

First phase consultation – possible revision of the Written Statement Directive

Aim of the consultation

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

In principle, we agree with the analysis of the European Commission. The Written Statement directive (as the REFIT evaluation working document explains) is a rather unquestioned, non-controversial piece of EU-legislation; the level of compliance is high and no major issues or problems seem to arise from its application, set aside for what concerns its scope of application, which correctly refers to the more general problem of how to ensure that new forms of work are sufficiently taken into account in legislation.

The debate on how to “adapt” our systems to the many changes that the evolution of the new forms of work is a transversal one, as it touches on many policy areas and needs to be looked at under multiple points of view. In the context of the present consultation, we agree on the idea that there is room to intervene on the principle of challenge 1: it is possible to intervene on the formulation of the directive to ensure that it also applies to new forms of employment, and we would be interested in participating more in detail in an exchange with the other social partners on how to “concretely” define the content of letters a), b), c) and d) of the consultation document.

On the contrary, we are skeptical about the approach behind the second challenge, associated with the possibility to ensure minimum common standards of “decency” (paraphrasing the wording used by the European Parliament in its resolution on the European Pillar of Social Rights) for all employment forms via a legislative intervention on the Directive. If we agree on the underlying aim of such an initiative – the need to set minimum common standards that would define a common playing field for all workers, irrespective of the formal classification of their employment condition - we think that the legal solution proposed would not be adequate. To introduce these new provisions by simply revising the current WSD would in our opinion distort the original legal document, and at the same time automatically “reduce” the importance of the objective set in the second challenge which should be rather dealt with by a separate, new legislative initiative.

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- b. Do you think that the Commission should engage into legislative work in one or several of the identified possible areas for further EU action?

As explained above, we believe there is room to modify the content of the Directive to provide for the solutions listed in the document – we particularly focus on the need to clearly define the name of the employer, as well as to reduce the duration of the deadline and to include additional essential information on the characteristics of the employment relation that depend on the nature of the work (for instance in case of on-call jobs). We consider however that social partners should preliminarily be given the possibility to initiate a dialogue, pursuant to art. 155 (see below).

- c. Would you consider initiating a dialogue under Article 155 TFEU on any of the issues identified in this consultation?

Yes, we are ready to engage in a dialogue with the other social Partners on how to “modernize” the content of the Written Statement Directive, to make sure that its provisions can apply effectively and in timely manner also to those workers who are involved in new forms of employment, and to generally improve its effectiveness along the lines indicated in the document.