

EU Commission Proposal for a Council Recommendation on access to social protection for workers and self-employed COM(2018) 132

The World Employment Confederation-Europe welcomes the Commission proposal as an important instrument to launch an EU level debate on access to social protection for workers and self-employed persons. Reforms of social protection schemes should be based on social innovation and allow for the transferability and portability of rights.

11th July 2018

Assessment:

- The World Employment Confederation-Europe welcomes the EU Commission proposal for a Council Recommendation on access to social protection for workers and self-employed as a tool to start discussions on the reform of social protection schemes and to adapt them to increasingly diverse forms of work.
- Reforms of social protection schemes in Europe need to be based on social innovation as also illustrated in the World Employment Confederation-Europe Manifesto "No Future of Work without Social Innovation!". Ensuring the transferability and portability of rights across different jobs and employment status is a key component in this context, given the fact that many people change jobs and employment statuses more frequently.
- Discussions on the reform of social protection schemes should also take account of the increasing digitalisation of the labour market and the emergence of new forms of labour intermediation, such as online talent platforms. The World Employment Confederation-Europe and UNI-Europa conducted in 2017/2018 a strategic, joint project on "Online talent platforms, labour market intermediaries and the changing world of work". Key conclusions of the project focus on the correct classification of labour suppliers of online talent platforms and the need to apply existing national and EU regulation correctly.

Definitions:

- The World Employment Confederation-Europe is strongly concerned by the introduction of EU-level definitions for the terms 'worker', 'employment relationship' and 'type of employment relationship' in paragraph 7 of the Commission proposal for a Council Recommendation.
- These terms are deeply rooted in the different, national labour market systems and diversity in the national definitions should be maintained. It is also counterproductive to establish EU level definitions on the terms worker and employment relationship as labour markets are evolving more rapidly and main concepts for regulating and organising the world of work need to be adapted to these changes. This can best be done at national level to respect the principle of subsidiarity.

Main elements with regard to access to social protection

- The World Employment Confederation-Europe welcomes the main principles of the Council Recommendation, focusing on formal coverage, effective coverage and transferability, adequacy and transparency.
- Especially the aspect of effective coverage and transferability is of central importance and the employment industry has developed best-practices to ensure the transferability and portability of rights.

Implementation and reporting

- Explicitly welcomed is the focus on data collection and the monitoring of access to social protection. This needs to be done both at EU and national level and should cover various forms of social protection and forms of work.

1. Assessment of the Commission proposal

- 1.1. The World Employment Confederation-Europe welcomes the approach taken in the Commission proposal COM(2018) 132 for a Council Recommendation on access to social protection for workers and the self-employed. Especially the focus on the need for the transferability and portability of social protection rights is welcomed by the World Employment Confederation-Europe.
- 1.2. The World Employment Confederation-Europe advocates that the reform of national social protection schemes should be based on social innovation to create futureproof labour markets in Europe. As illustrated in the World Employment Confederation Manifesto [“No Future of Work without Social Innovation!”](#), reforms should move towards a new Social Deal, implementing modernised social protection schemes to reflect new workplaces. Social benefits need to be organised in a portable, easy transferable way, ensuring individual security and workers’ rights when a labour contract ceases. The funding of social protection schemes may need to be rethought to reduce non-wage labour costs and to avoid inequalities between different forms of work with regard to labour costs and social contributions. Reforms of social protection schemes need to favour labour market security over job security.
- 1.3. Specific attention needs to be devoted to new and emerging forms of work and labour market intermediation, such as online talent platforms and the gig economy. In the framework of the European Sectoral Social Dialogue on temporary agency work, the sectoral social partners (World Employment Confederation-Europe and UNI-Europa) have conducted a joint project on “Online talent platforms, labour market intermediaries and the changing world of work”, looking as one element at the social protection of labour suppliers working through online talent platforms. While there is no uniform answer to the social protection status of online talent platform labour suppliers, there is a need for a correct classification of the labour suppliers working through online talent platforms and a need to ensure the correct application and enforcement of national and European legislation.



2. Definitions

- 2.1. The Commission proposal for a Council Recommendation on access to social protection for workers and the self-employed includes in its paragraph 7 a series of definitions “for the purpose of this Regulation” for the terms ‘worker’, ‘employment relationship’, ‘labour market status’ and others. These follow a comparable approach as the definition included in the recent Commission proposal for a Directive on transparent and predictable working conditions in the European Union.
- 2.2. The World Employment Confederation-Europe is opposed to the introduction of EU level definitions of these basic terms and especially the European definition of a worker. National labour market regulation and definitions have been established at the EU Member State level and these reflect the diversity of national labour market models. The employment industry also faces heterogeneous regulation in Europe.
- 2.3. Establishing an EU definition of a worker as included in the Commission proposal would most certainly also give rise to new European Court of Justice case law, for example on the interpretation of the terminology “under the direction of”. Even if the EU Commission specifies that the definitions provided shall apply “for the purpose of this Recommendation”; the definitions risk setting a precedent for other EU legal instruments (Directives, Regulations and Recommendations). The fact that the EU Commission used the same regulatory approach in the proposal for a Directive on

transparent and predictable working conditions and in the proposal for a Council Recommendation on access to social protection for workers and self-employed confirms the risk of setting a legal precedent of defining these legal terms at EU level.

3. Main elements with regard to access to social protection

- 3.1. The Commission proposal for a Council Recommendation on access so social protection for workers and self-employed focuses on four main components, namely formal coverage, effective coverage and transferability, adequacy and transparency. The World Employment Confederation-Europe welcomes and generally supports these four principles.
- 3.2. As highlighted in the Commission proposal, it is to be questioned whether the same system and approach should be applied to workers and self-employed. Workers and self-employed differ substantially with regard to their labour market/employment status. The way social security is organised at national level for these two different groups varies among EU Member States. It is therefore questionable whether self-employed shall be required to fall under social protection schemes they might not be willing to be included in. The most important point is to create a level playing field, where forms of work are not forced in a race to the bottom with regards to social protection. A possible solution would be to establish a mandatory coverage for the workers, while foreseeing a voluntary coverage for the self-employed.

Social Innovation: How social partners in the employment industry create portable social protection, learnability and employability

	Social Benefits	Training	Healthcare Schemes (supplementary)	Inclusion & coaching	Pension (third pillar)
AT	Unemployment benefits	General and specialised training			
BE	Support in applying for a loan End-of-year bonus	Sectoral and specialised training	Supplementary allowance in the event of sickness or accidents at work		
FR	Unemployment benefits Loans and housing advice Income integration	Training vouchers Work-training contracts	Supplementary healthcare Maternity benefits Accidents at work allowances	Career guidance and training	Supplementary pension
IT	Financial incentives for students	Training courses provided by the	Supplementary maternity and illness benefits		

	Social Benefits	Training	Healthcare Schemes (supplementary)	Inclusion & coaching	Pension (third pillar)
	Support in applying for a loan Unemployment benefits	fund: on the job training and general training	Accidents at work allowances		
LU		Training vouchers Allowances for loss of income			
NL		Training vouchers			Supplementary pension
CH		Training vouchers Allowance for loss of income	Supplementary health insurance Maternity benefits Accidents at work allowance		

3.3. With regard to the principle of effective coverage and transferability, the employment industry supports the principles of effective coverage and transferability. At present, effective coverage often depends on certain thresholds and minimum requirements, which are not always met by temporary agency workers and workers employed on short fixed-term or flexible contracts. Differences in the rules governing the schemes between labour market statuses or types of employment relationships should be proportionate.

The World Employment Confederation explicitly welcomes the focus on transferable and portable rights, which shall, according to the Commission proposal for a Council Recommendation, be fostered and ensured in accordance with national arrangements on social dialogue. The agency work industry can serve as a best-practice example here, as systems of transferable and portable rights have been established for many years based on bipartite funds or individual benefit accounts.

3.4. The World Employment Confederation-Europe also supports the call on Member States to ensure the adequacy of the level of social protection in terms of being sufficient and timely to uphold the standard of living.

3.5. The final principle of transparency with regard to the conditions and rules of all social security schemes is indeed of central importance in labour markets, in which individuals are changing their jobs, labour market statuses and contracts more often. With regard to the right of individuals on updated, comprehensive, user-friendly and clearly understandable information, it is important to underline that this information entitlement is focused on the public social protection schemes and the information should thus be provided by public authorities on request of the individual. This information obligation should not be extended to social protection schemes managed by private parties or bipartite organisations.

4. Implementation and reporting

- 4.1. The World Employment Confederation-Europe welcomes the focus on improved data collection and on improving the scope and relevance of data collection at the Union level on labour force and access to social protection. As also underlined in the Commission proposal for a Council Recommendation, specific attention should be devoted to new forms of work.
- 4.2. Improved data gathering and monitoring of new and diverse forms of work is of central importance to allow for an evidence-based policy making at EU and national level.

About the World Employment Confederation–Europe: The World Employment Confederation-Europe is the voice of the employment industry at European level, representing labour market enablers.

With 30 countries and 7 of the largest international workforce solutions companies as members, the World Employment Confederation–Europe is fully representative of the industry, both in size and diversity. It brings a unique access to and engagement with European policymakers (EU Commission, European Parliament, and Council) and stakeholders (trade unions, academic world, think tanks).

The World Employment Confederation-Europe strives for a recognition of the economic and social role played by the industry in enabling work, adaptation, security and prosperity in our societies. Its members provide access to the labour market and meaningful work to more than 11 millions of people in Europe and serve around 1,5 million organisations on a yearly basis.

