



Social dialogue in the EU accession process

Challenges and way forward

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Social Dialogue is part of the European social model

European Commission President Jean-Claude Juncker at the Tripartite Social Summit on 19 March 2015:

"I am a strong believer in the social market economy - and the social market economy can only work if there is social dialogue.

Social partners can identify the greatest needs and opportunities - helping us invest, grow and create jobs. Their support and participation is essential.

I said that I wanted to be a President of social dialogue and this Commission made a commitment to strengthen social dialogue in Europe and make it an integral part of our jobs and growth strategy."

What is (European) Social Dialogue:

- *Dialogue between the Social partners, representing management (employer organisations) and labour (trade unions) for negotiating about working conditions, discussing relevant legal and other policy initiatives, etc.*
 - **clearly distinct from dialogue of social-minded NGO's**
 - **Based on a mandate and representativeness**
- *European social dialogue: discussions, consultations, negotiations and joint actions undertaken by the social partner organisations representing employers and trade unions at European level*



Key achievements of EU social dialogue

Agreements implemented by EU Directives:

Cross-industry agreements

- 1995 – Parental leave
- 1997 – Part time work
- 1999 - Fixed-term work
- 2009 – Parental leave (revision)

Sectoral agreements

- 1999 – Seafarers' working time
- 2000 – Mobile civil aviation staff
- 2004 – Working conditions in cross-border rail services
- 2009 – Maritime labour working conditions
- 2010 – Preventing sharp injuries in hospital and healthcare sector



Key achievements of EU social dialogue

Autonomous agreements implemented by the Social Partners:

Cross-industry agreements

- 2002 – Telework
- 2004 – Work-related stress
- 2007 – Harassment and violence at work
- 2010 – Inclusive labour markets

Sectoral agreements

- 2004 – European licence for crossborder railway drivers
- 2006 – Protecting workers' health when handling crystalline silica (a hazardous substance)
- 2009 – European certificates for hairdressers
- 2011 – Competence profiles for chemical industry



2017: The European Pillar of Social Rights - The 20 principles and rights at a glance -

Equal opportunities and access to the labour market

- Education, training and life-long learning
- Gender equality
- Equal opportunities
- Active support to employment

Fair working conditions

- Secure and adaptable employment
- Wages
- Information about employment conditions and protection in case of dismissals
- Social dialogue and involvement of workers
- Work-life balance
- Healthy, safe and well-adapted work environment

Adequate and sustainable social protection

- Childcare and support to children
- Social Protection
- Unemployment benefits
- Minimum income
- Old age income and pensions
- Health care
- Inclusion of people with disabilities
- Long-term care
- Housing and assistance for the homeless
- Access to essential services



Principle 8: Social dialogue and involvement of workers

- **The social partners shall be consulted on the design and implementation of economic, employment and social policies according to national practices. They shall be encouraged to negotiate and conclude collective agreements in matters relevant to them, while respecting their autonomy and the right to collective action. Where appropriate, agreements concluded between the social partners shall be implemented at the level of the Union and its Member States.**
- **Workers or their representatives have the right to be informed and consulted in good time on matters relevant to them, in particular on the transfer, restructuring and merger of undertakings and on collective redundancies.**
- **Support for increased capacity of social partners to promote social dialogue shall be encouraged.**

Social Dialogue in the Western Balkans

- Problems in bipartite and tripartite social dialogue – overall they are not yet up to EU standards
- Bipartite social dialogue: collective bargaining weak, few collective agreements in place, limited/no implementation of agreements
- Tripartite social dialogue: functioning of Economic and Social Councils weak
- Capacity-building - so far limited results ?
- Increased attention in EU accession process

Montenegro

Chapter 19 report of April 2018 :

Recommendation to Montenegro to "increase the collaboration with the social partners"

Assessment:

"With regard to social dialogue, the social partners should be, more systematically and with better notice, consulted on issues concerning employment and social affairs, including on developing strategic documents. No effective measures were taken to increase and strengthen the capacities for better functioning of the Social Council which remains underused despite its mandate in this field."

Serbia

Chapter 19 report of April 2018:

Recommendation to Serbia to "significantly strengthen the bipartite and tripartite social dialogue at all levels."

Assessment: "Social dialogue remains weak, in particular regarding the involvement of the Social Partners in policy developments relevant to them. Collective agreements are mainly concluded in the public sector; in the private sector company level bargaining is dominant but no aggregate figures are available. Four sectoral collective agreements have been signed (musicians and performing artists, agriculture, construction, chemicals and non-metal industry). Two on musicians and performing artists, and on agriculture are already in force, the others were cancelled by the employers' side."

Albania

Chapter 19 report of April 2018:

"Social dialogue remains weak in both the private and state sector. Regarding tripartite social dialogue, the mandate of the members of the National Labour Council has expired and should urgently be re-established. The appointment of the new members is still expected. Significant efforts are needed to transform it into an effective social dialogue forum, aiming at improving collective bargaining. Intensification of bipartite social dialogue, in particular at local and company level is also needed. At regional level, the decision on a tripartite Regional Consultative Council, consisting of representatives of employers' organizations, trade unions and representatives of state structures, is still expected to be adopted."

The Former Yugoslav Republic of Macedonia

Chapter 19 report of April 2018:

Recommendation to “promote collective bargaining between employers and workers”

Assessment: “There are adequate legal provisions to enable the functioning of a social dialogue, but the participation of social partners in formulating policy and in decision-making processes remains inadequate. The implementation of the law on peaceful settlement of labour disputes is at an early stage. The application of the bipartite social dialogue remains poor both among employers and employees. Collective agreements are either lacking or not complied with. The influence of the trade unions and employers’ organisations is limited and their capacity remains weak.”



Peer Review of the Economic and Social Councils in the Western Balkans

Employment and Social Affairs Platform project:

Report on the findings and recommendations from the Peer Review of Economic and Social Councils (ESCs) carried out in Albania, Bosnia and Herzegovina (Republika Srpska and the Federation of BiH), Montenegro, Serbia, the former Yugoslav Republic of Macedonia and Kosovo (as defined by the UN Security Council Resolution 1244). The Report also draws upon the conclusions of the High Level Sub-regional Conference held in Belgrade on 5–6 July 2017.

<https://www.esap.online/docs/25/report-on-the-peer-review-of-the-economic-and-social-councils-in-the-western-balkans>

Way ahead

- *Accession negotiations*
- *Economic governance*
- *Implementation of legislation and of agreements*
- *Capacity-building*
- *Feedback*
- *What else?*



Thank you for your attention!



ANNEX I: Information sources

General information:

<http://ec.europa.eu/socialdialogue>

Social Dialogue texts database:

<http://ec.europa.eu/social/main.jsp?catId=521&langId=en>

European Commission Communication and Information Resource Centre for Administrations, Businesses and Citizens (CIRCABC):

<https://circabc.europa.eu/faces/jsp/extension/wai/navigation/container.jsp>

Employment and Social Affairs Platform

<https://www.esap.online/themes/1/social-dialogue>



Annex II

Social Dialogue in the EU

- The legal framework -



Treaty on the European Union

Art. 3: Social market economy is a core value of the EU:

"The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.

It shall promote economic, social and territorial cohesion, and solidarity among Member States."



Treaty on the Functioning of the European Union (TFEU)

Article 9 TFEU:

"In defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health."

Art. 145 TFEU:

Developing a coordinated strategy for employment, for promoting a skilled, trained and adaptable workforce

Art. 151 TFEU:

Promotion of improved living and working conditions, of dialogue between management and labour

EU competences in employment and social policy

Art. 153 TFEU:

"EU shall support and complement" Member States' activities,

- But also set minimum requirements in certain fields, e.g.:
 - health and safety, working conditions (e.g. working time, training, well-being, work-life balance)
 - equality men/women
 - information and consultation of workers
- Minimum EU standards
- No harmonisation of national laws
- "Soft law": coordination, cooperation, etc.

Strong institutional recognition of social dialogue

- **Art. 152 TFEU:**
Union recognises and promotes the role of social partners at Union level + Tripartite Social Summit
- **Art. 154 TFEU:**
Promotion of consultation of European social partners by the Commission + balanced support for their dialogue
- **Art. 155 TFEU:**
Agreements concluded by social partners

Consultation of the Social Partners

Article 154 TFEU:

1. The Commission shall have the task of promoting the consultation of management and labour at Union level and shall take any relevant measure to facilitate their dialogue by ensuring balanced support for the parties.
2. To this end, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of Union action.
(...)

Agreements concluded by the Social Partners

Article 155 TFEU:

1. Should management and labour so desire, the dialogue between them at Union level may lead to contractual relations, including agreements.
2. Agreements concluded at Union level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 153, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission. The European Parliament shall be informed. (...)

The Charter of Fundamental Rights of the European Union

- Declared alongside the Nice Treaty in 2000
- Referred by the European Court of Justice in case laws as “principles of law”
- In line with ILO conventions and the European Court of Human Rights provisions
- Enacted in the Lisbon Treaty, Article 6:

"The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties"

The Charter of Fundamental Rights of the European Union

Three principles:

- Freedom of assembly and of association (Article 12)
- Workers' right to information and consultation within the undertaking (Article 27)
- Right of collective bargaining and action (Article 28)

Freedom of assembly and of association

Article 12 of the Charter:

"Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests."

Article 2 of ILO Convention 87:

"Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation"

Freedom of assembly and of association

Article 3 of ILO convention 87:

1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

Freedom of assembly and of association

Article 2 of ILO convention 98:

1. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration

Freedom of assembly and of association

Article 5 of ILO Convention 151:

1. Public employees' organisations shall enjoy complete independence from public authorities.
2. Public employees' organisations shall enjoy adequate protection against any acts of interference by a public authority in their establishment, functioning or administration

Right of collective bargaining and action

Article 28 of the Charter :

"Workers and employers, or their respective organisations, have, in accordance with Union law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action."

Article 4 of ILO convention 98:

"Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements."

Workers' right to information and consultation

Article 27 of the Charter:

“Workers or their representatives must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Union law and national laws and practices”.