

ETUC position on the proposed Employment Guidelines revision

Adopted at the Executive Meeting of 7-8 March 2018 Brussels

The Commission has published a proposed revision to the Employment Guidelines. This is to be adopted at the June 2018 EPSCO Council.

EU Employment Guidelines form, together with the Economic Guidelines, the so-called Integrated Guidelines for pursuing the objectives of the Europe 2020 strategy. Within this framework the integrated guidelines are agreed in order to “support the achievement of smart, sustainable and inclusive growth and the aims of the European Semester of economic policy coordination.”

The Employment Guidelines can be adapted each year but have, in reality, remained constant since a 2015 revision. The current revision is explicitly designed to reflect the November 2017 proclamation of the European Pillar of Social Rights (EPSR), which the ETUC played a leading role in negotiating.

The ETUC welcomes the intention of revising the guidelines to reflect the important achievements contained within the EPSR. However, these achievements are not always accurately reflected in the proposal put forward – see the attached annex for a more detailed assessment.

Furthermore, the ETUC reminds the Commission that it adopted in December 2017 a definition of quality jobs, addressing the following criteria, which should be taken into account while revising the Employment guidelines¹:

- Good wages
- Work security via standard employment and access to social protection
- Lifelong learning opportunities
- Good working conditions in safe and healthy workplaces
- Reasonable working time with good work-life balance
- Trade union representation and bargaining rights

Unfortunately, the revised Employment Guidelines are very weak on work quality which is a missed opportunity if it goes unamended. A commitment to boosting work quality can have profound implications for economic growth and social progress.

For the ETUC, full employment in economies rich with high quality employment opportunities must be the aim of the Employment Guidelines. Yet the proposal fails to adequately move on this direction and fails to move beyond the discredited ‘flexicurity’ narrative. This is in direct conflict with the proclaimed EPSR (see annex).

There are some positive developments in the revision – most notably around access to employment training and skills.

Yet even here the ETUC wants to see more ambition if Europe is to be best placed to face the challenges of the future. In a context of technological, environmental and

¹ <https://www.etuc.org/documents/etuc-position-defining-quality-work-etuc-action-plan-more-and-better-jobs#.Wo63X3mWxHg>

demographic change, a broad knowledge-oriented will be best-placed to adapt to the rapid changes confronting work and workers. Reskilling and preparing for new industry will simply not happen without a huge push by empowered social partners.

The ETUC will continue to push for improvements in employment policy and making the case that a more positive and ambitious vision is needed for European labour markets that goes beyond flexicurity and precarious work.

In particular, the ETUC has already:

- raised our concerns informally with the Commission that the flexicurity wording of Guideline 7 is in direct contrast to what was agreed in the EPSR.
- raised the point with the Chair of the Employment Committee (EMCO) of the EPSCO Council.
- made the case to the rapporteur of the draft report on the Employment Guidelines in the Employment Committee (EMPL) of the European Parliament.
- raised the problem at the February 2018 Social Dialogue Committee.

The ETUC requests that national affiliates lobby their ministries strongly to amend the Guidelines ahead of the June EPSCO Council. The technical committee EMCO is currently working on this and the ETUC secretariat can provide you with a list of the committee's members. The annex below provides more detail to assist in this process.

Annex – ETUC assessment of the proposed Guidelines

Revised employment guidelines

On first glance the revisions of the overall guidelines appear to be slight. As the table of comparison below shows, these changes are all benign, and in some cases only grammatical. These were released in November as part of the European Semester 2018 Autumn Package. These are detailed below.

2015/16 guidelines	New proposal
Boosting demand for labour	Boosting the demand for labour
Enhancing labour supply, skills and competences	Enhancing labour supply: access to employment, skills and competences
Enhancing the functioning of labour markets	Enhancing the functioning of labour markets and the effectiveness of social dialogue
Fostering social inclusion, combatting poverty and promoting equal opportunities	Promoting equal opportunities for all, fostering social inclusion and combatting poverty

Guideline 5: Boosting the demand for labour

The rationale outlined in the annex provides significant justification for the suspicion that the Commission’s strategy on job quality is limited to inserting the word ‘quality’ before the word job. The opening sentence states that, “Member States should facilitate the creation of quality jobs, including by reducing the barriers that businesses face in hiring people, by promoting entrepreneurship and self-employment and, in particular, by supporting the creation and growth of micro and small enterprises.”

This is intellectually incoherent. While there is some, highly contentious, evidence that such liberalisation can boost the number of jobs created, we see evidence all around Europe that the very same liberalisation facilitates the growth of poor quality and precarious work. The sentence reads as though the word quality was added later.

Furthermore, there is strong evidence from the Netherlands, Italy, the UK and others, that the promotion of self-employment without further consideration might have disastrous effects on job quality and financing of social security, which was for instance the case in the Netherlands with the tax incentives for self-employed. Promotion of entrepreneurship should be differentiated from the promotion of the status of self-employed.

The guideline is also very weak on wages, in that it does not seek to boost pay levels. Rather, it encourages divergence by making explicit reference to wage mechanisms which “should take into account differences in skills levels and divergences in economic performance across regions, sectors and companies”.

Guideline 6: Enhancing labour supply: access to employment, skills and competences

This is a very positive contribution, as Europe's capacity to fully recover strongly relies on the ability of Member States to increase the level of educational outcomes of its population, and to reduce inequalities. However, in a context of technological, environmental and demographic changes, a broad knowledge-oriented approach should be favoured if workers are to be equipped to work with others and adapt to rapid change that technology is bringing about.

This should translate into the commitment to enhance both the social and the labour market relevance of tertiary degrees to improve the quality of employment, innovation, or the capacity to compete in the global context. The contribution could be strengthened further by calling on Member States to work with trade unions to ensure that workers are entitled to paid time off for training and education.

The annex also makes reference to shifting taxes away from labour but there is no indication of how this revenue will be made up to the public purse.

Guideline 7: Enhancing the functioning of labour markets and the effectiveness of social dialogue

The ETUC welcomes the promotion of social dialogue in the headline.

However, this is the most problematic proposed guideline of the revision. If this proposal is motivated by a desire to align the Employment Guidelines with the proclaimed EPSR then why has the entire one-year consultation been ignored?

The explanatory annex notes for this guideline opens with sentence: "To benefit best from a dynamic and productive workforce and new work patterns and business models, Member States should work together with social partners to implement flexibility and security principles." Yet this is not what was agreed in the EPSR proclamation.

The ETUC had significant success in the EPSR consultation in shifting the debate beyond the discredited 'flexicurity' narrative. The EPSR draft for consultation did include a principle on 'flexible and secure labour contracts' which the ETUC challenged and had changed to 'secure and adaptable employment'. Reference to flexibility—which has toxic connotations for workers based on experience—has thus been replaced in the EPSR by the more neutral 'adaptability'. As can be seen in the annexed table, there are now 3:1 clauses in favour of strengthening the security aspects for workers, rather than 1:1 of the original proposal. Concerning the idea to foster the transition towards open-ended forms of employment, an addition is needed, ensuring that open-ended forms of employment remain the rule in the EU.

In addition, we succeeded in having the principle moved within the EPSR from Chapter I (Equal opportunities and access to the labour market) to Chapter II (Fair working conditions), which meant that creating employment conditions that work for both worker and employer is now seen as in a broader and longer-term context than simply getting people into work, which was implied in Chapter I. Secure and adaptable employment should be a primary concern on an ongoing basis.

March 2016 – Flexible and secure labour contracts	April 2017 – Secure and adaptable employment
<p>a. Equal treatment shall be ensured, regardless of employment contract, unless different treatment is justified on objective grounds. Misuse or abuse of precarious and non-permanent employment relationships shall be prevented.</p>	<p>a. Regardless of the type and duration of the employment relationship, workers have the right to fair and equal treatment regarding working conditions, access to social protection and training. The transition towards open-ended forms of employment shall be fostered.</p>
<p>b. Flexibility in the conditions of employment can offer a gateway to the labour market and maintain employers' ability to swiftly respond to shifts in demand; however, the transition towards open-ended contracts shall be ensured.</p>	<p>b. In accordance with legislation and collective agreements, the necessary flexibility for employers to adapt swiftly to changes in the economic context shall be ensured.</p>
	<p>c. Innovative forms of work that ensure quality working conditions shall be fostered. Entrepreneurship and self-employment shall be encouraged. Occupational mobility shall be facilitated.</p> <p>d. Employment relationships that lead to precarious working conditions shall be prevented, including by prohibiting abuse of atypical contracts. Any probation period should be of reasonable duration.</p>

The ETUC has thus made significant progress the EPSR consultations and will not accept the disregarding of this work in the Proposal for the Employment Guidelines.

This flexicurity debacle is a shame because beyond it, there are positive contribution in this guideline, particularly in relation to strengthening active labour market policies, public employment services and unemployment benefits.

The guideline concludes with a strong call for social dialogue that the ETUC fully supports:

“Member States should ensure the timely and meaningful involvement of social partners in the design and implementation of economic, employment and social reforms and policies, including by providing support for increased capacity of social partners. Social partners should be encouraged to negotiate and conclude collective agreements in matters relevant to them, respecting fully their autonomy and the right to collective action.”

The Guideline should also grant atypical and self-employed workers the right to organise and to bargain collectively. In some EU countries, a narrow interpretation of the European competition law prevents self-employed workers from collective bargaining by claiming that they are independent undertakings setting a cartel to fix prices against the freedom of the market. This is unacceptable for the ETUC.

Guideline 8: Promoting equal opportunities for all, fostering social inclusion and combatting poverty

The guideline and explanatory annex represent a very positive and wide-ranging contribution. However, it ends with a reckless call for universally increasing effective retirement ages across Europe. This is absurd and is totally rejected by the ETUC. We reiterate our belief that extended working lives should only ever be the choice of workers who wish to do so and should not be guided by financial hardship or the moving of goalposts at the end of a long working life.

The guideline would also be improved by committing to universal coverage in social protection systems which continue to miss too many who need support.
