

German employers' proposals for the Czech Presidency of the Council of the EU

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Corporate sustainability due diligence

Regarding the negotiating mandate for the proposal for a directive on corporate sustainability due diligence, the Council of the EU should seek to point the Commission's proposal in a direction whereby it is workable and above all can be implemented with legal certainty. Small and medium-sized enterprises must be completely excluded from the scope and due diligence obligations can realistically apply only for direct suppliers. The reach of due diligence obligations is too complex; reporting obligations should generally be simplified and amalgamated. Civil liability should be limited to actions which can be attributed to the undertaking in question and should not include those of business partners or suppliers. In addition, attention should be paid to the highest possible degree of harmonisation in the single market in order to prevent divergent implementing provisions in the Member States.

Sustainability reporting and social taxonomy

The Council of the EU must take advantage of the ongoing trilogue negotiations on the sustainability reporting directive to reduce red tape and costs, the level of detail in reporting obligations as well as the number of companies required to report. Small and medium-sized enterprises must be excluded from the scope. The Council of the EU should work resolutely to prevent the possible extension to include social objectives. A social taxonomy is unworkable in practice and would mean an unacceptably large administrative burden for companies which need access to sustainable financing.

Minimum wage

In the ongoing trilogue negotiations on the minimum wage directive the Council of the EU should ensure unqualified preservation of the division of competences in favour of the Member States and the central role of the social partners in setting wages. The Commission's proposal for a directive comprises provisions which could encroach directly into wage-setting at Member-State level and undermine the role of the social partners. The proposals from the European Parliament for a binding orientation on median or average pay are completely incompatible with the EU Treaties and must be rejected in the trilogue negotiations. Similarly, unilateral special rights for trade unions should not be enshrined in the directive; the EU's task is to underpin a balance in the support for the social partners.



Pay transparency

The Council of the EU should seek to identify concrete and practical solutions in the trilogue negotiations on the pay transparency directive. There should be derogations for companies which regularly have fewer than 200 employees as well as for companies which are covered by and apply collective agreements. Collective agreements are negotiated jointly by the social partners, thanks to their transparent remuneration systemisation they ensure the same pay for the same work – irrespective of gender. Further burdens on companies such as additional bureaucratic reporting and disclosure obligations as well as a reversal of the burden of proof should not be supported in the negotiations.

Women on boards

The Council of the EU should use the trilogue negotiations on the directive on improving the gender balance among directors of companies listed on stock exchanges to focus on the causes of under-representation. It is important to make space for existing national quota rules and to ensure that they are exempted from the obligation to implement the envisaged procedures.

Coordination of social security systems

A practical solution must finally be found in the seemingly interminable revision of regulation 883/2004 on coordination of social security systems. It is important that business trips and short-term postings are liberated from the obligation to apply for an A1 certificate in almost all sectors. The Council of the EU should identify in the negotiations a solution which guarantees free movement in the single market and is workable in everyday business practice. Digitalisation on its own does not directly reduce red tape and can only be a solution in the medium to long term. Against the background of the clearly increasing spread of mobile forms of work, a stand-alone coordination rule for crossborder mobile work should ideally be included. It is absolutely essential to create legal certainty for both sides here.

Platform work

When drafting the negotiating mandate for the proposal for a directive on platform work, the Council of the EU should ensure that national labour legislation orders are left intact. Far-reaching requirements such as a refutable presumption of an employment relationship will not help to improve working conditions for platform workers. Self-employed workers must not be transformed automatically into employees through EU law. The criteria for “self-employment” and “dependent employment” must continue to be determined at national level. It makes more sense to upgrade access to social protection for the self-employed and to extend their rights rather than seeking the widest possible reclassification.



Schengen

With regard to the negotiating mandate for the review of the Schengen Borders Code, the Council of the EU should establish clear common rules for the introduction of border controls which preserve proportionality and the single market freedoms. The necessary labour mobility must be guaranteed also in crisis situations. The negotiating mandate should also take fully into account the recent CJEU ruling on illegal reintroduction of border controls.

Conference on the future of Europe

Following the conclusion of the Conference on the Future of Europe, the Council of the EU should concentrate on balanced and practicable results which can be realised in the framework of the current Treaties. The focus must be on strengthening social partnership, competitiveness, a functioning single market, simpler labour mobility and education.

Stability and Growth Pact

Now that the consultation phase on the Stability and Growth Pact has ended, the Council of the EU must place the focus on reducing budget deficits and implementing future-oriented structural reforms. The Stability and Growth Pact already has sufficient flexibility and derogations to cushion crisis situations – as its operation during the pandemic and the war in Ukraine has demonstrated. Joint decisions to increase the transparency of EU budget rules must continue to respect the fundamental principles which currently inform the Stability and Growth Pact.

Cutting red tape

The Council of the EU should deploy to make the EU more attractive as a business location by dismantling bureaucratic barriers. The “one-in, one-out” rule should be applied consistently and apply equally for all policy areas. In addition, any exceptions must be very narrowly interpreted.

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