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## **Future of work – A trade union perspective: Social protection, decent employment & interest representation**

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Ongoing globalisation, rapidly-evolving digitalisation and the continuous development of revolutionary new technologies and mobility concepts on all levels have brought fundamental changes to our economies and societies. New business models and labour market realities challenge our traditional concepts, divisions and dichotomies of “work”.

### **The triangle of the future: Adequate social protection, decent work and effective interest representation**

More and more people work online, ‘in the cloud’, perform mobile work or engage in simultaneous employment for several employers, across borders or in different jurisdictions. This has led to rapidly diversifying employment and social protection models. In many cases, policy-making has failed to adjust labour law and social protection systems to this evolution to ensure decent work and adequate social security for workers in precarious atypical employment, bogus self-employment and self-employment. Sometimes, policies have even contributed to this trend by making existing employment regimes more flexible, with the aim of facilitating company and public service restructuring.

Also, the traditional concepts of individual and collective labour law, social dialogue and collective bargaining and agreements are being put to the test to respond to the needs of those active in new forms of work. However, recent needs such as these also offer new opportunities for trade unions to explore alternative or complementary ways to tailor the representation of interests more successfully to the individual worker or employee.

Trade unions seem to need to adapt or at least complement their role and portfolios if they wish to remain relevant actors and interlocutors to help shape employment, working conditions and social protection for people in de facto dependent, precarious employment and self-employment.

Indeed, staying compatible with the needs of such working people is a matter of their survival. Moreover, at the moment, membership levels in many trade unions are decreasing also because more and more people no longer feel that unions can offer solutions to the problems and concerns they face in their daily working lives.

In the context of the debate on the future of work, CESI advocates a set of fundamental principles for core labour rights and accessible and adequate social protection for all workers in precarious atypical employment, bogus self-employment and self-employment, as well as new ways for encompassing them and providing effective interest representation.

## I) Core labour rights for workers in de facto dependent, precarious employment

As labour markets are becoming increasingly fragmented over space and time and employment relationships are diversifying, it is vital that every economically-active person in a de facto dependent, precarious work relationship should benefit from basic labour rights. To this end, existing EU legislation should be adjusted, or new binding directives should be passed, such as on:

1. the **classification also of those with precarious atypical work contracts and for those in bogus self-employment as ‘workers’/‘employees’**: Based on abundant case law of the Court of Justice of the EU, the EU should classify also those with precarious atypical work contracts and those in bogus self-employment as *“a natural person who for a certain period of time performs services for and under the direction of another person in return for remuneration.”* This would make it possible to subject all such persons to basic labour law. This applies especially to platform workers, who are clearly employees who are dependent on platforms as employers, regardless of whether they are ‘properly’ employed or technically self-employed.
2. **standards for voluntarily-adjustable working hours or schedules**: Possibilities to shift between full and part-time work, take purpose-specific leave such as maternity/paternity/parental/carer’s leave, make use of working time accounts, use up accumulated overtime or get paid for it, or engage in telework, flexi-time, flexible working hours and/or night, weekend or public holiday shifts can be of central importance for employees in precarious work to reconcile work and domestic responsibilities in a sustainable and healthy manner, which is ultimately also in the interest of employers. Adjustable working hours or schemes should always be voluntary for employees and never exploitative.
3. **effective retraining and skills training**: The flexibility to transfer between different activities, tasks or portfolios is more important than ever on today’s labour markets in which employers need to be flexible to compete. Such flexibility can also be an effective way to enable employees to stay in a job even when restructuring or service reorientation takes place or when they can –for a specific reason– no longer fulfil their original function. This would create win-win-situations for both employers and employees. In practice, above all, this flexibility would require a truly comprehensive and effective retraining offer by employers.
4. **working time**: As work increasingly becomes ad-hoc, mobile and online-based, employees and workers need to be protected from permanent availability requirements and related stress. The right to disconnect should be endowed to all workers with a view to ensuring adequate work-life balance, the reconciliation of work with domestic responsibilities and health and safety at work.
5. **minimum wages**: Coupled with regulated working times, a minimum wage level is a basic precondition to ensure a decent standard of living for workers and employees in precarious work. In every EU member state, a minimum wage equivalent to, e.g., 60% of its median salary level should be established to ensure respectful work on the level of the individual worker and more social cohesion on the aggregate societal level, with contained wealth gaps between the richest and the poorest members of the society.
6. **data protection and privacy**: As work becomes increasingly digital and online-based, the protection of the personal data of employees and their privacy is more important than ever. In the context of the EU General Data Protection Regulation (GDPR)<sup>1</sup>, but also beyond it, employees and workers must be protected from inadequate monitoring and intrusive control by technology deployed to this end by the employer.

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<sup>1</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016R0679>

7. **an elimination of abusive uses of atypical employment:** Employers have been making inflationary use of atypical employment –including chain fixed-term or temporary work, sub-contracting, agency work and bogus self-employment– as a substitute for permanent employment in order to save social costs and grant fewer labour rights. EU legislation should ensure that, in principle, all atypical work relationships that currently give rise to precarious work or bogus self-employment should in the future entail the same entitlements and benefits as permanent contracts, the only exception being their temporary duration or restricted time of applicability. This also applies to matters related to social protection and trade union engagement (sections II and III). Moreover, such contracts should only be allowed if there are clear, objective grounds that can be invoked in labour courts. Abusive successive fixed-term chain contracts should be banned.

## II) Adequate social protection for all

As labour markets are becoming more fragmented over space and time and employment relationships are becoming increasingly diverse, it is vital that no economically-active person in precarious atypical employment, bogus self-employment and self-employment falls through the social security system's safety nets. Formal, affordable, effective and adequate social protection for such persons is key. It is a central role of public services to grant access to social protection to every citizen and enable them to benefit from social rights. To this end, public services need to be sufficiently financed and staffed, for without them, social policies cannot be implemented for the benefit of the citizens, employees and consumers.

Binding EU legislation should be adopted with minimum standards on:

1. **formal universal social protection:** In principle all those in precarious atypical employment, bogus self-employment and self-employment should be included in the public social security system on a mandatory basis, covering benefits related to sickness and healthcare, maternity/ paternity/ parental/ care leave, invalidity, accidents at work and occupational diseases, and unemployment at least. This particularly applies to employment in the digital platform economy and in on-demand jobs.
2. **effective universal social protection:** Regardless of the type of employment, every person in precarious atypical employment, bogus self-employment and self-employment should be able to effectively accrue and access social security benefits and not be hindered by varying waiting times, minimum thresholds or other non-financial barriers.
3. **adequacy of social protection:** Social protection benefits should be immediately accessible and adequate in amount, ensuring the maintenance of decent living standards and preventing falling into poverty due to loss of employment.
4. **contributory capacity:** Social security contributions should not exceed the actual contributory capacity of those paying them. Deductions and reductions for low-income groups should apply regardless of their type of employment.
5. **transferability:** While avoiding abuses and exploitation of national social security provision, accumulated social security benefits of workers and employees should be easily transferable between jobs and different types of employment contracts and follow persons as individual 'social security pots' – both within a country as well as across EU Member States.
6. **transparency:** Information about social security-related conditions, benefits, rights and obligations should be available to users in an updated, easy-to-access and easy-to-understand, transparent manner – at any time.

In this context, the Council's recommendation on access to social protection for workers and the self-employed of March 13, 2018<sup>2</sup> should be duly implemented, and a surveillance mechanism should be put in place to control its enforcement.

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<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2018:0132:FIN>

### III) **Effective interest representation for all**

#### **1. Tailored interest representation**

As labour markets change profoundly and individualisation trends continue, there is an increasing demand by a growing number of workers in precarious atypical employment, bogus self-employment and self-employment for a new –or additional– type of individualised, tailored lobby and interest representation, regardless of the contractual employment statuses, going beyond traditional concepts of individual and collective labour law as well as social dialogue, collective bargaining and agreements.

In the private sector, workers are also increasingly interested in participating in the organisational evolution and financial successes of ‘their’ companies. They would like to bring in more engagement and show more ownership in taking them to the future. They should be heard and awarded adequately in terms of working conditions and financial rewards.

The future of the representation of the interests of workers shall not limit itself to collective representation, but also aim to bind also workers in precarious atypical employment, bogus self-employment and self-employment to social protection, legal protection, information and, in general, to collectives. The effective interest representation of workers in new forms of work should hence aim at:

- the representation of workers in atypical and new forms of work
- professional training
- career development assistance
- job-related administrative support
- information and consultation services on contractual rights and obligations
- legal protection against employers and clients
- personal tax advice
- complementary social protection and insurance against basic risks of illness, incapacity to work, unemployment and ageing

#### **2. Ways for trade unions to expand and represent individualising workforces**

Trade unions should recognise this trend towards individualisation in labour markets and respond by further broadening their scopes beyond traditional concepts –or at least substantially complement their portfolios with more tailored offers– if they wish to stay popular with all economically-active people.

Indeed, trade unions should see this as a tool in their efforts to reinforce recruitment and retention strategies and activities. Only by offering tailored services can they attract the broadest possible scope of the workforce and thus continue to legitimise their existence and strong representative involvement in employment affairs.

Trade unions should become a one-stop shop which their members can turn to with all their problems and challenges faced at work – a natural and obviously indispensable part of everyone’s working lives.

To be successful, trade union organisations should particularly focus on:

1. **extra efforts to attract and retain members, especially young members:** This relates, for instance, to strengthened awareness-raising campaigns directed at explaining the benefits of long-term trade union membership, either via social media or directly at job fairs, high-level conferences, universities or in the context of apprenticeships. Every person entering the labour market should be made aware of the role and importance of trade unions and know how to become a member.

2. **outreach and trying to organise workers in atypical precarious work and the self-employed:** This could apply, for instance, to many platform workers.

In *practical* terms, this could require the development of tailored services to respond to the actual real needs of these workers –needs that often cannot be defended by means of collective bargaining and agreements that apply predominately to ‘standard’ employees– as outlined in section III.1.

In *organisational* terms, this could also require new ways to organise workers online, since the target workforce may today be more fragmented in terms of time and place of work and not easily physically reachable. One option could be trade union online information websites for specific groups of workers, who may then become interested in the membership of the trade union running the website.

In *organisational* terms, unions should also adapt their internal structures to a more fragmented workforce membership, for instance through high-level representatives, committees or subsections that give a voice to non-standard categories of workers.

3. **pushing governments to adjust legal frameworks which enable trade unions to prosper and fulfil their societal roles as the voice of the workforce:** Governments could, if they have not yet done so:
  - a. allow, where this is not yet the case, the right of association in all sectors and for all workers and the self-employed, regardless of their status;
  - b. explicitly allow all workers and the self-employed, regardless of their status, to become trade union members;
  - c. introduce public funding schemes similar to existing public co-funding regimes for political parties in countries where trade unions struggle to keep operating.

European trade union organisations such as CESI could facilitate an exchange of best practices on trade union strategies to remain strong, popular and necessary societal actors.