

ETUC BRIEFING

TRANSPARENT AND PREDICTABLE WORKING CONDITIONS DIRECTIVE - WHAT TRIALOGUE NEEDS TO ACHIEVE

The EU and its Member States need to demonstrate the European Pillar of Social Rights can concretely improve the situation of working people, particularly those in danger of abusive flexible working arrangements. European workers are following these negotiations very closely.

For the ETUC the major issues in trialogue are the following:

- 1.) The Directive must protect the most vulnerable, especially those on zero-hour and short hour contracts - there shall be no exemptions:**
 - **Include workers in the scope of the Directive whose employment relationship is equal or less to 5 hours a week or 8 hours a month (Article 1 par. 3)**
 - **Include all workers in the public sector, as well as the seafarers (Article 5 a new)**
- 2.) Ensure that limits are set to flexible working arrangements (Article 9)**

Demand 1 – Article 1 par.3: Include workers in the scope of the Directive whose employment relationship is equal or less to 5 hours a week or 8 hours a month

The Directive's main purpose is to "improve working conditions by promoting more secure and predictable employment". The Directive will lack all credibility if it excludes from its protection those workers who need it most, namely those employed on zero hour and low hour contracts. If the Directive does not apply to workers with less than 8 hours work a month or 5 hours work a week or some other number of hours, experience shows that unscrupulous employers will simply drop the number of hours in the workers' contracts to anything below that threshold. This proposed exemption will create very real danger that the directive will promote worse conditions rather than better.

Demand 2 – Article 5a new: Include all workers under the scope of the Directive, this includes the public sector, as well as the seafarers

Workers in the public sector, emergency services, armed forces, police authorities, and seafarers are not second-class workers. They deserve rights and protection as set out in Chapter III. Why should a nurse not receive protection concerning her probation period? Why should a seafarer not have the right to training without having to pay for it? Why should a police officer not ask for more hours? This exemption, which is not part of the initial proposal by the European Commission, should be deleted in trialogue.

Demand 3 – Article 9: Limits to flexible working arrangements

Workers on precarious contracts, with zero hour or low hour contracts need legislation to set the limits to the flexibility demands of the employers. Article 9 of the Directive has the intention to do so. The position of the European Parliament takes the right approach to ensure predictability for those contracts. The following additions to Article 9 need to be upheld in trialogue: the encouragement to Member States to prohibit zero hour contracts; workers on irregular hour contracts have the right to be paid if their shift is cancelled with short notice; the requirement of employers to provide objective reasons for the use of such contracts; after a six-month period, a worker's contract is legally presumed to be for at least 75% of the hours worked during the previous six months.

Other improvements which the position of the European Parliament ensures, and which should be upheld in trialogue

- *Employers will no longer be able to charge workers for the training they need to do the job and the Directive will also require that workers are paid while getting that training, this should end the practice of unpaid trial periods; (Article 11 par. 1, 1 a (new))*
- *Prohibition of the practice of employers stopping workers from taking up other employment, except in very limited circumstances and after consultation with the social partners; (Article 8 par.1; par.2)*
- *Employers will be legally required to give workers who request more hours or different working time due consideration and a reasoned reply; (Article 10 par. 2)*
- *A right to reinstatement in case of dismissal when exercising the rights provided in this Directive (Article 17 par.1)*