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Position Papers

WEC-Europe contribution to the EU Social Partner Consultation on working conditions in platform work

Upcoming Events

20th May 2021

WEC-Europe/APESPE-RH webconference linked to the Portuguese EU Council Presidency

“Workforce Ecosystems: Welcome to the future! - Shaping the world of work in the new normal”

3rd June 2021

Global Public Affairs Network Meeting on Platform Work

Contact us

WEC Head Office
Tel. +322 421 1586
info@wecglobal.org
www.wecglobal.org

Global Public Affairs

IOE and WEC present policy recommendation to stakeholders

On 22nd of April, IOE and WEC organized a web conference on their joint policy recommendations “Policy priorities for the road to a *sustainable recovery*”. The web conference included high level speakers from the ILO, OECD, UNDP, IOE and WEC. It allowed for good discussions and elaborate interaction between panelists and audience.

The event included intervention from the following high-level speakers:

- Guy Rider - ILO Director General
- Ulrik Vestergaard Knudsen - OECD Deputy Secretary General
- Abdoulaye Mar Dieye - **UN** Assistant Secretary-General and Special Adviser to the UNDP Administrator, United Nations Development Programme (UNDP)
- Saïda Neghza - President, Confédération Générale des Entreprises Algériennes (Algeria)
- Neil Carberry - CEO, Recruitment and Employment Confederation (REC / UK)
- Roberto Suarez-Santos – Secretary General IOE
- Bettina Schaller – President WEC
- Denis Pennel – Managing Director WEC

The event was a timely one. In June, the International Labour Conference will outline the ILO response to the Covid-19 pandemic. Indeed, this is exactly what the joint recommendations drafted jointly by IOE and WEC seek to address. As such the event was a good opportunity for visibility of WEC and IOE in this regard and to highlight its partnership and joint efforts to shape the recovery.

For those unable to attend [the full recording can be found here](#).

WEC Report:

Collaboration between Public and Private Employment Services

The World Employment Confederation presented a report showcasing how public (PES) and private (PrES) employment services across the world work together. The report is based on a survey conducted amongst the WEC national federation members. With increasing urgency on supporting more labour market transitions, people and business need state-of-the-art labour employment services. [The WEC Report “Collaboration between public and private employment services.”](#) showcases in which ways labour market professionals, career guides and recruiters from both the public and private sector work together to that end.

The main findings are the following:

- In most countries (28) there is some form of formal or informal collaboration between PES and PrES
- Collaboration especially focusses on operational collaboration, exchange of vacancies and specific activation target groups
- 12 countries outsource public employment services to private providers (esp. job search assistance, skilling, and career guidance)

- The issues PrES face with outsourcing of public employment services are mostly related to the financial and non-financial conditions of the public tender.
- Only 11 of the countries have included collaboration with PrES in their response to the Covid-19 pandemic
- PrES identify 'better labour market functioning' and 'access to talent' as most important opportunities for collaboration between PES and PrES.
- PrES identify that perceptions and image and the value add of partnerships with PrES is the biggest challenge to realize collaboration between PrES and PES
- Most countries do not have specific hiring incentives specifically for PrES

The report is integrated in global and European public affairs engagement on activation and active labour market policies.

The ILO Governing Body Outcomes

End of March, the ILO Governing Body (a.k.a. the ILO board meeting) was concluded. Key discussion points were on the upcoming International Labour conference, the ILO Covid-19 response, Platform Work and the ILO 2022-2023 Programme and Budget. Key outcomes are the following:

- The ILO will negotiate an 'outcome document' during the upcoming International Labour Conference (ILC) (June 2021) on the ILO Covid-19 response. This document will be based on an ILO Office proposal.
- Beyond this the ILC will have the following topical agenda items. These items (as well as the standing items) will be spread out throughout the year.
 - A recurrent discussion on Social Protection
 - Skills and lifelong learning
- A Tripartite meeting of Experts on Platform Work will be in the course of 2022.
- Applicants for the new ILO Director-General will need to apply before 1 October. In March 2022 hearings and a ballot will be organised. Based on this the new DG will commence its term in October 2022.
- The 2022 – 2023 Programme and Budget was agreed (this includes explicit collaboration with WEC)

Considering these decisions by the ILO governing Body, key follow-up priorities for WEC are the following:

- Inputting the Outcome Document on the ILO Covid-19 role
- Activation of membership to participate in ILO TME on Platform Work
- Engaging in the ILC discussion on Skills and Lifelong Learning.
- WEC will continue to collaborate with the ILO Liaison on WEC priorities

OECD Employment, Labour and Social Affairs Committee Meeting & 2021 Employment Outlook

In April and May, the OECD Employment, Labour and Social Affairs Committee (ELSAC) meets to discuss the ongoing OECD labour market work and agreeing on the 2021 Employment Outlook. The ELSAC gathers the labour representatives from the OECD membership. This meeting is usually planned together with the Business at OECD (BIAC) meetings to discuss the business input into the Committees work.

Input to the Draft 2021 OECD employment outlook

This year's OECD Employment Outlook will address the following topics:

- General Labour Market Overview (tracking of course the Covid-19 impact)
- An assessment of Job Retention Schemes
- The response of active labour market policies and PES to the Covid-19 outbreak
- An assessment on domestic outsourcing in low wage jobs (including agency work)
- An assessment on Working Time Regulation across the OECD.

BIAC collected business comments to the draft OECD Employment Outlook. WEC, with the support of the Global Public Affairs Network, provided input into this. Key points for WEC input were the following:

- Focus on the inclusion of value add of private employment services in the context of (1.) active labour market policies and (2.) transition out of job retentions schemes
- Pushback on the outsourcing chapter (no. 4) on concerns on the scope of the chapter and the ability to draw (any) substantive conclusions from it.

These comments were onboarded in the overall Business response to the OECD.

Further engagement with ELSAC

WEC as part of the BIAC delegation, will join the ELSAC meetings to input the various items under discussion (apart from the employment outlook). This includes the presentation of an OECD dashboard that tracks and compares activation policies across the OECD space. WEC will be in the lead to shape this intervention.

OECD Ambassadors Briefings – Business Priorities on the Future of Work

On 15 April Business at OECD (BIAC) organized a briefing for the ambassadors to the OECD. The topic was the [Business Priorities for the Future of Work](#) that BIAC has developed to input OECD work.

During the very well attended briefing the three labour market priorities were addressed:

1. Supporting Dynamic Labour Markets
2. Skills & Employability
3. Inclusion and Diversity

WEC President Bettina Schaller (who also vice-chairs the BIAC employment committee) was one of the main speakers in the event to address the need for dynamic labour markets.

The WEC was one of the main drivers for the development of these priorities and WEC and its members were instrumental in drafting the texts and driving the process forward.

The business positioning comes timely with the OECD preparing a labour ministerial meeting late December. These priorities will be the main business talking points leading up to that meeting.

ILO Consultation on the ILO Private Employment Agencies Guide

WEC and IOE jointly participated in a consultation on the revision of the ILO Guide on private Employment Agencies (PrEA Guide). This guide serves as an important document for countries seeking information on how to regulate private employment agencies. The ILO has decided to update the guide following a request of employers during the Tripartite Meeting of Experts on Recruitment Fees and Costs.

In the consultation WEC and IOE brought the following elements forward:

- The Guide should be focused on incentivizing countries appropriately regulate employment agencies and ratify Convention 181. To do so the guide should move beyond its current focus on regulation and enforcement and address more the improvement of the functioning of labour markets and the improvement of labour market activation and transition policies.
- The updated guide should clearly differentiate between cross-border and domestic recruitment and agency work services.
- The update of the PrEA guide is not the right process to address all kinds of elements related to platform or gig work and be focused services that provide proactive employment support.
- Explicit and more elaborate address is needed on (the value adds of) collaboration between public and private employment services.
- In order support the uptake of appropriate regulation for Private employment agencies the guide should also look at format and visuals to attractively communicate the guide to the target audiences, esp. in the context of

The ILO will also have a consultation with worker representatives on the update. It seeks a process that can be done without a formal ILO Tripartite Meeting of Experts. It will periodically check in to discuss progress. WEC will address progress in its regular meetings with the ILO Liaison.

ILO launches Fair Recruitment Initiative – Phase II

The ILO has launched [phase II of its Fair Recruitment initiative](#). As part of this next phase, it will focus more on the implementation of the global products that are developed in Phase I. The next step is built around four pillars:

1. Enhancing, exchanging and disseminating global knowledge on national and international recruitment processes
2. Improving laws, policies and enforcement to promote fair recruitment
3. Promoting fair business practices
4. Empowering and protecting workers

Through IOE, WEC has been able to input the development of this new work program. Still, the final program remains too much focused on the forced and bonded labour dimension of the recruitment discussion, while remaining ambiguous on focal regions, countries or migration corridors (or migration at all). Where relevant, WEC will continue to support the ILO in implementing the Fair Recruitment Initiative.

Global Forum on Responsible Recruitment

In a four-day web conference, ILO, IOM and an 'International Human Rights and Business' (IHRB, an NGO) address the importance of responsible recruitment. During this [Global Forum on Responsible Recruitment](#), various elements of the responsible cross-border recruitment were discussed such as better regulation, empowering workers, measuring impact and sectoral perspectives were discussed.

On behalf of WEC, Board member Menno Bart joined a panel discussion on the importance of appropriate regulation and enforcement for private employment services to shape business case for quality cross border recruitment, as well as to create quality job opportunities in countries of origin.

The event was an important opportunity for WEC and others (including ITUC (a global trade union) Secretary General Sharan Burrows) to highlight the need for ratification of ILO Convention 181.

WEC meets ILO INWORK Chief on Platform Work

With the ILO starting technical negotiations on platform work (see this Advocacy Report's story on the outcomes from the ILO Governing Body), WEC met with the ILO department preparing these negotiations: the INWORK Branche (Inclusive Labour Markets, Labour Relations and Working Conditions).

In the conversation, WEC presented its position paper "A Decent Level Playing Field for Platform Work". In the subsequent conversation the INWORK colleagues identified that indeed all work platforms cannot be identified as one, and concurrently recognized the need to differentiate Online Talent Platforms as a distinct set of work-platforms in the broader 'platform work' ecosystem. As such they committed to clearly mark this in the preparatory work for the ILO negotiations. If followed through, this can be identified as clear win of this conversation.

Moreover, they identified the need for industry representatives to participate on behalf of employers in the upcoming ILO Tripartite Meeting of Experts (TME) on the matter and urged for WEC to engage with the IOE to this effect. Indeed, this had already been flagged by the WEC Head Office to activate WEC membership upon.

WEC will engage with its membership to promote participation in the employers' delegation to this TME.

WEC meets ILO on Convention 181 ratification campaign

WEC has met with relevant ILO staff to discuss the upcoming ratification campaign for Convention 181 on Private Employment Agencies and Convention 88 on Public Employment Services. The ILO elaborated on the overarching approach and methodology of this and asked for the WEC efforts and perspectives.

The ILO has two main processes to Integrate the ratification of C.181 Into:

1. Through the annual review and revision of National Action Plans In which the ILO can integrate points of national consideration. In this, they see C.181 as part of bigger 'constellation of ILO Conventions' that are relevant in the conversations on the provision of quality employment services and cross-border recruitment (amongst others of Domestic workers) thus tying C.181 Into various conversations.
2. A dedicated campaign that will focus on the Improvement of transition support. This will include all kinds of materials to incentive the improvement of that support through improved public and private employment services. The Office is now preparing the materials for this and will report on these to the March 2022 Governing Body.
 - a. In this regard the ILO has set a 10 year-timeline to push C.181. Background Is that the ILO will consider abrogating the outdated Convention 96 (the convention on PrEAs preceding Convention181) in ten years' time. this will be based upon the number of countries have switched from C.96 to C.181.

WEC expressed its willingness to support the campaign and stressed the focus on the opportunities for supporting people through labour market transitions as addressed In the Centenary Declaration. Also, it addressed the need to look at countries in Latin America and SE-Asia in this regard. It furthermore identified that given the Temporary Agency Work Directive in the EU, ILO focus should focus its efforts in Europe on non-EU countries.

As the ILO efforts further materialises, WEC will work with the ILO office to shape the campaign. Head Office will touch base with relevant national federations as the ILO efforts further zero in on specific countries of focus.

European Public Affairs

EU competition law and collective bargaining of self-employed

On 12 April 2021, the European Commission organised a dedicated hearing on collective bargaining rights for self-employed and EU competition law. The World Employment Confederation-Europe participated in the hearing as part of the BusinessEurope employers delegation.

The hearing was held as a follow-up of a first European Commission plan (Roadmap) on collective bargaining rights for self-employed and EU competition law in January 2021 on which the World Employment Confederation-Europe reacted.

In the hearing employers expressed the strong support for social dialogue and the view that the Commission approach is rather balanced. It was also welcomed that the European

Commission does not want to go into the direction of the classification of workers at EU level. A key point made by employers was to recognise and respect the different traditions of collective bargaining and the diversity of situations of self-employed. This calls for a case-by-case approach, rather than for moving towards a common, European solution. It was made very clear by the employers that any initiative in this field may not cover fees and prices set by self-employed and that there is no need to change EU competition law.

Representatives of European trade unions were overall much more supportive of the initiative, while underlining the need to differentiate more clearly between working conditions and competition law. Trade unions also underlined that collective bargaining for self-employed is important both for online platforms and for self-employed working "offline". ETUC was strongly opposing a view that collective bargaining could be a tool to protect certain groups of self-employed, such as people in a more vulnerable position, underlining that collective bargaining must be respected as universal right. In terms of legal instrument, the ETUC called for interpretative guidance based on Article 101 of the EU Treaty and the need to fully respect the autonomy of social partners to bargain collectively.

In the closing remarks, Ms Linsey McCallum, Deputy Director General DG Competition welcomed the input and consistency in terms of messages of social partners. At this stage, DG Competition has a strong preference for interpretative guidance rather than a legally binding instrument. In this context, it would be important to look both at the personal and material scope of such a guidance. Ms. McCallum confirmed that aspects of prices and fees would be absolutely out of the scope of the initiative and the Commission does not intend to interfere into established, national systems, but to address obstacles to the opportunity for collective bargaining

On behalf of the World Employment Confederation-Europe, Michael Freytag participated in the hearing and underlined the need to reflect the diversity of self-employed and the more specific points we included in the WEC-Europe reply to the EU Commission roadmap.

Assessment and next steps

The hearing clearly showed dividing lines between European employers and trade unions on the topic of EU competition law and collective bargaining rights for the self-employed. The positive side of the hearing was there is a clear preference from the European Commission to move into the direction of European interpretative guidance to Member States, rather than a binding, regulatory intervention.

In parallel to the hearing of EU social partners a public consultation is currently ongoing, to which the World Employment Confederation-Europe aims to contribute to. Based on the input from the hearing and the public consultation, the European Commission will decide on the next steps in this field.

The power of partnerships –EU Conference disuses the value of cooperation between employment services

From 20 to 22 April 2021, the European Commission and the European Network of Public Employment Services organised a high-level stakeholder conference on the role of employment services and the power of partnerships. World Employment Confederation-Europe Executive Committee member Menno Bart acted as speaker in the plenary session of the third day, putting forward key messages on the cooperation between public and

private employment services and the role of private employment services in driving the recovery.

Keynote speakers during the conference underlined the following main messages:

- **EU Commissioner for Jobs and Social Rights, Nicolas Schmit** underlined the key role of public employment services as advisers and actors of social inclusion. He underlined the importance of short-time working schemes in the first phases of the Covid-19 crisis and the acceleration of the digitalisation of the world of work. Focus needs to shift now from crisis reaction to recovery and resilience, looking also at the digital and green transitions in the economy. Linked to the European Commission Recommendation on effective, active support to employment, Nicolas Schmit stressed the importance of partnerships with education and training providers, social NGOs, social partners, public and private employment services.
- **Johannes Kopf, Chair of the EU Public Employment Services Network** underlined the benefits of mutual learning and the exchange in Europe and the need to focus on the economic and social recovery, also considering the long-term impact of covid-19.
- **Marie Therese Fombona, Head of international affairs at the Public Employment Services of Wallonia (Belgium)** stressed the need for agile and dynamic partnerships and the need to map the stakeholders in the employment services ecosystem.
- **Sukti Dasupta from the ILO** stressed the ILO legal instruments on employment and the benefits of multi-stakeholder alliances. In this context, also the Global Apprenticeship Network has been highlighted as a key initiative based on a partnership approach
- **In a panel of EU level social partners, both BusinessEurope and SMEunited** underlined the benefits of stronger cooperation between public and private employment services and the importance of improved activation and active labour market policies. In this context, the EU Commission Recommendation on effective, active support to employment (EASE) was specifically welcomed. BusinessEurope also stressed the need to combine recovery measures with policies that address long-term, structural change on the labour market. The European Trade Union Confederation ETUC called for more targeted support to job-seekers, helping people to get back to work. At the same time, the ETUC expressed concern about flexible and less-protected jobs being created in the recovery, which would lead to less security for workers. ETUC also called for combining passive support measures such as short-time working schemes to be combined with active labour market policies and activation and highlighted the role of social partners in facilitating access to training.

A thematic workshop session on the second day focused on the importance of short-time working schemes with country case studies from Luxembourg, Ireland and Norway. The broadening of the short-time working schemes and the access to the scheme for diverse forms of work was an important element of discussion.

The World Employment Confederation-Europe Executive Committee member Menno Bart participated and intervene on the third day of the conference, focusing on the role of the private employment services in the recovery from the Covid-19 pandemic and showcasing practices of cooperation between public and private employment services based on the results of the recently completed World Employment Confederation-Europe survey.

Assessment

The Stakeholder Conference of the Public Employment Services Network was an important and useful forum to present and advocate the main World Employment Confederation-

Europe messages on the benefits of partnerships between public and private employment services and the role of the private employment services industry in the new normal. The overall conference was, however, strongly focusing on public employment services, whereas private employment services were largely seen as one among several other partners (including social non-governmental organisations, welfare to work organisations and others), while not acknowledging a special or prominent role of the private employment services industry.

European Commission proposes Regulation on high-risk AI applications

On 21 April 2021, the European Commission published its proposal for a Regulation. Below, the World Employment Confederation-Europe provides an overview on the main elements of the proposal and the engagement on the topic.

Overview

The proposal creates obligations for (1.) any private party that is involved in putting an AI system on the market (providers, users, distributors, etc.), (2.) EU member states to oversee this marketing and (3.) the European Commission for EU coordination and further regulation. It bans certain uses of AI and identifies particular applications of AI as 'High Risk'. For these 'high risk' categories it sets minimum requirements and means to check whether these are met. This include third-party conformity assessment, self-assessment, public registration and oversight. It introduces transparency to individuals through a right to be informed when they engage with an AI application as well as a European registry of high-risk AI applications. Finally, it creates a framework for European governance and coordination that allows the national authorities and the Commission to shape new requirements or identify potential new 'high risk' AI applications. Also it shapes a framework for sandboxing AI applications, which creates room for member states to allow for testing/experimentation in a safe and enclosed environment.

Nature of the proposal

The proposal is for a Regulation. This means it will apply directly in all member states in the same way (as opposed to a Directive that applies indirectly and allows for more national discretion). Another example of a Regulation is the GDPR.

Labour market application

Recruitment is mentioned as a High-Risk category as well as AI application impacting the performance or continuation of an employment relationship. Yet, the wording on recruitment are more tailored

ANNEX III Article 4: *"Employment, workers management and access to self-employment:*

(a) AI systems intended to be used for recruitment or selection of natural persons, notably for advertising vacancies, screening or filtering applications, evaluating candidates in the course of interviews or tests.

(b) AI intended to be used for making decisions on promotion and termination of work-related contractual relationships, for task allocation and for monitoring and evaluating performance and behaviour *of persons in such relationships.*"

The proposal mandates the Commission to alter the description of high-risk applications and introduce new ones.

Requirements for high-risk AI applications

Should an AI application be deemed high risk it would need to comply with requirements regarding the risk-management, data and data governance, technical documentation, record keeping, transparency and provision of information to users, human oversight, and accuracy, robustness and cybersecurity.

To this end the following elements need to be adhered to: a (minimum) quality management system, technical documentation, log-keeping that is automatically generated, a conformity assessment before putting it on the market, register the application, take corrective measures when needed to comply to aforementioned requirements, inform national authority in the countries in which the application is deployed, affix CE marking to showcase conformity, demonstrate conformity in case of enforcement and have a post-market monitoring system for compliance in the AI life cycle.

Ex-ante Oversight

A complex of different oversight mechanisms is introduced, involving various levels of scrutiny for conformity. This relates to the application of AI for sectors and machinery for which the EU already has an extensive European oversight mechanism in place (planes for example) and for those that do not (recruitment for example).

Recruitment and employment related AI application will be subject to a self-assessment (unless the AI integrates biometric data). Meaning the providers will need to establish and declare the application complies with the requirements before putting it on the market.

European Members states shall create or appoint one or several national authorities to oversee the application of the Regulation in different parts of the economy. Thus oversight can be integrated into existing enforcement mechanisms on the national level including in existing oversight mechanisms on recruitment and/or the labour market.

Minimizing bias through processing sensitive personal data

Under conditions of (extensive) security, sensitive data can be used for the purpose of minimizing bias. Thus minimization of bias is explicitly recognized as necessary for reasons of substantial public interest and forms the basis for processing of sensitive personal data (art.9 GDPR) for that purpose.

Assessment and next steps

Preliminary assessment: As most regulatory proposals, it consists of positive and critical elements. Following the WEC-Europe inputs in the consultation process, the self-assessment for high-risk recruitment AI as well as the explicit recognition to use sensitive data to minimize bias can be classified as the positive parts. Another positive is the opportunity to enable national oversight on a sectoral level. Although, this will require follow-up on the national level to ensure the right national body is allocated to oversee AI in recruitment and employment. The critical part is most certainly the extensive red-tape (record-keeping, registration, ongoing conformity assessment) that is introduced in the proposal. Also, the high-risk classification of recruitment can still be deemed very broad (although significantly more specific than originally envisaged). Overarching potential result – if enacted in this way - could be that this will limit AI development to very large players only. They will service an increasing number of small players that are unable to compete to develop their own systems and risk becoming depended on a small number of AI/IT suppliers. From a European perspective one could wonder whether this proposed framework allows for these large players to grow within Europe itself.

WEC-Europe will engage in the following ways:

- WEC Europe will develop a response to this proposal in collaboration with the Public Affairs Committee and the Data protection and AI Taskforce.
- A MEP Event in which WEC-Europe will discuss this proposal and especially its impact on the labour market. (26 May 12:00-14:00)

- A briefing for National Federations on how to engage their national government, as national governments will co-decide with the European Parliament on the final regulation.

Abbreviations

AI	Artificial Intelligence
DG	Directorate General, policy department of the European Commission
ETUC	European Trade Union Confederation
EU	European Union
ILO	International Labour Organisation
IOE	International Organisation of Employers
MEP	Member of the European Parliament
OECD	Organisation for Economic Cooperation and Development