

Response of the European Federation of Journalists (EFJ) to

First-stage consultation of the EU Social Partners 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.

Background

Why access to social protection is relevant and crucial for journalists?

The European Federation of Journalists (EFJ) is the largest organisation of journalists in Europe, representing over 320,000 journalists in 71 journalists' organisations across 43 countries. The EFJ has national journalists' unions which represent a growing number of freelance journalists who are considered "atypical" and engaging in "non-standard" form of employment. Therefore, the consultation is timely.

In the journalism sector, more and more journalists are becoming freelances, some of their own choosing while some are forced into the precarious working conditions because of the existing legal loophole. Freelancing is not uncommon, nor new in journalism and the media industry. In fact, it is becoming "typical" rather than "atypical".

All workers deserve to be treated equally, regardless of employment status. Freelance workers frequently experience isolation, exploitation and discrimination; are forced to accept unfair terms and conditions of engagement and are deprived of the social protections afforded to workers employed on contracts of service. Hardly any young journalists leaving university is getting a standard working contract. Temporary agency work, outsourcing, exploitation of interns and the use of freelance or economically dependent work becomes the norm in the media industry and has a detrimental effect on quality work, quality information and democracy at large. EFJ affiliates push for initiatives at national level supported by the European legislative level to allow collective bargaining agreements for all workers including freelances.

This consultation should open the door to a wider debate and concrete policy proposals to enhance the protections provided by the EU atypical work directives with a perspective based on fundamental social rights for all workers.

By adopting the report on "A European Pillar of Social Rights" by Rapporteur Maria João Rodrigues (S&D, PT), the European Parliament adopted the principle of **equal treatment** saying that "All workers should have their basic rights guaranteed, whatever their form of employment and contract".

A milestone development occurred in Ireland when on 31 May 2017, the Irish Parliament definitively adopted the Competition (Amendment) Bill 2016, which **aims to introduce exemptions from competition law for certain self-employed workers**. Since a competition ruling was handed down thirteen years ago, agreements negotiated with artists unions on minimum tariffs have been considered as breaches of competition law. Journalists, voice-over actors, musicians, etc. will be the first to take advantage of the reform as the Bill recognises the rights of these workers to be represented by a trade union and to conduct collective bargaining.

As the European Trade Union Confederation (ETUC) and in particular the European Arts and Entertainment Alliance (EAEA), with whom the EFJ works closely on a number of common projects covering so called atypical work, the **EFJ welcomes the consultation document which acknowledges the great deficiencies in de facto access to social protection and employment services** for all workers whatever their forms of employment or contract.

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

The identification of the issues and areas for action are an important and appreciated first step into the right direction. However, it should be improved by extending to the following urgent aspects:

- **right to collective bargaining** on behalf of freelance or workers of non-standard employment for all media including digital;
- **fair remuneration** for all including interns;
- **right to freedom of association for all workers** independent of their employment relation not unjustifiably impeded by EU or national competition rules.

As the ETUC rightly put in its EU agenda for action, we need:

- **action plan directive on protection for non-standard workers**, including measures to ensure that insecure work becomes secure work, the right to work full-time, equal pay and treatment and protection against casualisation and prevention of zero-hour type practices is needed.
- A directive on a minimum floor of rights for genuinely self-employed workers – including **right to collective bargaining, social security, maternity health and safety protection and to adequate remuneration including minimum wages and collective agreements**.

The EFJ agrees to working on the four possible areas for further EU action:

- a) Ensuring similar social protection schemes for similar work following the principle of fairness: upgrading working conditions and social protection for all workers independent of their employment condition or contract; absolute need to cover workers in all forms of employment or contract by national social protection and employment services.
- b) Tying social protection rights to individuals and making them transferable. Indeed needed provided that this leads to the adaptation of individuals and not of an

individualization of social protection benefits. It is important that a collective dimension when it comes to social protection schemes for all workers is envisaged.

- c) Making social protection rights and related information transparent, as lack of transparency of entitlements to social protection and employment services is also outlined by the European Commission. The EFJ agrees on the proposal.
- d) Simplifying administrative requirements: It is very important to avoid other services taking advantage of precarious workers and avoid duplication of work.

II. 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?

For the EFJ all branches are important, and as it represents journalists of all ages and different employment relationships it does not agree with a list of priorities. It is primordial to offer all branches of social protection to all workers independent of their employment contract. Though having said that a priority list may not be allowed, we could prioritise a certain order of importance for both non-standard workers and self-employed workers alike:

- a) Social protection
 - 1. unemployment benefits
 - 2) sickness benefits and continuous health insurance
 - 3. maternity and equivalent paternity benefits
 - 4. benefits in respect of accidents at work and occupational diseases
 - 5. invalidity benefits
 - 6. survivors' benefits
 - 7. family benefits
 - 8. old-age benefits
- b) employment services

With regard to employment services, it is important to note that as a condition, access to unemployment services has to be open for self-employed workers and workers in non-standard forms, without taking into account pre-insurance time as employed staff or the compliance of registration periods. Training (i.e. mid-career training) should also be available for self-employed or freelance workers.

1. training and further training (up-dating)
2. rehabilitation and re-insertion measures
3. guidance, counceling and placement.

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

Yes. An inclusive approach should be taken to include all non-standard forms of employment. Many freelance works of journalists are of short-term nature and governed by short-term contracts. Exclusion can only lead to unequal treatment and unfair practices.

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

The EFJ has appreciated the EU legislation on atypical work including on part-time, fixed-term work and temporary work. These directives have reproduced framework agreements concluded by European social partners and have since been transposed into national legislation in all EU member states. The general principle of equal treatment has been thereby established, however **protection gaps** remain.

It is interesting that the European Court of Justice has identified equal treatment as embodying higher legal norms that demand a stricter level of judicial scrutiny.

The implementation at national level has not been always enforced.

V. Would you consider initiating a dialogue under Article 155 TFEU on any of the issues identified in point 4 of this consultation?

We support the ETUC's readiness to start negotiations with employers' organisations at EU level to improve the situation of freelance and self-employed and other workers. However, in the event that the EU social partners do not agree to negotiate, or in case negotiations do not lead to a successful outcome, we urge the European Commission to come up with a concrete legislative proposal.