

BRINGING DOWN PRECARIOUS WORK: KEY DEMANDS OF INDEPENDENT UNIONS TOWARDS THE EU

POSITION PAPER

The European Confederation of Independent Trade Unions (CESI) is a confederation of more than 40 national and European trade union organisations from over 20 European countries, with a total of more than 5 million individual members. Founded in 1990, CESI advocates improved employment conditions for workers in Europe and a strong social dimension in the EU. Most of CESI's member organisations represent workers in the fields of central, regional and local administration, education, training and research, security and justice, healthcare, postal services and telecommunications, defence and transport. Through its members, CESI represents public and private sector workers.

Key Messages

1. Precarious employment is a phenomenon of acute relevance and immediate concern to many workers across Europe. It leads to adverse effects to workers, companies, the society and economy alike.
2. Fighting precarious work is a task not only for the Member States themselves. Making full use of its competences under the Treaties, the EU should ensure a social level playing field in the Single Market in order to avoid that its four freedoms continue to lead to a race to the bottom towards precarious work.
3. The EU should revise and complement its *social acquis* around three main pillars that condition precarious work: core labour rights and standards regardless of the nature of employment relationships, social security for all, and support for trade union membership and collective bargaining.

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1. Definition, relevance & acuteness, reasons, scope and consequences of precariousness

Definition and reasons of precariousness

Precariousness is a complex and multifaceted concept. The European Parliament defines it as “*employment which does not comply with EU, international and national standards and laws and/or does not provide sufficient resources for a decent life or adequate social protection.*”¹

Eurofound, referring to scientific literature, specifies that it typically concerns vulnerable persons – i.e. those without significant means of financial subsistence or incomes outside the job – in insecure employment, coupled with lacking social protection guarantees in the case of unemployment.²

CESI, in the context of exchanges with experts and trade union practitioners as part of a project on ‘Precarious work: Empowering trade unions to address new challenges’ has linked the following criteria to precarious employment:

1. the involuntary element for workers to take up insecure and unpredictable forms of work,
2. atypical employment relationships which, beyond their temporary duration or restricted time of applicability, entail fewer or less entitlements and benefits than permanent contracts,
3. the lack of predictability and overall job security,
4. the absence of encompassing social protection and excessively high eligibility criteria for the acquisition of entitlements, and
5. the absence of strong interest representation and trade unions.³

Important reasons of precariousness include crises-reactionary **labour market flexibilisation**, the subsequent rise of **forced bogus self-employment**, and unregulated, atypical forms of employment – many of which entail greater risks of precariousness – coupled with **three main pillars that condition precarious employment**:

1. the absence or non-enforcement of universal **core labour rights and standards regardless of the nature of employment relationships**,
2. weakened statutory public **social security** schemes, and
3. erosions of protective **trade union memberships and collective bargaining coverage**.

Relevance and acuteness of addressing precariousness

Precariousness it is a **phenomenon of acute relevance and immediate concern** which trade unions increasingly witness in labour markets across Europe. It appears that the post-2007 public debt, financial and economic crisis was a driver affecting risks of precariousness⁴ and that the implications of the Covid-19 pandemic may further add to existing tendencies.⁵

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017IP0290>

² <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/precarious-work>

³ <https://www.cesi.org/posts/cesi-conference-addresses-precarious-work-and-lack-of-access-to-social-protection/>

⁴ [https://www.europarl.europa.eu/RegData/etudes/STUD/2016/587285/IPOL_STU\(2016\)587285_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/587285/IPOL_STU(2016)587285_EN.pdf), page 10

⁵ <https://ec.europa.eu/eurostat/en/web/products-eurostat-news/-/ddn-20200511-1>

Scope of precariousness

Certain sectors tend to be particularly prone to precarious employment. These include agriculture, construction, arts and creative industries as well as the hospitality industry and services sector more generally.⁶ Parts of the platform economy are also affected, where platform workers are deprived of core labour rights and social security entitlements which employees typically have.⁷ Importantly, the public sector, traditionally offering relatively well-protected and secure employment, is increasingly concerned with forms of precarious employment, too.^{8,9}

Statistically, **certain groups of workers are disproportionately affected** by risks of precariousness employment, too. These include young persons looking to step up from education to secure employment, women, members of ethnic minorities, the disabled, regular and undocumented migrants and seasonal workers – not least because they tend to work in sectors prone to precarious work.¹⁰

Consequences of precariousness

Precariousness has important **negative adverse effects** on affected workers and employers at the micro level as well as on the economy and society at macro level.

Workers tend to be stressed about unsecure and unpredictable financial situations, leading to (mental) health problems.

Employers, as a consequence, face underperforming workers and increased employee absenteeism due to illness.

The economy and society as a whole suffers because workers in precarious employment cannot plan for the future. Getting a bank loan to buy a house is as problematic as planning a family with children. The economy lacks important investments, and lower birth rates mean demographic ageing and further pressure on pension levels and the public welfare state at large.

First research findings on the impact of the Covid-19 crisis confirm that the pandemic has profound impacts on job security and the financial situation of workers, and that especially vulnerable workers (in precarious work situations) are particularly affected. As such, the Covid-19 pandemic will likely further drive precarious employment in Europe and increase the pressure for regulatory, political and financial measures to fight it.¹¹

2. The role of the EU in fighting precarious employment

Tackling precarious employment is also a task for the EU. While the Single market is largely integrated in economic and financial affairs and free movement of capital, persons, goods and services, its four freedoms have also contributed to an exploitation of workers via precarious employment. Workers can be employed in one Member State but effectively (sent to) work in other country. This has opened doors to a race to the bottom concerning employment and working conditions.

⁶ https://oshwiki.eu/wiki/Precarious_work:_definitions,_workers_affected_and_OSH_consequences#Most_affected_workers

⁷ https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef18001en.pdf

⁸ https://www.europarl.europa.eu/doceo/document/TA-8-2018-0242_EN.html

⁹ <https://www.noprecariouswork.eu/news/>

¹⁰ <https://picum.org/wp-content/uploads/2020/03/A-Worker-is-a-Worker-full-doc.pdf>

¹¹ <https://www.eurofound.europa.eu/publications/report/2021/living-working-and-covid-19-update-april-2021-mental-health-and-trust-decline-across-eu-as-pandemic>

Making full use of its competences under the Treaties, the EU should counter this race to the bottom and close existing legal loopholes and create binding standards that establish a social level-playing field among Member States, further upward social convergence in Europe, and close doors to precarious employment in both the private and public sector – of course without prejudice to the prerogative of the Member States to organise and finance their civil service.

The EU has taken steps to address this challenge. Most recently, the EU adopted a [directive on transparent and predictable working conditions](#) for basic protective labour rights (particularly designed for workers in atypical and precarious jobs, limiting in particular the length of probationary periods), and a [Council recommendation on access to social protection](#) to facilitate also non-standard workers and the self-employed to adhere to social security schemes and to allow them to build up and take up adequate social benefits. Furthermore, the European Commission has proposed a directive on adequate minimum wages. In sum, it will remain to be seen in how far these measures can produce positive effects. In any case, they can on be seen as first steps in the fight against precariousness and in-work poverty.

3. Key demands of CESI (towards the EU)¹²

Revising and complementing the EU social acquis

As per the role of the EU in tackling precarious work, **the following legislative measures should be taken at the EU level** to revise and complement its *social acquis* around the three main pillars that condition precarious work: core labour rights and standards regardless of the nature of employment relationships, social security for all, and support for trade union membership and collective bargaining.

1. Without prejudice to the prerogative of the Member States to organise and finance their civil service, CESI prioritises a **framework directive for decent work** which sets minimum floors for high quality, secure and predictable employment all de facto dependent employees. A full application of the EU directive on transparent and predictable working conditions¹³ – also to public sector employees – should only be seen as a first step in the right direction.
2. There should be an EU-wide **regulation of work in the platform economy** in particular. Where platforms show the characteristics of service providers, their organisational power should lead to those delivering the service being subject to adequate labour rights and social protection.
3. Without prejudice to the prerogative of the Member States to organise and finance their civil service, EU legislation should also ensure that, in principle, all atypical work relationships that currently give rise to precarious work or bogus self-employment entail the same labour rights and working and benefits as permanent contracts, the only exception being their temporary duration or restricted time of applicability. In particular, there should be a **clearer wording and then a full and uniform application of the EU directives on temporary agency work¹⁴ and part-time work¹⁵**. The **EU directive on fixed-term work¹⁶** should be revised with the aim to set clear limits to the possible number of renewals of successive contracts and to tighten rules on objective reasons that an employer make deploy to make use of fixed-term work contracts as opposed to an open-ended contracts.

¹² This list does not claim to be exhaustive or encompassing. However, it intends to highlight some of the most important fields that the EU should act on as swiftly as possible.

¹³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019L1152>

¹⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0104&from=EN>

¹⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01997L0081-19980525&from=EN>

¹⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01999L0070-19990710&from=EN>

4. As regards to the proposed a directive on adequate minimum wages, there should be an ambitious EU **minimum wage** framework which obliges Member States to set minimum wages at a level not below the at-risk-of-poverty threshold as determined by Eurostat and effectively close loopholes in already existing national frameworks to specific groups of workers in precarious employment. The framework should also apply to public sector employees, without prejudice to the prerogative of the Member States to organise and finance their civil service.
5. To prevent wage and pension gaps there should be binding **pay transparency measures** at the EU level as a tool to fight the gender pay and pensions gap. The European Parliament and the Council should seek to strengthen and adopt the European Commission's legislative proposal on the matter without delay. To pre-empt old-age pension gaps, there should be **minimum pension floors** for private sector workers and public sector employees to prevent old-age poverty.
6. There should be a clear, effective **right to return to full time employment following a period of part-time work** in the context of parental leave, which is instrumental to prevent forced, long-term part-time work with inevitable reductions in pensions.
7. Special efforts are needed to ensure the **rights of minorities and the disabled** in particular in also in the sphere of employment and social affairs. There should be European disability rights agenda to help the disabled study and work without being discriminated against or financially disadvantaged. Additional measures to further non-discrimination and equal opportunities for the LGBTI+, refugees and members of ethnic minorities would be desirable.
8. There should also be provisions in the Member States to ensure a **full access of VET graduates to unemployment benefits**, to ensure that young people do not feel into poverty before they have even found their first job – even if they have worked as apprentices before for several years.
9. Based on the notion that education and skills development are the safest strategy towards quality employment, there should be an effective right to **further training and education** for workers, during working time and free of cost, and both in the private and the public sector. The EU directive on transparent and predicable working conditions should be developed further in this regard, including in the public sector but without prejudice to the prerogative of the Member States to organise and finance their civil service. In particular, the EU should further support, promote and co-finance re-training of the workforce in skills necessary for a digital and green evolution of the economy and public services.
10. Analogous to a framework directive on decent work, and without prejudice to the prerogative of the Member States to organise and finance their civil service, there should be a **framework directive for adequate social protection for all**, reflecting the content of the EU's 2019 Council Recommendation on access to social protection.¹⁷
11. The EU should allow the **right of association especially for the precarious and vulnerable self-employed**, regardless of the economic sector, and explicitly allow them to become trade union members.

¹⁷ https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2019.387.01.0001.01.ENG&toc=OJ:C:2019:387:TOC

Pressing Member States to eliminate precarious employment

Not least based on the spirit of the European Pillar of Social Rights, **the EU should also take further, decisive measures to press and incentivise Member States to eliminate precarious work** to the greatest extent possible:

12. The approval of the national recovery and resilience plans under the **EU Recovery and Resilience Facility**, handed in by the Member States to the European Commission for assessment in spring 2021, should be tied to not only to green and digital benchmarks and targets, but also include a social streamlining to ensure that no measures will jeopardise the attainment of the 20 principles of the European Pillar of Social Rights.
13. The obligation for Member States to ensure that in the performance of public contracts economic operators comply with applicable obligations in the fields of environmental, social and labour law established by Union law, national law, collective agreements or by international environmental, social and labour law, as laid out by the EU **public procurement** directive, should be stricter interpreted and violations pursued more strictly by the European Commission, including via infringement procedures.
14. The European Commission should envisage a revision of **State aid** rules with a view to including strict social criteria to the EU state aid regime. This will ensure that government aid to industry and service actors furthers/does not contradict the realisation of the objectives of the European Pillar of Social Rights/European Social Deal.
15. Above all, via the European Semester and the European economic governance system, the European Commission should follow an agenda which highlights, more than before, the urgent need for more **investments in administrations and public services and their personnel**, in order to make them resilient and allow them to function also during unexpected and severe crises, as during the Covid pandemic. Public employment services and labour inspectorates are among the key services which need to be excellently resourced in order to help fight precarious work.