


CEEMET response to a possible action addressing the challenges of access to social protection for people in all forms of employment

On 26 April 2017, the European Commission launched within the framework of the European Pillar of Social Rights a first phase social partner consultation on a possible action addressing the challenges of access to social protection for people in all forms of employment in the framework of the European Pillar of Social Rights.

1. Preliminary observations

The initiative of the Commission to organise a social partner consultation on access to social protection for people in all forms of employment – or all forms of work, has been launched at the date of publication of the Commission’s reflection paper on the social dimension of Europe.

While the Commission is reflecting on social policy within the broader debate on the future of Europe, a far-reaching cluster of initiatives in the field of social policy has been presented on 26 April 2017, with the European Pillar of Social Rights at its centre.

The outcome of the debate on the future of Europe, and notably its social dimension, should be awaited before any further steps are taken with regards to the initiatives presented on 26 April 2017.

2. Responses to the first stage consultation on workers in non-standard forms of employment and to the voluntary consultation on people in self-employment

Social partners are consulted on the access to social protection and related employment services of workers in ‘non-standard’ forms of employment and of people in self-employment.

Social partners are asked whether the Commission has correctly and sufficiently identified the issues and the possible areas for further EU action in this respect, which branches of social protection and employment services are considered to be most relevant for an EU initiative, and whether all workers in ‘non-standard’ forms of employment and all people in self-employment should be included in such an initiative. Social



partners are asked as well whether initiating a dialogue under article 155 TFEU on any of the issues related to workers in 'non-standard' forms of employment is considered.

CEEMET has the following observations with regards to the Commission's assessment in the consultation document.

The complexity and diversity of social protection across Member States demands for a strong adherence to the principle of subsidiarity

Social protection is a key area of Member State competence. The diversity and complexity of social protection and social security systems across the European Union have to be taken into account.

It is Member States and national social partners that are best placed, not only to correctly assess the access to social protection for all types of workers, but also to decide on whether, and if so, which action is required.¹

Taking into account this diversity and complexity, a one-size-fits-all approach at EU level is not the right approach. The diverse choices made by Member States on social policy and notably social protection and the financing thereof should be respected.

Whilst in the consultation document, the European Commission states to fully respect subsidiarity and national diversities, and that no EU action would seek to harmonise rights and obligations across Member States, nor interfere in the way Member States organise their social protection systems, CEEMET does not see how any action would be possible without such interference.

The four common principles the Commission seeks to promote, appear to imply the opposite: notably the principles of ensuring similar social protection rights for similar work, tying social protection rights to individuals and making them transferable would inevitably lead to a far-reaching interference in the way Member States organise their social protection systems. The promotion of these principles at EU level through legislative initiatives would in reality only be feasible if each Member State would fully transfer its competence relating to social policy to the European Union.

The above goes for legislative initiatives, setting minimum requirements, as well as for non-legislative initiatives that would go beyond sharing of best practices, such as steering Member States' social policies through the European Semester or the Employment Guidelines.

Also, the risk of making strong policy choices at EU level in a policy field that is dealt with in diverse ways in each Member States, is that this would divide Member States.

¹ It should be noted that the study of national policies effected by the European Social Policy Network refers to scarcity of data and adds to its recommendations regarding both non-standard forms of work and self-employment that data collection should be enhanced. (European Social Policy Network, *Access to social protection for people working on non-standard contracts and as self-employed in Europe - A study of national policies 2017*, Directorate-General for Employment, Social Affairs and Inclusion, p. 15, 17 and 19.)

CEEMET is therefore of the opinion that there is no added value for further EU action in the field of social protection. On the opposite, EU level action would risk impeding actions in this field at Member States' level. At the very most, best practices can be shared between Member States, without forcing policy choices upon the latter.

Needless confusion between employees and self-employed workers

The assessment in the consultation document starts off on the wrong foot: a needless confusion is created between employees and self-employed workers, notably by mixing up employees and self-employed workers when discussing new forms of work or employment. By confusing the concepts of employees and self-employed workers, and also by referring to bogus self-employment, the consultation document enters into this discussion on defining who is an employee, and who is self-employed.

Whether a person qualifies as an employee or as a self-employed worker, rightly lies in the responsibilities of the Member States. Member States have sufficient legal tools at hand to qualify the nature of the employment relationship. The Commission oversteps its competences by requalifying within the framework of the consultation a self-employed status to an employed status in case of a *de facto* subordinate employment relationship.

Any interference at EU level on the (re-)qualification of employees and self-employed workers would have far-reaching consequences on the Member State's labour and social security legislation, and even taxation law. Such fundamental interference in the Member States' labour legislation and social security schemes would be in breach of the EU competences in the field of social policy.

Voluntary insurance schemes and individual choices deserve a more prominent role in the assessment

The assessment of the Commission does not properly take into account individual choices and voluntary insurance coverage offering social protection to persons.

On the opposite, a clear choice is made by the European Commission for mandatory statutory social protection for all, which is a far-reaching political choice.

In particular self-employed persons may choose for voluntary insurance coverage as available on the market and financed by own means. A lack of statutory coverage, usually linked to lower contributions compared to those who do benefit full statutory coverage, is often replaced by voluntary insurance coverage. A mapping of access of social protection for employees working on 'non-standard' contracts and for self-employed should inevitably include the level of contribution paid by those identified as not fully covered and the access to voluntary insurance coverage, including the cost hereof.

Also, there is a change in views on professional careers by younger generations, with an increased demand for flexibility and independency.



This is noteworthy as the importance of the individual choice persons can make with regards to the form of work of their preference, including the level of statutory social protection as a consequence of this choice, is underrated.

Conclusion

Taking into account these reasons, CEEMET can only respond negatively to the questions put forward in the consultation document.

About CEEMET

CEEMET (Council of European Employers of the Metal, Engineering and Technology-Based Industries) is the European employers' organisation representing the interests of the metal, engineering and technology-based industries. Through its national member organisations, it represents 200 000 companies across Europe. The vast majority of them are SMEs, providing over 13 million jobs.

