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NOTE

From: Presidency
To: Permanent Representatives Committee/Council

Subject: Future of the EU social acquis relating to employment and industrial relations
- Policy debate

Delegations will find attached a guidance note prepared by the Presidency, with a view to facilitating the discussion in the EPSCO Council on 10 December 2019.

THE FUTURE OF WORK AND SOCIAL ACQUIS RELATING TO EMPLOYMENT AND INDUSTRIAL RELATIONS

We are witnessing rapid changes in the labour markets and in industrial relations caused by, among other things, climate change, globalisation, migration and new technologies. The new legislative period is about to start in the EU and the new Commission will soon take office. A forward-looking discussion on possible needs to develop the social acquis relating to employment and industrial relations is therefore timely. Keeping the changes to working life in mind, we have to identify possible needs to update the existing acquis and any remaining legislative gaps. It is also essential to improve the implementation of the acquis.

Article 153 of the Treaty on the Functioning of the European Union allows the EU to set minimum standards, among others, for working conditions and for informing and consulting workers. The European Pillar of Social Rights proclaims minimum social rights, some of which are already part of the acquis, whilst others must be implemented jointly by the EU and its Member States. The Social Pillar helps to identify where actions need to be taken in order to strengthen fundamental social rights.

The EU has recently taken leaps forward in the minimum harmonisation provided for under the Treaties by adopting, for example, the Directive on transparent and predictable working conditions. Despite these improvements, there is a need to ensure that no one is left behind in the midst of the rapid changes and that the legislative framework continues to serve workers and enterprises in a balanced way.

Digitalisation, including the increasing use of artificial intelligence, is an important driver for the creation of new jobs. It also creates new possibilities for flexible ways of working with regard to working location, including in situations with a cross-border dimension. However, in some cases, digitalisation has made it more difficult to ensure that all workers, including those in the platform economy, benefit from good working conditions. There is also a risk of services being provided by bogus self-employed people. When technological and digital developments, including AI, transform the world of work, the social acquis needs to be developed in order to uphold social rights.

Commission President-Elect Ursula von der Leyen has identified minimum wages and the employment conditions of workers in the platform economy as areas that require further attention. In the context of minimum wages, she stresses the value of social dialogue between employers and trade unions – the people who know their sector and region best. Social dialogue and collective bargaining are important tools for agreeing on working conditions and for wage setting. The right of platform workers to bargain collectively is an issue gaining increasing significance.

In addition to adequate coverage by the social acquis relating to employment and industrial relations, it is important to ensure its effective implementation. Enforcement depends particularly on sufficient resources and the high level of competence of those responsible for monitoring implementation. One way to improve implementation is the exchange of experiences and good practices among the Member States and in international fora like the ILO.

Labour mobility within the EU and from third countries is increasing. To protect mobile workers and offer them equal treatment in the labour market, legislation has to be up-to-date. Cooperation between Member States and with relevant third countries can improve labour standards and their implementation, including on working conditions in supply chains. International organisations, including the ILO and the OECD, can also be good sources of examples and best practices.

Social dialogue plays an important role in helping both enterprises and their employees to adapt to the changing labour market and is thus a success factor in the implementation of the social acquis. The related problems, identified by the Commission, in the area of information and consultation of workers¹ and on the European Works Councils², need to be addressed.

Against this background, Ministers are invited to focus on the following questions in their contributions:

- 1. In addition to the initiatives planned by the new Commission, how should the social acquis relating to employment and industrial relations be developed in the future?*
- 2. What are the main challenges in the implementation of the social acquis and how could its enforcement be improved?*

¹ Commission Staff Working Document, 'Fitness check' on EU law in the area of Information and Consultation of Workers; 26.7.2013, SWD(2013) 293 final.

² Report on the implementation by Member States of Directive 2009/38/EC on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast); 14.5.2018, COM(2018) 292 final.