



# Towards a European Pillar of Social Rights

## CONDITIONS OF EMPLOYMENT

Receiving upfront information on the terms of the employment relationship is fundamental for a worker in order to avoid uncertainty and to create greater transparency on the labour market. These concern essential elements such as the place of work, the initial basic pay and other remuneration, description of the work to be executed, working time, leave entitlements and the arrangements for either side to give notice.

### Challenges

Various forms of non-permanent contracts have risen over the last years. Some of these forms of contracts can add complexity to understand the rights and obligations in the work relationship. Moreover, labour relationships have become more fluid, which can increase worker autonomy and boost business development, but also lead to lower awareness of rights and unclear information requirements for employers, including during the probation periods and in case of dismissals.

### Situation at EU level

The 'Written Statement' Directive<sup>1</sup> gives workers the right to be notified in writing of the essential aspects of their employment relationship within a maximum period of two months (description of the work, duration, remuneration, working time, etc.).

A right to be protected in the event of unjustified dismissal is enshrined in the EU Charter of Fundamental rights (Article 30). Article 153 of the Treaty on the Functioning of the European Union provides for the possibility for the EU to support Member States in ensuring the protection of workers when their employment contract is terminated, and to adopt Directives laying down minimum standards. There is however no secondary EU law setting general provisions on individual dismissal and no EU rules regarding the length of probation periods.

Nevertheless, rules targeting specific situations exist. The Written Statement Directive obliges employers to notify an employee of the length of the periods of notice to be observed or, where this cannot be indicated when the information is given, the method for determining such periods of notice. The Directive regulating workers' rights in case of transfer of undertakings<sup>2</sup> sets out that the transfer of an undertaking does not in itself constitute valid grounds for dismissals. The Maternity Leave Directive<sup>3</sup> also provides specific protection against dismissal to women during their pregnancy, as well as to parents taking paternity or adoption leave. The Directive establishing

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<sup>1</sup> Directive 91/533/EEC.

<sup>2</sup> Directive 2001/23/EC.

<sup>3</sup> Directive 92/85/EEC.

<sup>4</sup> Directive 2006/54/EC.

a framework for equal treatment in employment<sup>5</sup> protects workers against dismissal where there is discrimination on a prohibited ground, including victimisation.<sup>6</sup>

## Situation in the Member States

Member States are free to go beyond the minimum standards set at EU level. With regard to the Written Statement Directive, several Member States have added other elements to the list of information to be provided to employees, such as information on the probation period or elements in relation to social protection. Some Member States require that information on the employment relationship is provided to the worker prior to the start of the contract or on the first day of the contract, and many others have also set shorter periods than the maximum two months.

The national legislation on dismissals and access to impartial dispute resolution are characterised by diversity. They may have common features but their respective systems vary as to admissible grounds as well as to the sanction regime in case of unfair dismissal (i.e. reinstatement or financial compensation), or as to the design of severance payments. One aspect which may also vary is the nature of the appeal bodies available (i.e. civil justice, specialised labour courts, mediation or arbitration). National legislation often establishes a maximum length of probation periods, although large variations exist in terms of the duration, ranging from 1 to 12 months. In a majority of countries, however, such maximum periods are between 3 and 6 months.

In the last years, a number of Member States have undertaken reforms of their systems for a more efficient and transparent legal framework with respect to dismissals, in an effort to balance the need for effective protection of workers with the employers' need for certainty. These reforms have modified the structure of severance payments, simplified conditions for dismissals and fostered pre-litigation mechanisms if conflicts arise before bringing cases to court.

## International dimension

Several ILO conventions contribute to workers' awareness of their rights.<sup>7</sup> In 1996, a new right was introduced in the European Social Charter<sup>8</sup> to ensure protection in cases of termination of employment (Article 24). This comprehensive article, accepted by 14 EU Member States, foresees a right to appeal and redress in case of unfair dismissal.

The ILO Termination of Employment Convention, ratified by 10 EU Member States, provides for the protection of workers' rights against the termination of their employment by their employer. It guarantees that workers' employment shall not be terminated for reasons of discrimination on a range of grounds. It provides that workers shall receive a period of notice, a right of appeal, and income security as well for motivation of the dismissal and need for a valid reason.

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<sup>5</sup> Directive 2000/78/EC.

<sup>6</sup> Other EU anti-discrimination directives (such as Directive 2006/54/EC or Directive 2000/43/EC) also provide specific protection against unfair dismissal.

<sup>7</sup> ILO Labour Inspection Conventions; Conventions on labour administration, workers representation and protection against discrimination; Employment Relationship Recommendation, (2006, No.198); 2014 forced labour protocol.

<sup>8</sup> The European Social Charter is a Council of Europe treaty which was adopted in 1961 and revised in 1996.