

First phase consultation – access to social protection

1. Introduction

The “ongoing digital change” (to quote the description used in the consultation document), and the consequent reflection on its effects on the way people work (and, by extension, on the structures of industrial relations as we know them today) are an issue of particular importance for CEC European Managers.

Because of the nature of the tasks they perform, and given their specific hierarchical position within the structures they operate in, managers can be seen as a category of workers who are more likely than others to remain “immune” to the further advancement of non-standard and new forms of employment: the category of jobs that are increasingly being affected by this phenomenon are usually labour-intensive, with a distinct focus on the domain of services (especially services to the person), although some notable exceptions exist (for instance in IT programming). Still, as the speed at which innovations in this field are introduced is incredibly high, it is not possible to exclude that in the close future managerial activities, or skill-intensive job profiles will also be “transformed” into non-standard employment forms.

Additionally, managers are responsible for elaborating the development strategies of companies, adapting the existing structures to the new realities of the world of work and assessing the effects they have on employment patterns. In this sense, they can be affected on the “workplace” by the diffusion of such new forms of employment.

For the above-mentioned reasons, as the European organization representing managers at institutional level, we have a specific interest in focusing on how such digital change, with a particular reference to the diffusion of collaborative economy (as noted by the European Commission), will affect the functioning of social dialogue and, more in general, the way the current mechanisms for representing the interests of the managers (as a component of the general workforce) in their relation with the employers. In this context, CEC European Managers is participating in a European project (funded by DG Employment) called IRSDACE, chaired by the CEPS, investigating the likely effects of the diffusion of non-standard employment relations on labour and industrial relations.

5.1 1st stage consultation on workers in non-standard forms of employment

- a. Do you consider that the Commission has correctly and sufficiently identified the issues and the possible areas for further EU action?

EUROPEAN MANAGERS

We think the description of the issue made by the European Commission is correct: face to the complexity that the increase in flexibility of working arrangements and “traditional” employment configurations inevitably brings, it is fundamental to ensure that individuals can enjoy the same level of protection, irrespective of the formal “legal” classification of the employment status that their working condition is acknowledged by the single Member State. Without questioning the principle that open-ended contracts should be seen as the “ideal” form of employment towards which job transitions should be aiming (as stated in the text of the European Pillar of Social Rights), it is necessary to take into account the reality of the current world of work and contrast inequalities deriving from its developments. We particularly share the focus on the age-related nature of the issue, with the young being more subject to choosing such new forms of employment to access the labour market, and in the wider context of the financial sustainability of our social systems.

- b. Which branches of social protection and employment services do you consider to be most relevant for an EU initiative covering access for *workers in non-standard forms of employment*?

The access to employment services is primary to provide the necessary conditions to workers who so wish to improve their competences and progressively move towards other, more stable and “traditional” forms of employment. In this respect, it should be granted to all, as a part of the general, macroeconomic policy goal of increasing employment rate. As far as social protection is concerned, some of the provisions listed in the document are not exclusively associated with being in a situation of employment in many Member States (healthcare or long-term care for instance, but also disability and old-age benefits) but are rather universally ensured and funded through general taxation – and in this sense should be addressed equally to all individuals. An EU-initiative should therefore focus on those branches that don’t have such “universalist” nature, with a specific focus on those provisions that are directly related to the execution of a working activity (unemployment and pension, occupational diseases and accidents at work) and those that have a strong impact on work-life balance (maternity and paternity benefits; family benefits).

- c. Should all workers in non-standard forms of employment be included in such an initiative?

If some forms of non-standard employment are “recognized” and referred to in legislation (as the consultation document points out), the most recent “applications” stemming from the diffusion of collaborative economy (for instance) are still mostly not taken into account by legislation. For this reason we believe that all forms of non-standard employment should be included in the initiative, also in an effort to increase transparency and uniformity in this field. Any initiative in this field should also however start with the definition of principles to set a common understanding at EU-level of the legal nature of the different forms of employment.

- d. Do you consider that improvements should be made to EU legislation or other EU level to address the identified issues?

As correctly identified by the European Commission in the document, legislation should mainly focus at two areas: reducing the administrative burden that can be associated with the provision of information concerning an individual’s employment situation and ensuring an effective transferability of all entitlements and rights that any worker might cumulate throughout his/her career, irrespective of the formal status under which these rights and entitlements were obtained.

EUROPEAN MANAGERS

- e. Would you consider initiating a dialogue under Art. 155 TFUE on any of the issues identified in point 4 of this consultation?

In cooperation with the other European social partners, we would be willing to start a dialogue in this field, in the “bigger” context of delivering concrete results on the European Pillar of Social Rights.

5.2 Voluntary consultation on people in self-employment

- a. Do you consider that the Commission has correctly and sufficiently identified the issues and the possible areas for further EU action?

As far as self-employment is concerned, the main issue – in the context of ensuring the same rights to all workers – is to find suitable ways to identify bogus self-employment and other “hybrid” – although legal – forms of work that are currently difficult to classify (very famous examples of this type are for instance activities performed in the so-called “gig-economy”). The reasons behind the differences in the access to social protection between employed and autonomous workers are of economic, fiscal and social nature (with specificities linked to national cultural and historical traditions) and should be preserved, without forgetting the necessity to ensure the ultimate goal of ensuring fair conditions to all. This is however only possible when the choice to recur to a self-employed status does not constitute a way to avoid to comply with labour and social legislation. For this reason, we would welcome in the first place an initiative at EU-level setting common principles on the definition of the legal status of these new form of employment.

- b. Which branches of social protection and employment services do you consider to be most relevant for an EU initiative covering access for *people in self-employment*?

We believe that the same principle expressed in part 5.1 for should apply to self-employment too: when it comes to employment services, (orientation, upskilling and re-insertion), the access to these should be granted to the whole of the active population, irrespective of its employment status. The self-employed can greatly take advantage from re-orientation services for instance, as these can support them in switching to other work statuses. As for the other areas of social protection, we believe that the initiative should focus on the so-called insurance-based schemes, from which many self-employed can either formally or in practice be excluded.

- c. Should all people in self-employment be included in such an initiative?

As stated above, it is fundamental to first focus on developing common, reliable principles to identify the categories of self-employees, to make a distinction between those who are “genuinely” in a situation of self-employment and those who are not. The latter should then be given priority, as it is mainly them who experience the hardships of a system of social protection that is tailored on the mechanism of “traditional” employment statuses.