

November 2017

Second phase consultation – possible revision of the Written Statement Directive

Aim of the consultation

- a. What are your views on the possible avenues for EU action and the elements set out in section 5 of this document?

We are overall in agreement with the proposals set out in section 5 of the document, as they all contribute to increasing transparency and legal certainty and reducing disparities among workers (paraphrasing the message of Pres. Juncker “same pay for the same work in the same place”, we could apply here the principle “same information and same set of basic rights for all, irrespective of the formal classification of the employment status”). We also agree with the conclusion that removing any potential room for legal uncertainty and reducing compliance costs that would derive from setting basic principles and regulations common to all employment contracts would be beneficial for companies too.

In this perspective, choosing as a reference the Court-based principles to identify the existence of an employment relationship represents in our opinion a sufficiently “neutral” legal base for a possible intervention in this field. And the list of the different working conditions for which compulsory information should be given before the commencement of the employment relation is exhaustive and covers the main aspects of a contract.

When it comes to the definition of the “new” minimum rights, while we fully agree with the three initiatives proposed – right to request in writing another form of employment, right to a maximum duration of the probation period and right to predictability of work - we are aware of the potentially higher difficulty to implement the last one.

Finally, we welcome the decision to intervene on the enforcement tools, to increase the level of protection of concerned workers. When it comes to non-judicial means of enforcement, we believe that the appreciation of the most effective solutions should be made on the basis of national legal traditions of each country.

- b. Are the EU social partners willing to enter into negotiations with a view to concluding an agreement with regard to any of the elements set out in section 5 of this document under Article 155 TFUE?

In consistency with our position on the first phase consultation, we are ready to engage in a dialogue with the other social partners with a view to signing an agreement. We have always been convinced supporters of the role of social dialogue as a tool to ensure better, more effective policy making in the field of employment and social affairs. And we have always strongly defended the prerogatives and independence that European treaties recognize to social partners, as this mechanism – we believe – is the best guarantee of a legislative intervention in these fields that is more “aware” of the real needs and expectations of the various actors of the industry.