also provide for ***sanctions*** (such as lump sums or loss of permits) for

Amendment

(28) The consultation on the European Pillar of Social Rights showed the need to strengthen enforcement of Union labour law to ensure its effectiveness. ***The evaluation of*** Directive 91/533/EEC ***conducted under the Commission's Regulatory Fitness and Performance Programme***⁴¹ confirmed that strengthened enforcement mechanisms could improve ***the effectiveness of Union labour law***. It showed that redress systems based solely on claims for damages are less effective

employers who fail to issue written statements. It also showed that employees rarely seek redress during the employment relationship, which jeopardises the goal of the provision of the written statement to ensure workers are informed about their essential features of their employment relationship. It is therefore necessary to introduce enforcement provisions which ensure the use either of favourable presumptions where information about the employment relationship is not provided, or of an administrative procedure under which the employer may be required to provide the missing information and subject to **sanction** if **it** does not. That redress should be subject to a procedure by which the employer is notified that information is missing and has 15 days in which to supply complete and correct information.

than systems that also provide for **penalties** (such as lump sums or loss of permits) for employers who fail to issue written statements. It also showed that employees rarely seek redress during the employment relationship, which jeopardises the goal of the provision of the written statement, **which is** to ensure **that** workers are informed about their essential features of their employment relationship. It is therefore necessary to introduce enforcement provisions which ensure the use either of favourable presumptions where information about the employment relationship is not provided, or of an administrative procedure under which the employer may be required to provide the missing information and subject to **penalties** if **the employer** does not **do so**. **Such favourable presumptions could include a presumption that the worker has an open-ended employment relationship, that there is no probationary period or that the worker has a full-time position, where the respective information is missing**. That redress should be subject to a procedure by which the employer is notified **by the worker or by a third party such as worker's representatives or other competent entity or authority**, that information is missing and has 15 days in which to supply complete and correct information.

⁴¹ SWD(2017)205 final, page 26.

⁴¹ SWD(2017)205 final, page 26.

Or. en

Amendment 25

Proposal for a directive

Recital 34

Text proposed by the Commission

(34) Member States should provide for

Amendment

(34) Member States should provide for

effective, proportionate and dissuasive penalties for breaches of the obligations under this Directive.

effective, proportionate and dissuasive penalties for breaches of the obligations under this Directive, ***including, fines or compensation payments if appropriate.***

Or. en

Amendment 26

Proposal for a directive Recital 36

Text proposed by the Commission

(36) This Directive lays down minimum requirements, thus leaving untouched Member States' prerogative to introduce and maintain more favourable provisions. Rights acquired under the existing legal framework should continue to apply, unless more favourable provisions are introduced by this Directive. The implementation of this Directive cannot be used to reduce existing rights set out in existing national or Union legislation in this field nor can it constitute valid grounds for reducing the general level of protection afforded to workers in the field covered by this Directive.

Amendment

(36) This Directive lays down minimum requirements, thus leaving untouched Member States' prerogative to introduce and maintain more favourable provisions. Rights acquired under the existing legal framework should continue to apply, unless more favourable provisions are introduced by this Directive. The implementation of this Directive cannot be used to reduce existing rights set out in existing national or Union legislation in this field nor can it constitute valid grounds for reducing the general level of protection afforded to workers in the field covered by this Directive ***including the introduction of zero-hour contracts or similar types of employment contracts.***

Or. en

Amendment 27

Proposal for a directive Recital 37

Text proposed by the Commission

(37) In implementing this Directive Member States should avoid imposing administrative, financial and legal constraints in a way which would hold

Amendment

(37) In implementing this Directive Member States should avoid imposing administrative, financial and legal constraints in a way which would hold

back the creation and development of small and medium-sized **undertakings**. Member States are therefore invited to assess the impact of their transposition act on **SMEs** in order to make sure that **SMEs** are not disproportionately affected, **with** specific attention **for** micro-enterprises and **for** administrative burden, and to publish the results of such assessments.

back the creation and development of small and medium-sized **enterprises**. Member States are therefore invited to assess the impact of their transposition act on **small and medium-sized enterprises** in order to make sure that **they** are not disproportionately affected, **and in particular, pay** specific attention **to** micro-enterprises and **the potential** administrative burden, and to publish the results of such assessments.

Or. en

Amendment 28

Proposal for a directive Recital 38

Text proposed by the Commission

(38) The Member States **may entrust** social partners **with** the implementation of this Directive, **where social partners jointly request to do so and as long as the Member States take** all the necessary **steps to ensure that they can at all times guarantee the results sought under this Directive**.

Amendment

(38) The Member States **should involve the** social partners **in** the implementation of this Directive **and provide them with** all the necessary **means for such involvement to be effective**.

Or. en

Amendment 29

Proposal for a directive Recital 38 a (new)

Text proposed by the Commission

Amendment

(38a) Member States should ensure that national labour inspection bodies enforce this Directive. Union-level coordination and specific training should be provided to such national bodies in order to facilitate such enforcement.

Amendment 30

Proposal for a directive Article 1 – paragraph 1

Text proposed by the Commission

1. The purpose of this Directive is to improve working conditions by promoting more *secure* and predictable employment while ensuring labour market adaptability.

Amendment

1. The purpose of this Directive is to improve working conditions by promoting more *transparent* and predictable employment while ensuring labour market adaptability.

Or. en

Amendment 31

Proposal for a directive Article 1 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States may decide not to apply the obligations in this Directive to civil servants.

Or. en

Amendment 32

Proposal for a directive Article 1 – paragraph 6

Text proposed by the Commission

6. Member States may decide not to apply the obligations set out in Articles 10 and 11 and Article 14(a) to *natural* persons *belonging to* a household where work is performed for that household.

Amendment

6. Member States may decide not to apply the obligations set out in Articles 10 and 11 and Article 14(a) to persons *in* a household *acting as employers* where work is performed for that household.

Amendment 33

Proposal for a directive Article 2 – paragraph 1 – point b

Text proposed by the Commission

(b) 'employer' means one or more natural or legal person(s) who is or are **directly or indirectly** party to an employment relationship with a worker;

Amendment

(b) 'employer' means one or more natural or legal person(s), **or other entities** who is or are party to an employment relationship with a worker;

Or. en

Justification

The notion of being indirectly party to an employment relationship is unclear and would lead to legal uncertainty and court cases. It would blur who the responsible employer is, which would also be of detriment to the employee. There are other entities without legal personality that could be an employer.

Amendment 34

Proposal for a directive Article 3 – paragraph 2 – point g

Text proposed by the Commission

(g) any training entitlement **provided by** the employer;

Amendment

(g) any training entitlement **that** the employer **is required to provide pursuant to law or collective agreements, or in accordance with the employer's general training policy**;

Or. en

Amendment 35

Proposal for a directive Article 3 – paragraph 2 – point i

Text proposed by the Commission

(i) the procedure, including the length of the period of notice, to be observed by the employer and the worker should their employment relationship be terminated or, where the length of the period of notice cannot be indicated when the information is given, the method for determining such period of notice;

Amendment

(i) the procedure, including the length of the period of notice, to be observed by the employer and the worker should their employment relationship be terminated or, where the length of the period of notice cannot be indicated when the information is given, the method for determining such period of notice ***as well as the formal requirements for the notice of termination and the deadline for bringing an action contesting dismissal;***

Or. en

Amendment 36

Proposal for a directive

Article 3 – paragraph 2 – point j

Text proposed by the Commission

(j) the initial basic amount, any other component elements, the frequency and method of payment of the remuneration to which the worker is entitled;

Amendment

(j) the initial basic amount, any other component elements ***such as payments in kind or other benefits***, the frequency and method of payment of the remuneration to which the worker is entitled;

Or. en

Amendment 37

Proposal for a directive

Article 3 – paragraph 2 – point k

Text proposed by the Commission

(k) ***if the work schedule is entirely or mostly not variable***, the length of the ***worker's*** standard working day or week and ***any arrangements for overtime and its remuneration;***

Amendment

(k) the length of the ***employee's standard working day or week, and, where applicable, the arrangements for working outside the*** standard working day or week, ***including shift changes and overtime, and the reasonable advance notice of, and***

remuneration *for, such work*;

Or. en

Amendment 38

Proposal for a directive

Article 3 – paragraph 2 – point l – introductory part

Text proposed by the Commission

(l) *if the work schedule is entirely or mostly variable, the principle that the work schedule is variable, the amount of guaranteed paid hours, the remuneration of work performed in addition to the guaranteed hours and, if the work schedule is entirely or mostly determined, by the employer:*

Amendment

(l) *where the worker's employment contract does not provide for a standard working day or week as referred to in point (k) or where the volume of work is variable and is mainly determined by the employer, such as under on-demand or similar employment contracts, the employer shall inform the worker about:*

Or. en

Amendment 39

Proposal for a directive

Article 3 – paragraph 2 – point l – point i a (new)

Text proposed by the Commission

Amendment

(ia) *the number of guaranteed paid hours and the remuneration for work performed in addition to those guaranteed hours;*

Or. en

Amendment 40

Proposal for a directive

Article 3 – paragraph 2 – point l – point ii

Text proposed by the Commission

(ii) the minimum advance notice the worker shall receive before the start of a work assignment;

Amendment

(ii) the minimum ***period of*** advance notice the worker shall receive before the start of a work assignment;

Or. en

Amendment 41

Proposal for a directive

Article 3 – paragraph 2 – point m a (new)

Text proposed by the Commission

Amendment

(ma) information on the workers' representatives present within the company;

Or. es

Amendment 42

Proposal for a directive

Article 3 – paragraph 2 – point n a (new)

Text proposed by the Commission

Amendment

(na) proof of registration with the social security institution(s) referred in point (n).

Or. en

Amendment 43

Proposal for a directive

Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. The information referred to in paragraph 2(f) to ***(k)*** and (n) may, where

3. The information referred to in paragraph 2(f) to ***(l)*** and (n) may, where

appropriate, be given in the form of a reference to the laws, regulations and administrative or statutory provisions or collective agreements governing those particular points.

appropriate, be given in the form of a reference to the laws, regulations and administrative or statutory provisions or **to** collective agreements **and internal company rules** governing those particular points.

Or. en

Amendment 44

Proposal for a directive Article 4 – paragraph 1

Text proposed by the Commission

1. The information referred to in Article 3(2) shall be provided individually to the worker ***in the form of a document*** at the latest on the first day of the employment relationship. ***That document may be provided and transmitted electronically as long as it is easily accessible by the worker and can be stored and printed.***

Amendment

1. The information referred to in ***points (a) to (f) and (j) to (na)*** of Article 3(2), shall be provided individually ***in writing*** to the worker, at the latest ***within three working days of the start of the employment relationship.*** ***The same information shall be provided orally*** on the first day of the employment relationship.

The deadline referred to in the first subparagraph may be extended by a maximum period of one week in the case of exceptional circumstances.

Or. en

Amendment 45

Proposal for a directive Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The information referred to in points (g), (h) and (i) of Article 3(2) shall be provided to the worker in writing within 15 days of the start of the employment relationship.

Amendment 46

Proposal for a directive Article 4 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that the information on the laws, regulations and administrative or statutory provisions or collective agreements governing the legal framework applicable which are to be communicated by employers is made generally available free of charge in a clear, transparent, comprehensive and easily accessible way at a distance and by electronic means, including through existing online portals for Union citizens and businesses.

Amendment

3. Member States shall ensure that the information on the laws, regulations and administrative or statutory provisions or collective agreements governing the legal framework applicable which are to be communicated by employers is made generally available free of charge in a clear, transparent, comprehensive and easily accessible way at a distance and by electronic means, including through existing online portals for Union citizens, ***trade unions*** and businesses.

Or. en

Amendment 47

Proposal for a directive Article 4 a (new)

Text proposed by the Commission

Amendment

Article 4a

Transmission of information

All documents shall be provided in writing, in paper or electronically, provided that they are easily accessible, receipt is acknowledged, and they can be stored and printed.

Or. en

Amendment 48

Proposal for a directive Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *The document referred to in paragraph 1 shall not apply to changes that merely reflect a change in the laws, regulations and administrative or statutory provisions or collective or works council agreements cited in the documents referred to in Article 4(1), and, where relevant, in Article 6.*

Or. en

Amendment 49

Proposal for a directive Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. 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 document referred to in Article 4(1) shall be provided before **his or her** departure and shall include at least the following additional information:

1. 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 document referred to in Article 4(1) shall be provided **by the employer** before **the workers'** departure and shall include at least the following additional information:

Or. en

Amendment 50

Proposal for a directive Article 6 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) where applicable, the benefits in cash or kind attendant on the work

(c) where applicable, the benefits in cash or kind attendant on the work

assignment(s), *which includes in the case of posted workers covered by Directive 96/71/EC any allowances specific to posting and any arrangements for reimbursing expenditure on travel, board and lodging;*

assignment(s);

Or. en

Amendment 51

Proposal for a directive Article 6 – paragraph 1 – point d

Text proposed by the Commission

(d) *where applicable*, the conditions governing the worker's repatriation.

Amendment

(d) the conditions governing the worker's repatriation.

Or. en

Amendment 52

Proposal for a directive Article 6 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) in the case of posted workers within the scope of Directive 96/71/EC, a link to the official national website(s) developed by the host Member State(s) pursuant to Article 5(2) of Directive 2014/67/EU.

Or. en

Amendment 53

Proposal for a directive Article 6 – paragraph 2

Text proposed by the Commission

Amendment

2. **Member States shall ensure that, if the worker sent abroad is a posted worker covered by Directive 96/71/EC, he or she shall in addition be notified of:**

deleted

(a) **the remuneration to which the worker is entitled in accordance with the applicable law of the host Member State;**

(b) **the link to the official national website(s) developed by the host Member State(s) pursuant to Article 5(2) of Directive 2014/67/EU.**

Or. en

Amendment 54

Proposal for a directive Article 7 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that, where an employment relationship is subject to a probationary period, that period shall not exceed six months, **including any extension.**

1. Member States shall ensure that, where an employment relationship is subject to a probationary period, that period shall not exceed six months.

Or. en

Amendment 55

Proposal for a directive Article 7 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States may provide for longer probationary periods in cases where this is justified by the nature of the employment or **is** in the **interest of the worker.**

2. Member States may, **on an exceptional basis**, provide for longer probationary periods **not exceeding 12 months** in cases where this is justified by the nature of the employment or in the **context of specific measures promoting**

permanent employment, in particular for young workers.

Or. en

Amendment 56

Proposal for a directive Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *Member States may provide for probationary periods to be interrupted, subject to agreement between the worker and the employer, where the worker has been absent from work due to a long illness or leave, in order to enable the worker to prove that his or her skills are aligned with the tasks required and to enable the employer to verify the suitability of the worker for those tasks.*

Or. en

Amendment 57

Proposal for a directive Article 8 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *Member States shall ensure that workers who have more than one employment are subject to the overall minimum safety and health requirements for the organisation of working time as provided for in Directive 2003/88/EC of the European Parliament and of the Council^{1a}.*

^{1a} *Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain*

aspects of the organisation of working time (OJ L 299, 18.11.2003, p. 9).

Or. en

Amendment 58

Proposal for a directive Article 8 – paragraph 2

Text proposed by the Commission

2. *Employers may however* lay down conditions of incompatibility *where such* restrictions *are justified by legitimate* reasons such as the protection of business *secrets* or the avoidance of conflicts of interests.

Amendment

2. *Member States may* lay down conditions *for the use* of incompatibility *restrictions by employers, namely* restrictions *on working for specific categories of employers for objective* reasons, such as *health and safety*, the protection of business *confidentiality, the integrity of the public service* or the avoidance of conflicts of interests.

Or. en

Amendment 59

Proposal for a directive Article 9 – title

Text proposed by the Commission

Minimum predictability of work

Amendment

Minimum predictability of work *for on-demand contracts and similar forms of work*

Or. en

Amendment 60

Proposal for a directive Article 9 – paragraph 1 – introductory part

Text proposed by the Commission

Member States shall ensure that where a ***worker's work schedule is entirely or mostly variable and entirely or mostly determined by the employer***, the worker ***may*** be required to work by the employer only:

Amendment

Member States shall ensure that where a ***worker's employment contract does not provide for a standard working day or week***, the worker ***shall*** be required to work by the employer only:

Or. en

Amendment 61

**Proposal for a directive
Article 9 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. Where one or both of the requirements laid down in the first subparagraph is not fulfilled, a worker shall have the right to refuse a work assignment without adverse consequences.

Or. en

Amendment 62

**Proposal for a directive
Article 9 – paragraph 1 b (new)**

Text proposed by the Commission

Amendment

1b. Workers shall have the right to accept the work assignment if they so wish even where the criteria laid down in points (a) or (b) of paragraph 1 are not met. The reference hours, reference days and minimum period of advance notice in paragraph 1 may be changed or adapted on an ad hoc basis where requested by either the employer or the worker and upon agreement between them.

Amendment 63**Proposal for a directive
Article 9 – paragraph 1 c (new)***Text proposed by the Commission**Amendment*

1c. Where no legal measures are in place to prevent abuse arising from the use of on-demand contracts and similar forms of work, Member States shall, after consulting the social partners in accordance with national law, collective agreements and/or practice, in a manner which takes account of the needs of specific sectors and/or categories of workers, introduce one or more of the following measures:

(i) from six months after the start of the employment relationship, a rebuttable presumption of the existence of an employment contract providing, for the following six months, for a minimum number of at least 75 % of the hours worked during the previous six months, regardless of the distribution per month;

(ii) a requirement that employers provide objective reasons for the use of such contracts, accompanied by an effective overall time limit for the use of such a contract in relation to the workers concerned;

(iii) where appropriate, a range within which the working hours are permitted to fluctuate from week to week;

(iv) where appropriate and to the extent possible, a requirement that employers provide workers with the anticipated working hours, in order to enable them to plan ahead.

Amendment 64

Proposal for a directive Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9a

Guaranteed hours providing a minimum level of predictability

If, having accepted an assignment, a worker cannot provide services owing to a delay for which the employer, not the worker, is responsible, the worker shall remain entitled to remuneration, which may not take the form of a different assignment at a later date.

Or. es

Amendment 65

Proposal for a directive Article 10 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that workers with at least six months' seniority with the same employer may request a form of employment ***with more predictable and secure working conditions*** where available.

1. Member States shall ensure that workers with at least six months' seniority with the same employer, ***and following the completion of any mandatory training and probationary period,*** may request a ***transition to a more predictable*** form of employment where available.

Or. en

Amendment 66

Proposal for a directive Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. This Article applies without prejudice to Directives 97/81/EC, 99/70/EC and 2008/104/EC.

Or. en

Justification

The Council Directives on part-time work, fixed-term work and temporary agency work already provide rules on transition to another form of employment. The rules in the three directives should continue to apply.

Amendment 67

Proposal for a directive Article 11 – title

Text proposed by the Commission

Amendment

Training

Mandatory training

Or. en

Amendment 68

Proposal for a directive Article 11 – paragraph 1

Text proposed by the Commission

Amendment

Member States shall ensure that where employers are required by Union or national legislation or relevant collective agreements to provide training **to workers to carry out the work for which they are employed**, such training shall be provided cost-free to the worker.

Member States shall ensure that where employers are required by Union or national legislation or relevant collective agreements to provide training **inherent in the job offered**, such training shall be provided cost-free to the worker.

Or. en

Amendment 69

Proposal for a directive Article 12 – paragraph 1

Text proposed by the Commission

Member States **may allow** social partners to conclude collective agreements, in conformity with the national law or practice, which, while respecting the overall protection of workers, establish arrangements concerning the working conditions of workers which **differ from those referred to in Articles 7 to 11**.

Amendment

Member States **shall encourage the** social partners to conclude collective agreements, in conformity with the national law or practice, which, while respecting the overall protection of workers, **and, subject to the minimum requirements laid down in this Directive**, establish arrangements concerning the working conditions of workers which **adapt, complement and improve provisions laid down in Chapter III**.

Or. en

Amendment 70

Proposal for a directive Article 14 – paragraph 1 – introductory part

Text proposed by the Commission

Member States shall ensure that, where a worker has not received in due time all or part of the documents referred to in Article 4(1), Article 5, or Article 6, and the employer has failed to rectify that omission within 15 days of its notification, **one** of the following systems shall apply:

Amendment

Member States shall ensure that, where a worker has not received in due time all or part of the documents referred to in Article 4(1), Article 5, or Article 6, and the employer has failed to rectify that omission within 15 days of its notification, **both** of the following systems shall apply:

Or. en

Amendment 71

Proposal for a directive Article 17 – paragraph 1

Text proposed by the Commission

1. Member States shall take the

PR\1152211EN.docx

Amendment

1. Member States shall take the

41/47

PE621.099v01-00

necessary measures to **prohibit** the dismissal or its equivalent and all preparations for dismissal of workers, on the grounds that they exercised the rights provided for in this Directive.

necessary measures to **prevent** the dismissal or its equivalent and all preparations for dismissal of workers, on the grounds that they exercised the rights provided for in this Directive.

Or. es

Amendment 72

Proposal for a directive Article 19 – paragraph 1

Text proposed by the Commission

1. This Directive shall not constitute valid grounds for reducing the general level of protection already afforded to workers within Member States.

Amendment

1. This Directive shall not constitute valid grounds for reducing the general level of protection already afforded to workers within Member States. ***This Directive shall not be used to undermine in any Member States better working conditions provided for in collective agreements.***

Or. en

Amendment 73

Proposal for a directive Article 20 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall involve the social partners in the implementation of this Directive and shall ensure that they have the necessary means for such involvement to be effective.

Or. en

Amendment 74

Proposal for a directive

Article 20 a (new)

Text proposed by the Commission

Amendment

Article 20a

Inspections and monitoring

Members States shall ensure that national labour inspection bodies enforce the provisions relating to workers' rights laid down in this Directive.

Union-level coordination and specific training shall be provided to national labour inspection bodies to facilitate such enforcement.

Member States shall ensure that effective and adequate inspections are carried out to monitor the implementation of this Directive.

Or. en

Amendment 75

Proposal for a directive

Article 21

Text proposed by the Commission

Amendment

The rights and obligations set out in this Directive shall apply to existing employment relationships as from [entry into force date + 2 years]. However, employers shall provide or complement the documents referred to in Article 4(1), Article 5 and Article 6 only upon request of a worker. The absence of such request shall not have the effect of excluding workers from the minimum rights established under this Directive.

The rights and obligations set out in this Directive shall apply to existing employment relationships as from [entry into force date + 2 years]. However, employers shall provide or complement the documents referred to in Article 4(1), Article 5 and Article 6 only upon request of a worker **or a trade union representative**. The absence of such request shall not have the effect of excluding workers from the minimum rights established under this Directive.

Or. en

Amendment 76

Proposal for a directive Article 22 – paragraph 1

Text proposed by the Commission

By [entry into force date + 8 years], the Commission shall, in consultation with the Member States and social partners at Union level and taking into account the impact on small and medium-sized enterprises, review the application of this Directive with a view to proposing, where appropriate, the necessary amendments.

Amendment

By [entry into force date + 5 years], the Commission shall, in consultation with the Member States and social partners at Union level and taking into account the impact on small and medium-sized enterprises, review the application of this Directive with a view to proposing, where appropriate, the necessary amendments ***and improvements.***

Or. es

EXPLANATORY STATEMENT

The aim of the Commission proposal is to replace the 1991 Written Statement Directive (91/553/EEC) with a new instrument to provide transparency about working conditions for all workers and to lay down a new, specific set of rights that will make it possible to improve the predictability and security of working conditions, particularly for people in non-traditional jobs. The proposal builds on the findings of the REFIT¹ evaluation of the Written Statement Directive, which highlighted shortcomings in the directive's scope and effectiveness.

In accordance with Article 154 of the Treaty on the Functioning of the European Union (TFEU), in April and September 2017 the Commission launched two rounds of consultation with management and labour (the social partners) in Europe. The discussions held between the social partners did not make it possible to trigger a dialogue process with the aim of establishing contractual relations – including agreements – on the matter, as laid down in Article 155 TFEU.

Mindful of how important it is for the Union to deliver on its undertakings to improve the working conditions of EU citizens, the Commission adopted the proposal at hand on 21 December 2017². It is vital for Parliament and the Council, as co-legislators, to rise to the challenge and undertake to reach an agreement on these key issues before the end of the parliamentary term in 2019. This needs to be done if we are to meet our citizens' expectations and boost their prosperity.

The goals of the directive under consideration are threefold. First, it seeks to give more practical form to the rights set out in the Interinstitutional Proclamation on the European Pillar of Social Rights issued in Göteborg on 17 November 2017³. In particular, it aims to help implement a number of the principles laid down in the Pillar, in particular principles 5 (secure and adaptable employment) and 7 (information about employment conditions and protection in case of dismissals).

The directive establishes a number of minimum universal rights for EU citizens and workers in response to pressing public demand and a desire to bring citizens closer to the EU by making them feel that Europe counts a great deal – i.e. That Europe counts *for* them, and counts *on* them. For example, the directive sets a six-month limit on probation periods, except where a longer period is justified. It also establishes the right to work for other employers by prohibiting 'exclusivity' and 'incompatibility' clauses, and the right to greater predictability of working hours for people with variable work schedules.

Limitations will of course need to be set on these minimum universal rights, leaving it up to Member States to improve them, if they wish to do so. It also needs to be made clear that the practical implementation of those rights can be carried out only at the level of the individual Member States.

This is not only a matter of applying the subsidiarity principle, however; it is also about taking a practical approach based on decentralisation, because each labour market in Europe

¹ REFIT Evaluation of the 'Written Statement Directive' (Directive 91/533/EEC), SWD(2017) 205.

² Proposal for a directive of the European Parliament and of the Council on transparent and predictable working conditions in the European Union', COM(2017)0797 – 2017/0355(COD).

³ Interinstitutional Proclamation on the European Pillar of Social Rights, OJ C 428, 13.12.2017, p. 10.

is the product of centuries of cultural developments, of different methods of manufacturing, of varying financial circumstances, and even of the prevailing climate.

A one-size-fits-all approach would be absurd in this case. The directive will be implemented by means of transposition legislation adopted in each Member State.

It is also worth pointing out that the role of social dialogue and collective agreements is part of the DNA of social Europe, and social dialogue in all its forms therefore needs to be given a greater role in order to develop, supplement, improve, implement and enhance these minimum rights at national level.

Second, the directive will thereby play a major role in helping establish a social framework of legislation within which free market principles and full mobility for citizens – often referred to as the ‘level playing field’ – can be built upon. Freedom of movement for workers and citizens is an essential right for Europeans and an indispensable tool when it comes to curbing unemployment and bringing about economic and social convergence.

But Europe – whether or not it remains a social Europe – is keen for that mobility and those free market principles to be established whilst basic workers’ rights, i.e. the same minimum standards for everyone, are upheld. We cannot raise standards across the board by preventing mobility and competition on cost, but we cannot allow competition to undermine the social and labour rights that are so vital for workers. The sometimes very detailed rules that apply in Europe were brought in to make the single market work properly, and to build on the four fundamental freedoms of movement.

Now is the time to build on the minimum rules on employment relationships and workers’ rights, and the directive at hand does this by updating and clarifying those rules after 27 years of the Written Declaration Directive. The single market will never be complete, or fully integrated, without the full establishment and implementation of freedom of movement for workers, or without common minimum rules on working conditions.

Lastly, the proposal has clearly also been brought forward to cover new forms of employment, both those with which we are already familiar, and those that will emerge as new technologies continue to develop at breakneck speed. In this regard, the proposal responds to recent resolutions in which Parliament has called on the Commission to review the directive to take account of new forms of employment, and to ensure that all workers enjoy a common core set of rights, regardless of the type of contract or employment relationship concerned¹.

Europe is clearly keen to rule out any exploitation of, or lack of protection for, workers in new, more flexible, imaginative or adaptable forms of employment, as that would be inconsistent with the European social model. Without losing their flexibility (which is often an advantage for workers) or adaptability, these new forms of employment must not infringe minimum information and transparency rights for job seekers. The proposal suggests that all workers in the EU should be given up-to-date, detailed information on their employment relationships.

¹ European Parliament resolution of 19 January 2017 on a European Pillar of Social Rights. European Parliament resolution of 4 July 2017 on working conditions and precarious employment.

Furthermore, it is important to applaud the Commission's efforts to clarify the personal scope of the directive by including a definition of the term 'worker' that will categorise the type of worker on the basis of the settled case-law of the Court of Justice of the European Union. The scope is also extended so as to restrict Member States' leeway to exclude workers in casual or short-term employment.