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Subject:	The changing world of work: reflections on new forms of work and implications for the safety and health of workers - Draft Council Conclusions

With a view to Council EPSCO on 13 June 2019, delegations will find attached the draft Council conclusions on the above subject as approved by the Permanent Representative Committee (Part I), on 29 May 2019.

The changing world of work: reflections on new forms of work and implications for the safety and health of workers

Draft Council Conclusions

RECALLING THAT

1. The combined effects of technological progress, demographic and climate change and globalisation are transforming modern lives. Increasing digitalisation, robotisation, use of Artificial Intelligence and the development of the digital platform economy drive profound changes in the labour market, with significant implications for work organisation. These changes offer new work opportunities and may contribute to social inclusion, but also present challenges. New forms of work, e.g. due to digitalisation, and of work organisation may challenge traditional employment arrangements, with an impact on decent work and fair working conditions and the safety and health of workers.
2. All workers, including those in the public sector, have a right to decent work and fair working conditions and to the high level of safety and health protection in the workplace which must be ensured regardless of the size of the employer, the type of job, the type of employment relationship or the Member State of employment, hence contributing to the EU objective of constantly improving the living and working conditions of workers.
3. In proclaiming the European Pillar of Social Rights, the European Parliament, the Council of the European Union and the European Commission have made a shared political commitment to ensure, within their respective competences, a better enactment and implementation of social rights, including workers' rights to "secure and adaptable employment" (Principle 5), to fair wages that provide for a decent standard of living (Principle 6), to "work-life balance" (Principle 9) and to a "healthy, safe, and well-adapted work environment and data protection" (Principle 10).

4. The European Union's labour law *acquis* consists, *inter alia*, of a series of Directives determining, for instance, individual rights (working time, young workers, fixed term or part time work, temporary agency work) or collective rights (information and consultation, European Works Councils, protection of workers in the event of insolvency, transfer of undertakings or collective redundancies), which set minimum requirements and leave Member States free to introduce more protective rules.
5. The legislative framework on safety and health at work sets out the minimum requirements for safety and health of workers at work applicable to all sectors of activity across the European Union¹.
6. New forms of work are growing increasingly diverse, reflected in new contractual arrangements and atypical forms of employment. These new arrangements may offer benefits for those involved and for society at large. They may facilitate access to the labour market for a number of groups, among them people who have traditionally been furthest away from the labour market, and thus contribute to social inclusion. They may also offer increased flexibility and opportunities to improve work-life balance. However, particular attention should be paid to the impact of these changes in the organisation of work on workers' overall well-being, including the quality of their work as well as their physical and mental health. New forms of work should not reduce or detract from the employer's responsibility to ensure the occupational safety and health of workers in every aspect related to that work.

¹ Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work and individual directives within the meaning of Article 16 (1) of Directive 89/391 / EEC as well as other related directives.

7. New forms of work and changing work patterns may give rise to new risks, such as the blurring of boundaries between professional and personal life, potential isolation from work community and de-socialisation, stress and cognitive workload, risks linked to working and interacting with robots, longer professional lives and active ageing. These risks should be properly assessed.
8. The Council has called upon the European Commission in its Conclusions of March 2015 on the "EU Strategic Framework on Health and Safety at Work 2014-2020: Adapting to new challenges" to continue promoting occupational safety and health (OSH) by taking all necessary measures to address the challenges identified, taking proper account of changes in the labour market².
9. The Council has also invited the Member States, the European Commission and the social partners in its Conclusions of December 2017 on the "Future of Work: Making it e-Easy" to acknowledge the emergence of new forms of work, while ensuring decent working conditions, adequate social protection, and equal opportunities for all; to take into account the changing forms of work when developing and implementing employment, including occupational safety and health, education and training, social policies³, and life-long learning.
10. In addition, the Council has invited the Member States and the European Commission in its Conclusions of June 2018 on "Future of Work: a Lifecycle Approach" to take into account the new forms of work in employment and social security policies, and to promote appropriate safeguards for different categories of workers⁴.

² Council Conclusions of March 2015 on the EU Strategic Framework on Health and Safety at Work 2014-2020: Adapting to new challenges (paragraph 17)

³ Council Conclusions of December 2017 on the Future of Work: making it e-Easy (paragraphs 19 and 20)

⁴ Council Conclusions of June 2018 on Future of Work: a Lifecycle Approach (paragraph 35)

11. Innovation and technological change, economic development, new forms of work are likely to have an impact both on safety and health at work, and also on the competitiveness and productivity of businesses. This social and economic urgency calls for a response to ensure a high level of safety and health at work and decent and fair working conditions.

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12. STRESSES that the principle of decent work and fair working conditions enshrined in the European Pillar of Social Rights including occupational safety and health measures applies to all workers, irrespective of the size of the enterprise, the type and duration of the employment relationship.
13. UNDERLINES that the EU Framework Directive 89/391/EEC holds employers responsible for ensuring the safety and health of workers in every aspect related to the work, including the carrying out of an assessment of the risks to safety and health at work.
14. EMPHASISES the importance of identifying means of ensuring the safety and health of workers performing new forms of work in places where the requisite conditions for the protection of workers could be outside the employer's control.
15. EMPHASISES the importance of the Council Recommendation 2003/134/EC concerning the protection of the health and safety at work of self-employed workers, and its implementation in the context of the new forms of work.

16. WELCOMES the Commission Communication "Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy",⁵ with its focus on cooperation with Member States and social partners to remove or to update outdated provisions, and on helping businesses, in particular micro-enterprises and SMEs, to comply with occupational safety and health rules and to refocus efforts on ensuring better and broader protection, compliance and enforcement on the ground.
17. POINTS OUT that work-related musculoskeletal disorders and psychosocial risks are the most common causes of sick leave, according to Eurostat⁶.
18. STRESSES the need to ensure an effective implementation and enforcement of EU law on working conditions and safety and health, *inter alia* where workers are subject to atypical employment relationships and new forms of work.
19. HIGHLIGHTS the need to identify and understand the potential risks and challenges to workers' well-being posed by new forms of work, new work organisation and new professions. This should be accompanied, where necessary, by policies and measures at a European level to ensure decent work and fair working conditions and a safe and healthy working environment, and should take into account a gender perspective and disadvantaged groups. New possible actions should be explored, including the development of mental wellbeing as a part of the relevant practical knowledge, skills and competences which should be promoted throughout the working life⁷.
20. POINTS OUT the fact that the design of adequate policy response should be supported by scientific evidence. Social partners, civil society organisations and other relevant stakeholders should be included in the design and monitoring of an adequate policy response.

⁵ COM (2017) 12 final

⁶ Eurostat survey "Persons reporting a work-related health problem - Persons reporting a work-related health problem by sex, age and type of problem" Last update: 21/03/2019(http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=hsw_pb5&lang=en)

⁷ Council Conclusions on Future of Work: a lifecycle approach (Paragraph 27)

21. RECALLS the results of the OECD/European Commission report "*Policy Responses to New Forms of Work*" showing the importance of peer learning where countries are facing similar issues, which should be supported⁸.

INVITES THE MEMBER STATES AND THE EUROPEAN COMMISSION in close cooperation and in accordance with their respective competences:

22. TO CONTINUE to examine the impact of new forms of work on working conditions and on workers' safety and health, and to take into account this impact in their policies.

23. TO ACKNOWLEDGE the importance of respecting the autonomy and role of the social partners and the Member States different labour market models.

24. TO COLLECT further data, by developing new monitoring tools where appropriate, on:

- new forms of work, in particular situations when the workplace could be outside the employer's control;
- the ways in which employers fulfil their obligations in the context of new forms of work to promote decent work and fair working conditions and ensure workers' safety and health in every aspect related to their work;
- the performance of the occupational safety and health legal framework⁹.

⁸ "*Policy responses to new form of work*" OECD 2019, based on a survey by OECD and European commission of 44 Ministries of Labour in OECD, EU, G20 countries.

⁹ These data are currently collected by the European Agency on Safety and Health at Work in the European Survey of Enterprises on New and Emerging risks (ESENER), European Working conditions survey, EU labour force Survey ad hoc module on accidents at work and other work-related health problems.

25. TO EXPLORE , in accordance to national law and practices, complementary procedures and tools to traditional inspection and control procedures for compliance with occupational safety and health and labour law rules in particular with a view to monitoring new forms of work, and to strengthen cooperation of relevant actors in this regard at EU and national level.
26. TO EXPLORE how digital technologies can be better exploited to support employers, workers, labour inspectorates and in particular micro and small enterprises, in managing the changes in work organisation in the best interest of workers, for instance through digital tools to identify, assess and manage risk, online information, good practices and digital training material as well as to enhance and to strengthen the use of digital tools developed by Member States and facilities of the Online interactive Risk Assessment (OiRA).

INVITES THE EUROPEAN COMMISSION:

27. TO IDENTIFY, in cooperation with Eurofound and EU-OSHA, the challenges and risks related to job quality and workers' safety and health, including employers' responsibility, linked to new forms of work and work organisation as well as new professions.
28. TO IDENTIFY possible new policy pathways with the support of the Advisory Committee on Health and Safety (ACSH).
29. TO CONTINUE promoting the protection of decent work and fair working conditions for all workers in the EU through the effective implementation of the existing EU labour law framework, including in the context of new forms of work and the impact of technological developments on work organisation.
30. TO CONTINUE modernising occupational safety and health policies in line with the changing world of work in order to maintain and, where possible, to improve the current level of occupational safety and health protection, notably with the support and work of the ACSH.

INVITES THE MEMBER STATES:

31. TO SHARE their experience in responding to these new challenges through continued debate at European level, thus facilitating the adaptation to new occupational risks and opportunities which new forms of work increasingly present for both employers and workers.
32. TO ENSURE appropriate training of labour inspectors to respond to new challenges and to strengthen cooperation between labour inspectorates in Member States in order to exchange best practices and experiences, including through active cooperation in the framework of the Senior Labour Inspectors Committee.
33. TO REFLECT on the future suitability of current definitions of the workplace, in light of the new forms of work, taking into account the work of the ACSH.
34. TO EXPLORE possible tailored approaches in conformity with Union and national law to ensure workers' protection in the new forms of work, without reducing or detracting from the employer's responsibility to ensure the safety and health of workers in every aspect related to that work.

INVITES THE SOCIAL PARTNERS:

35. TO CONTINUE their participation in the efforts to ensure job quality and decent work and fair working conditions and to adapt occupational safety and health protections to changes in the context of new forms of work.
36. TO COOPERATE actively, in this respect, at national and EU level in the different relevant fora.
37. TO TAKE ACCOUNT of existing safety and health at work legislation in the context of their decision to negotiate under the Joint Work Programme 2019-2020 an autonomous framework agreement on digitalisation.

References

1. EU Interinstitutional

- The European Pillar of Social Rights

2. Union Legislation:

- Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OSH "Framework Directive")
- Recommendation 2003/134/EC of 18 February 2003 concerning the improvement of the protection of the health and safety at work of self-employed workers.

3. Council:

- Council Conclusions of March 2015 on the EU Strategic Framework on Health and Safety at Work 2014-2020: Adapting to new challenges
- Council Conclusions of September 2015 "A new Agenda for Health and Safety at Work to Foster Better Working Conditions"
- Council Conclusions of December 2017 on the Future of Work: making it e-Easy
- Council Conclusions of June 2018 on Future of Work: a Lifecycle Approach

4. European Commission

- The EU Strategic Framework on Health and Safety at Work 2014-2020: Adapting to new challenges
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy (COM(2017) 12 final)
- Evaluation of the Practical Implementation of the EU Occupational Safety and Health (OSH) Directives in EU Member States (Nov 2015)

5. European Parliament

- European Parliament Resolution of 25 November 2015 on the EU Strategic Framework for Workplace Health and Safety 2014-2020 (2015/2107(INI))

6. Other

- Opinion of the ACSH on the Modernisation of Six OSH Directives to Ensure Healthier and Safer Work for All (1718/2017) as regards the Workplace Directive (89/654/EEC)
- EU-OSHA report on "Foresight on new and emerging occupational safety and health risks associated with digitalisation by 2025"
- EU-OSHA discussion paper on "A review on the Future of Work – Robotics"
- OECD 2019 report "Policy Responses to New Forms of Work"
- Eurostat survey "Persons reporting a work-related health problem - Persons reporting a work-related health problem by sex, age and type of problem" Last update: 21/03/2019