

Chapter 4

Towards a European Pillar of Social Rights: from a preliminary outline to a Commission Recommendation

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Introduction

There is widespread agreement that the European Union (EU) and its Member States are failing to deliver on one of the fundamental goals of the European project: *the simultaneous pursuit of economic and social progress* (Vandenbroucke with Vanhercke 2014). The legacy of the economic crisis in social and budgetary terms, the risk of persistently low economic growth and structural unemployment for several years, rising inequality and the challenges of an ageing population make the pursuit of economic progress and social cohesion even more challenging. While one should not overlook the fact that a European social dimension has been actively pursued for the past fifty years – resulting in an extensive social *acquis* – it seems fair to say that, for several years now, the EU policymaking agenda has been dominated by economic, budgetary and monetary concerns and austeritarian policies (2008-2014).

As a result, the EU's social agenda of the past five years was limited to largely symbolic initiatives such as the Youth Guarantee and the Social Investment Package (both proposed in 2013). The proposal for a 'first, preliminary outline' of a European Pillar of Social Rights (EPSR)² tabled by the European Commission in March 2016 may however present the embryonic start to the development of more ambitious European employment and social policies, building on the existing *acquis* (European Commission 2016b).

The chapter is organised as follows. Section 1 briefly describes the key traits of the Commission's March 2016 'First preliminary outline of a European Pillar of Social Rights'. Section 2 portrays the positions and concerns – both on substantive and governance issues – of key European stakeholders with regard to this initial Pillar proposal: EU institutions and bodies, peak European social partner organizations, European non-governmental organizations (including anti-poverty NGOs) and the academic community. The section flags the strengths and weaknesses of what was probably the most significant EU initiative in the social field in 2016.

1. The authors would like to thank Denis Bouget, Dalila Ghailani (OSE) and Zane Rasnača (ETUI) for the useful comments they provided. Marcel Muraille (OSE/ULB research intern) provided valuable research assistance. We are also grateful to Pieter-Jan De Graeve (Universiteit Gent) as well as two anonymous reviewers for commenting on an earlier version of this chapter, which was published (in Dutch and French) as Vanhercke and Sebastiano (2017). The responsibility for the content of the chapter lies entirely with the authors.
2. European Commission President Jean-Claude Juncker announced the EPSR during his first State of the Union speech to the European Parliament (EP) in September 2015.

Section 3 discusses the contents of the Recommendation on the Pillar tabled by the Commission at the beginning of 2017 (European Commission 2017a), comparing its content with the March 2016 preliminary outline. Furthermore, we provide some reflections on the extent to which the public consultation affected the substantive orientations of the Recommendation. We conclude that, in spite of its possible pitfalls and obvious shortcomings, the future EPSR has the potential to represent a ‘new start’ for social Europe in the aftermath of Brexit: if nothing else, it paves the way towards a new and long overdue ‘Social Agenda’ for the European institutions while centre-staging the question of social rights. However, a solemn proclamation of the EPSR by the Heads of State and Government will only bring about concrete results when backed by effective implementation arrangements. In other words: the EPSR represents a real window of opportunity, but it is only one (albeit major) step towards creating a true social dimension for the European Union.

1. A ‘preliminary outline’ of a European Pillar of Social Rights: rebalancing the EU’s economic and social dimensions?

At least at the discursive level, the need to reinforce the EU’s social dimension and to rebalance EU social and economic policies – especially in the Eurozone – has been a key concern of the Juncker Commission since it came into office in November 2014. This priority was indeed flagged in the Commission President’s inaugural speech to the European Parliament in July 2014 (European Commission 2014) and was restated in the 2015 Commission Communication on Completing the Economic and Monetary Union (EMU) (European Commission 2015). It was also reflected in the ‘Five Presidents’ report’ of June 2015 (Juncker *et al.* 2015), which confirmed the ambition that President-elect Juncker had set out for the EU: the need to achieve a ‘Social Triple A’ rating, in parallel to achieving a ‘triple A’ in the financial sector.

As a first step, the Commission President stated that the EU’s broad framework for the coordination of economic and social policies, the European Semester, should not just be an economic and financial process, but should necessarily consider the social dimension of Economic and Monetary Union, notably through the Country-specific Recommendations (Juncker *et al.* 2015). Recent research indeed points out that, between 2011 and 2016, a partial but progressive ‘socialization’ of the European Semester has taken place, at the level both of substantive policy orientations and of its governance procedures (Zeitlin and Vanhercke 2015) while others are more critical, pointing to the prevalence of austerity-oriented structural reforms and a limited focus on (social) investment (Crespy and Schmidt this volume).

The second concrete step towards rebalancing the EU’s economic and social dimensions was the launch of a public consultation on a preliminary outline of a EPSR in March 2016, which ran until December of the same year³. In the Commission’s view (European Commission 2016a), the future Pillar would contribute to creating a highly competitive

3. To be more precise: the Commission Communication launching the consultation was accompanied by an Annex 1 containing the ‘First preliminary Outline of a European Pillar of Social Rights’ (European Commission 2016b).

social market economy and to overcoming the crisis. The Commission indeed had high hopes for the future Pillar, intending it to become: '[...] a reference framework to screen the employment and social performance of participating Member States, to drive reforms at national level and, more specifically, to serve as a compass for renewed convergence within the euro area' (European Commission 2016a:7).

The Pillar would build on the EU 'social acquis'⁴ – but it was not intended to simply restate its content. Indeed, the Commission's stated goal was to revisit (modernise) the acquis in the light of new social, demographic and economic challenges (European Commission 2016b: 8). More specifically, according to the preliminary outline of the EPSR, the Pillar would consist of twenty principles covering twenty policy domains organized around three chapters (see Table 1): (a) equal opportunities and access to the labour market; (b) fair working conditions; and (c) adequate and sustainable social protection. As we have argued elsewhere (Vanhercke and Sabato 2017), the fight against poverty and social exclusion is made more or less explicit in fifteen of the twenty policy domains of the preliminary outline of the Pillar (European Commission 2016b) and can thus be said to have been mainstreamed across the proposal.

The rationale behind the Pillar does not significantly differ from previous Commission initiatives in the social domain '[...] social policy should be conceived as a productive factor [...] Europe's capacity to achieve well-functioning and fair labour markets and welfare systems is key to its ability to boost productivity, compete globally, strengthen social cohesion and keep increasing the living standards of citizens' (European Commission 2016a: 3-4).

From the onset, the Commission (2016a) stressed that the EPSR will not be legally binding. Yet, besides serving as a blueprint for future action, some observers at the time of publication of the preliminary outline claimed that the EPSR should at least be 'politically binding' (Larsson 2016)⁵. Given that the EU has varying degrees of competence in the various policy domains included in the EPSR, the Commission made it clear that implementation will require a varied set of instruments, ranging from 'soft governance' (including Recommendations) to legislation (the preliminary outline is quite vague on this point). Importantly, the proposed Pillar primarily concerns the Member States of the euro-area, even if it is open to the other Member States on a voluntary basis.

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4. The body of common rights and obligations that is binding on all EU Member States. The social acquis was detailed in a dedicated Commission Staff Working Document (European Commission 2016c) accompanying the preliminary outline for a EPSR.
 5. The proposal for an inter-institutional proclamation of the Pillar by the European Parliament, the Council and the Commission goes in this direction (European Commission 2017e). There is an interesting parallel with the Charter of Fundamental Rights of the EU: initially solemnly proclaimed at the Nice European Council on 7 December 2000 (without any binding legal effect), the Charter became legally binding on the EU with the entry into force of the Treaty of Lisbon, in December 2009. We would like to thank Zane Rasnača for pointing this out to us.

Table 1 Structure of the 2016 preliminary outline of the EPSR

Chapter	Principles
Chapter I Equal opportunities and access to the labour market	<ol style="list-style-type: none"> 1. Skills, education and long-life learning 2. Flexible and secure labour contracts 3. Secure professional transitions 4. Active support for employment 5. Gender equality and work-life balance 6. Equal opportunities
Chapter II Fair working conditions	<ol style="list-style-type: none"> 7. Conditions of employment 8. Wages 9. Health and safety at work 10. Social dialogue and involvement of workers
Chapter III Adequate and sustainable social protection	<ol style="list-style-type: none"> 11. Integrated social benefits and services 12. Healthcare and sickness benefits 13. Pensions 14. Unemployment benefits 15. Minimum income 16. Disability benefits 17. Long-term care 18. Childcare 19. Housing 20. Access to essential services

Source: European Commission (2016b).

Strikingly – in view of the name of the initiative and the nearly 20 references to the Charter of Fundamental Rights – not a single one of the principles in the 2016 preliminary outline was formulated as a concrete ‘right’. All were formulated very prudently, using terms like ‘encourage’ (e.g. low skilled young people and working age adults shall be encouraged to up-grade their skills), ‘ensure’ (e.g. equal treatment), ‘prevent’ (e.g. misuse or abuse of precarious and non-permanent employment relationships) and ‘include’ (e.g. action to support the unemployed shall include the requirement for active job search)⁶.

2. Key stakeholder and institutional views on the preliminary outline of the Social Pillar

The next step in the process leading to an EPSR was the European Commission’s launch of a public consultation in March 2016. This section describes how the preliminary outline of the Social Pillar was assessed – in terms of strengths and weaknesses – in

6. Other examples are ‘have access’ (e.g. to adequate leave arrangements for children), ‘foster’ (e.g. gender equality in the labour market and education) and ‘shall be’ (e.g. Social partners shall be consulted in the design and implementation of employment and social policies).

the months following its publication. We draw on the responses of some of the most influential social stakeholders and institutional players to the nine-month public consultation. The content analysis is based on a careful qualitative analysis and coding of both pros and cons developed in some ten authoritative submissions from institutional players and NGOs engaged in the field of social policies (stakeholders provided a total of ca. 200 position papers⁷).

2.1 Potential strengths: agenda-setting, creating synergies and stakeholder involvement

The EPSR as an opportunity to rebalance the political agenda and improve monitoring

During the 2016 public consultation on the EPSR, certain stakeholders stressed the Pillar's potential to foster convergence among the performances of European welfare states and to improve the EU's monitoring capacities. For instance, the International Labour Organization (ILO⁸) (2016) stated that the Pillar sought 'incremental consensus' by gradually implementing measures that should be eventually addressed to all EU Member States. For the ILO, convergence should be sought in the scope of coverage and adequacy of social benefits as well as in relation to their duration. The Confederation of Family Organisations in the European Union (COFACE⁹) (2016a) saw an opportunity to rebalance the political agenda and improve monitoring capacity at European level, while Eurodiaconia (2016a and 2016b) stressed the potential to create a fair and truly pan-European labour market, facilitating the convergence of social standards in Europe.

For their part, the EU's Employment Committee (EMCO) and the Social Protection Committee¹⁰ (SPC) claimed that the Pillar represented an opportunity to strengthen operationalisation of the EU social acquis, embedding it in the new socio-economic governance framework of the European Semester (EMCO and SPC 2016). Furthermore, the two Committees called for social standards to be updated, *inter alia* by improving existing instruments¹¹. This said, according to the two advisory bodies to the EPSCO Council, principles such as the respect of Member State competences, subsidiarity and the autonomy of social partners should be ensured and the variety of national situations taken into account. In other words, the appetite for 'upward social convergence' among Member States seemed, at the most, lukewarm.

The EPSR could promote synergies among interrelated policy areas

Stakeholder organisations and institutions alike (cf. COFACE 2016a; Eurochild¹² 2016; EAPN 2016; ILO 2016) saw the Pillar as a possibility to redirect attention towards social

7. The position papers on the preliminary outline of the EPSR are available at <http://ec.europa.eu/social/main.jsp?catId=1235&langId=e>

8. The International Labour Organization (ILO) is a United Nations agency dealing with labour problems, particularly international labour standards, social protection, and work opportunities for all.

9. COFACE Families Europe is a pluralistic network of civil society associations representing the interests of families.

10. Both the EMCO and SPC are advisory bodies to Employment and Social Affairs Ministers in the Employment, Social Policy, Health and Consumer Affairs Council (EPSCO).

11. Including by increasing the use of policy learning based on best practices, setting common objectives and benchmarking, and promoting thematic discussion.

12. EUROCHILD is a network of organisations working with and for children throughout Europe.

policy by focussing on key social issues. COFACE (2016b) maintained that the Pillar should strengthen the links between employment and social policy. Yet, according to the European Social Policy Network (ESPN¹³) (2016), one key challenge was the issue of EU competences in the social policy domain and the need to reconcile enforceability with subsidiarity. In this respect, a 'pragmatic approach' would be needed.

On the institutional side, the European Parliament (2017) stressed that, in most fields, the EU had no scope for action besides providing guidelines, while in other domains there was room for harmonisation through the setting of minimum standards. Consequently, while the Pillar should be binding in some domains, in other domains it appeared necessary to continue benchmarking and monitoring through the Open Method of Coordination (OMC). Discrepancies between the competences of the EU in the various social policy fields were also highlighted by the EMCO and the SPC (2016), both of which recommended the elaboration of sufficient Member State guidance without being too prescriptive. As we will see in the next section, this clear stance by the Member States had an important influence on the substantive features of the 2017 Pillar Recommendation.

The EPSR as an opportunity for including social stakeholders, civil society, experts and institutions

Several stakeholders and institutions (among others, COFACE 2016a and 2016b; Eurochild 2016; EMCO and SPC 2016) appreciated the Pillar's potential as an opportunity to involve a broad array of players in policy-making. The decision to launch a public consultation on the preliminary outline of the Pillar was welcomed by all stakeholders. According to Caniard (2016), the involvement and ownership of the Pillar by European citizens were key preconditions for its successful implementation. However, beyond the initial consultation process, it is not clear through which procedures stakeholders will be practically involved in implementing the EPSR. Consequently, the European Social Policy Network (ESPN 2016) recommended that the EPSR should include a strong statement on the importance of both civic and social dialogue (see also Committee of Regions 2016a and 2016b), while the European Parliament (2017) invited the Commission to propose mechanisms for the adequate involvement of all relevant stakeholders at all levels in the implementation of the Pillar. As we will see below, the Commission was unable to deliver on this strong demand.

2.2 Potential weaknesses: between excessive expectations and the risk of a 'two-speed' Europe

Several stakeholders stressed possible risks and shortcomings related to the EPSR and its implementation. Among these are excessive expectations, the legal status of the EPSR, the risk of non-implementation, missing dimensions and the risk of a 'two-speed' Europe.

13. The European Social Policy Network (ESPN) was established in 2014 to provide the Commission with independent information, analysis and expertise on social policies.

Excessive expectations and a narrow understanding of 'social rights'

The European Commission's reference to the notion of 'rights' – *inter alia* in the title of the initiative and its multiple references to the Charter, see Section 1 – risks raising excessive expectations. Indeed, if the Pillar is not strong enough, it could become a 'boomerang' for the EU. As Caniard (2016) pointed out, the EPSR must ensure the effective enforcement of rights if it is to be meaningful¹⁴. Otherwise, the Pillar could have counterproductive effects on the EU's credibility (ESPN 2016). Recurring to the notion of 'rights' may be a slippery slope for the European Commission, in particular for the European Commission's Directorate General for Employment, Social Affairs & Inclusion (DG EMPL). Indeed, at Member State level solemn declarations of rights are embedded in constitutions and not in secondary legislation, something the EU cannot do for institutional reasons. At the same time, given the EU-level emphasis on 'social policy as a productive factor', there is a risk that an EU declaration of social rights may be limited to this narrow understanding of 'social rights'. Indeed, some social rights do not promote growth per se (e.g. the right to strike) but are nevertheless fundamental to building fairer and more cohesive societies and, eventually, to reinforcing the notion of social citizenship on which our democracies are built.

The elephant in the room: legal status and (lack of) competences

Many commentators pointed out that the EU lacks competences in most of the policy areas included in the EPSR. Consequently, one of the challenges related to the Pillar is the lack of clarity as to its legal status (European Association for the Defence of Human Rights n.d.; Seikel 2016). Clearly not all the principles of the Pillar will be implemented through binding legislation. In many cases, the most likely instrument will be Recommendations (Eurodiaconia 2016). Arguably the lack of a legal base explains why, in spite of President Juncker's earlier declarations¹⁵, the preliminary outline only contains 'principles', for example with regard to a minimum income¹⁶ and minimum wages, but does not propose legal instruments (nor in fact concrete soft governance initiatives) in these areas.

Lörcher and Schömann (2016) pointed out a further potential problem: the EU has no legal basis for implementing an instrument limited to Eurozone countries, i.e. as the Pillar is currently designed. Yet, as highlighted above, some observers (Larsson 2016) point to the fact that the EPSR could be *politically binding*, thus acting as a 'normative compass' for EU and Member State initiatives. Furthermore, given that the EU has competences in the field of economic policy, the Pillar could make it possible to consider the social side-effects of such policies (Eurodiaconia 2016). This said, the ESPN (2016) stressed that, as far as possible, the Pillar should follow a binding approach. A different opinion, however, was expressed by Seikel (2016) who claimed that, given the EPSR's prioritisation of fiscal consolidation and competitiveness goals, it would be better for the

14. Note that this is a recurring problem with almost every statement of 'social rights', for example their inclusion in the Belgian Constitution: this had, rather, a symbolic value. The authors would like to thank Jan Vranken for pointing this out.

15. For example, a contribution in a panel discussion on the priorities of the incoming Malta Presidency of the EU for the next six months at the European Parliament in Strasbourg, France, 18 January 2017. <http://uk.reuters.com/article/uk-eu-labor-juncker-idUKKBN15729W>

16. It indeed came as a surprise to some that the Commission did not propose a Directive on a minimum income in the preliminary outline.

EPSR to remain non-binding. Importantly, the European Parliament (2017) suggested exploring the possibility of using the enhanced cooperation mechanism under Article 20 of the Treaty on European Union (TEU) to build a strong Social Pillar.

A declaration of principles: the risk of non-implementation

The key issue for the EPSR relates to its enforceability. The ESPN (2016) noted that, while open coordination processes such as the Social OMC and the European Employment Strategy had played a valuable role in coordinating Member States' policies and should be continued, experience had shown that, unless they were backed up by legislation, their impact was limited. Consequently, to facilitate implementation, an additional section on 'Ensuring impact' should be added to the Pillar (ESPN 2016: 31). In the long term, Treaty changes could be foreseen to set up sanction mechanisms for Member States failing to meet social objectives as is the case for economic objectives.

In other words, for virtually all contributors to the consultation (except most employer organisations), the Pillar could not be a mere declaration of principles or good intentions but had to consist of legislation, policy-making mechanisms and financial instruments (European Parliament 2017). Clear accountability mechanisms and sanctions for non-compliance should be foreseen (Eurochild 2016) as well as formalised mechanisms for ensuring the participation of civil society in its implementation (EAPN 2016). Furthermore, adequate mechanisms for linking the implementation of the Pillar to existing instruments and processes such as Europe 2020, the European Semester and the Social Investment Package should be set up (ESPN 2016), as well as instruments for connecting the Pillar to existing international frameworks (*ibid.*). As the European Confederation of Independent Trade Unions (CESI) (2016) suggested, 'meaningful indicators and enforceable benchmarks' (*sic*) should be established in those areas where the EU had no legislative competences. According to the ESPN (2016), areas where it was particularly important to build on the activities already carried out in the framework of the SIP were homelessness and policies relating to children.

The European Parliament (2017) similarly recommended that the EPSR should be 'solid' and should effectively reinforce European citizens' social rights through concrete and specific tools. For instance, the Parliament recommended the establishment of wage floors in the form of a national minimum wage (with due respect for Member State practices and involving the social partners). As for the area of adequate and sustainable social protection, the European Parliament (2017) suggested relying on the exchange of good practices, for instance for calculating minimum pensions. According to the Parliament, adequate financing for the implementation of the Pillar should be ensured at both European and national levels: *inter alia*, the allocation of 20% of national ESF funds for fighting poverty and social exclusion had to be upheld. Without adequate funding the Pillar would not be able to deliver on the 20 principles. Finally, the Parliament maintained that clear targets, building on the Europe 2020 Strategy and the United Nations Sustainable Development Goals (SDG), should be agreed upon.

A Social Pillar subordinated to economic and fiscal goals?

In the view of many, the principles in the preliminary outline of the Pillar were formulated as if they were subordinated to fiscal sustainability, competitiveness and

macro-economic priorities (cf., for instance, EAPN 2016; COFACE 2016a and 2016b; ESPN 2016; Eurochild 2016; Lörcher and Schömann 2016; Seikel 2016). ESPN maintained that the arguments in the preliminary outline were often ‘unduly economic’ and not sufficiently ‘social’. Attention was focused on (financial) sustainability and not on adequacy and, even in the section on social protection, the impression given was that of a Pillar primarily supporting economic and employment objectives, rather than acting as a way to introduce a rights-based language and logic into EU discourses and initiatives (Sabato 2016).

COFACE (2016a) emphasised that the future Pillar should be set firmly ‘in a social policy framework’ and not be understood as an Economic and Monetary Union (EMU) stability instrument. Lörcher and Schömann (2016) even claimed that the Commission saw the Pillar as an economic necessity and not as a political and social imperative.

The risk of unclear formulations and a simple rephrasing of existing rights

Another strand of EPSR criticism concerned the sometimes vague formulation of rights and principles (COFACE 2016a; ESPN 2016; Eurochild 2016; see also Section 1 above). The EPSR frequently simply rephrased existing principles, despite claiming to add to them. The ESPN (2016) went one step further, concluding that the overall vision behind the Pillar was unclear: the initial outline of the EPSR focused on coverage rather than vision, and there was no overarching social policy project. Eurochild (2016) pointed out that there was no reference to specific targets such as the Barcelona targets and Sustainable Development Goals. Perhaps even more importantly, the Europe 2020 targets were not referred to in the initial outline.

The European Federation of National Organisations working with the Homeless (FEANTSA¹⁷ 2016) underlined the risk of the EPSR fostering downward pressure by arbitrarily setting minimum standards in the social area, notably in relation to housing priorities. To avoid such a scenario, the future Pillar should include a statement that the EU would aspire to gradual convergence towards the highest social standards already existing in some countries (ESPN 2016: 8).

The coverage of the initial outline of the Social Pillar: missing dimensions

As for more substantive issues, the ESPN (2016) noted that some areas were underspecified in the Commission’s preliminary outline, while others were simply missing. There was, for example, no reference to the social rights and needs of young people, migrants and asylum seekers. With regard to child policies, the ESPN (2016) proposed that they should be mainstreamed across the various principles of the Pillar, given their importance when it comes to the inter-generational transmission of poverty and social exclusion. Overall, the ESPN (*ibid.*: 10) considered that, in most cases, the main emphasis of the Pillar was on employment rights and the function of social policies in increasing labour market integration¹⁸.

17. The *Fédération Européenne d’Associations Nationales Travaillant avec les Sans-Abri* (FEANTSA) is the only major European network that focuses exclusively on homelessness at European level.

18. As noted by ESPN (2016: 30), ‘At present the Pillar has two essentially ‘employment’ sections and one ‘social protection’ section and even the latter focuses primarily on employment’.

This is particularly evident in the principles concerning unemployment benefits: in the preliminary outline, the primary focus is on ‘the requirement for active job search’ for the unemployed while ‘the duration of benefits shall allow sufficient time for job search whilst preserving incentives for a quick return to employment’ (principle 14). This formulation raised particular concerns in Belgium¹⁹, where the duration of the payment of unemployment benefits is, in principle, unlimited in time²⁰.

Criticism has also been voiced over the fact that the proposed EPSR focuses on individual rights, while collective rights have been left aside to some extent (CESI 2016; Lörcher and Schömann 2016; Seikel 2016). According to the CESI (2016), a truly inclusive approach should be taken to full social partner involvement in the implementation, enforcement, and eventual review of the Pillar. On this point, the European Parliament (2017) recalled that the right to collective bargaining and action was a fundamental right enshrined in EU primary law and invited the Commission to support social dialogue at all levels and in all sectors (while respecting national traditions).

Furthermore, the proposed Pillar is inadequate when it comes to linking environmental and social rights. Indeed, it should be considered that ecosystem resources and human well-being are closely linked and that there is a relationship between poverty and environmental degradation (ESPN 2016). Finally, the Committee of the Regions (2016a and 2016b) called for more attention to be paid to the issue of financing social policies.

The risk of a ‘two-speed’ Europe

Some stakeholders and institutions feared that a focus on the Eurozone would create a ‘two-speed Europe’, potentially leading to a race to the bottom rather than to upward convergence. Lörcher and Schömann (2016) also claimed that such a limited territorial scope could lead to increasing social inequalities and social dumping. The European Parliament (2017) stated that EPSR standards should apply to all countries participating in the Single Market. But it also recognised that Eurozone Member States needed additional specific social standards and targets as well as relevant financial support, open to non-Eurozone Member States on a voluntary basis.

The social partners: conflicting views on the Pillar

The preliminary outline of the Pillar points to the social partners and social dialogue as key (f)actors for the successful implementation of the EPSR and, more generally, of EU socio-economic policies in the European Semester (cf. Sabato *et al.* 2017). Yet looking at the opinions produced by both trade unions and business organisations during the public consultation (BusinessEurope²¹ 2016; ETUC²² 2016; UEAPME²³ 2016), the positions on the proposed Pillar seem very far apart, a circumstance that

19. Belga News (2015) Limiter la durée des allocations de chômage ? Pas à l’ordre du jour, dit Peeters, 5 février 2015 ; La Libre (2011) Limiter dans le temps des allocations de chômage ? 9 juin 2011.

20. The largest party in the federal government, the New Flemish Alliance (N-VA) is in favour of limiting benefits to a two-year period. N-VA is a Flemish nationalist and conservative political party in Belgium.

21. The Confederation of European Business (BusinessEurope) is a lobby group representing enterprises of all sizes in the European Union (EU) and six non-EU European countries

22. The European Trade Union Confederation (ETUC) is the major trade union organisation representing workers at European level.

23. Based in Brussels, the UEAPME is an umbrella group for associations of SMEs.

could constrain implementation. There are indeed different, even opposing views over the Pillar's scope, its level of ambition, the contents of benchmarking exercises, the tools for implementation, and the links to the Better Regulation agenda.

As for the scope and ambition of the Pillar (and of EU-level social policy more broadly), the ETUC (2016) maintained that the Pillar should be ambitious, putting social rights first (these should take precedence over economic freedoms), ensuring quality employment (not just minimum standards) and upward convergence. However, both BusinessEurope (2016) and the European Association of Craft, Small and Medium-sized Enterprises (UEAPME 2016) claimed that the lack of convergence in Europe was not due to a lack of social policies but to the lack of a business-friendly environment. Consequently, instead of adding new rights, the focus should be on implementing structural reforms aimed at enhancing competitiveness and promoting growth-friendly policies²⁴. Furthermore, with respect to the Pillar's level of ambition, BusinessEurope (*ibid.*) was 'strongly concerned' that the Pillar paved the way to changes addressing the gap in EU social legislation by promoting 'common high-level standards'. A point on which the social partners seemed to agree concerns their perplexity over the fact that the Pillar solely targets the Eurozone.

When it comes to benchmarking, both ETUC (2016) and BusinessEurope (2016) also agreed that the Pillar was an opportunity to relaunch and revitalise benchmarking in social policy. Yet, as for the specific topics on which benchmarking should be exercised, positions again diverged. In a report commissioned by the European Trade Union Institute (Peña-Casas 2016), three domains are identified: (a) a minimum wage; (b) industrial relations; and (c) minimum income. For its part, BusinessEurope stressed the importance of monitoring the implementation of the flexicurity principle, proposing five areas for benchmarking²⁵.

As for the tools for implementing the Pillar (and EU social policy in general), ETUC (2016) recommended legislative procedures to upgrade existing legal frameworks and introduce new legislation. When circumstances allowed, non-binding instruments²⁶ should be used. Starting from the premise that the European Semester's Country-specific Recommendations have had a negative effect insofar as they have often led to a deregulation of work and the dismantling of collective bargaining, ETUC (2016) also called for institutional changes to the European Semester to better promote Social Europe and to make the process more collaborative. BusinessEurope (2016) claimed that the EU social acquis was already adequate (with no further legislation needed) and that social benchmarking should support structural reforms promoted through the European Semester.

24. As BusinessEurope (2016: Key messages) put it: 'The focus must be on building on our strengths to increase the contribution of Social Europe to Europe's global competitiveness'.

25. These benchmarking areas are (1) reducing labour costs; (2) ensuring the attractiveness of different forms of employment contract; (3) reinforcing the effectiveness of tax and benefits systems; (4) improving learning outcomes; and (5) promoting efficient and effective social expenditure.

26. Such as decisions, opinions, communications, council recommendations and guidelines.

Summing up stakeholders' opinions reported above, the main criticisms regarding the EPSR initial outline can be recapitulated as follows:

- It has a narrow understanding of the notion of social rights, subordinated to economic growth and jobs (criticism addressed especially by some academic contributors and the NGO community).
- It is primarily conceived for the Eurozone and creates the risk of a 'two-speed' Europe. This point was raised by NGOs, the social partners and institutional players such as the European Parliament.
- There is a risk (underlined by all contributors except for employer organisations) that the Pillar will remain a simple declaration of principles.
- There is a lack of adequate governance arrangements and a roadmap for the implementation of the Pillar, stressed by virtually all contributors.
- Some issues are simply missing from the preliminary outline, as pointed out mostly by academic contributors and NGOs.

3. From the public consultation to a Commission Recommendation

After nine months of public consultation, the announced Commission Recommendation on the EPSR was published in April 2017 (European Commission 2017d). Importantly, the Pillar Recommendation is part of a broader debate initiated on the future of the EU27, following the UK's decision to leave the EU (see Clegg, this volume). A first building block of the unfolding debate is the Commission's White Paper on the Future of Europe, published in March 2017, which puts forward five scenarios²⁷ for Europe by 2025 (European Commission 2017b). Second, there is the Reflection paper on the social dimension of Europe (European Commission 2017c) – symbolically launched on the same day as the EPSR Recommendation. Following the logic of the White Paper, the Reflection paper suggests three options for the future of social Europe: (a) limiting the social dimension to free movement; (b) those who want to do more can do more in the social field; and (c) the EU27 can deepen the social dimension together (European Commission 2017c: 25).

Obviously, the path taken by the Member States regarding the 'Future of Europe' debate will have important implications for the EU's social ambitions in general, and the EPSR more particularly. While the proposed Pillar clearly departs from the 'free movement only' option (a), it is not that easy to attribute the proposed Pillar to either of the two other options of the Reflection paper. As explained above, the Pillar primarily targets Eurozone countries, i.e. coming under the 'those who want to do more' option (b). However, the first Commission initiatives regarding the implementation of the EPSR (notably the 'Pillar package', see below) clearly address the EU 27, i.e. suggesting the 'deepening together' scenario (c).

27. The scenarios in the White Paper are labelled 'Carrying on', 'Nothing but the single market', 'Those who want to do more', 'Doing less more efficiently' and 'Doing much more together' (European Commission 2017b).

The April 2017 EPSR Recommendation is accompanied by a proposal for a Social Scoreboard (European Commission 2017f) made up of 14 headline indicators and a number of secondary indicators. It is intended as a reference framework to monitor societal progress in a tangible, holistic and objective way, easily accessible and understandable to citizens. It aims to detect the most significant employment and social challenges facing the Member States, the EU and the euro area, as well as progress achieved over time. While the proposed indicators by and large cover the EPSR policy domains, a number of important domains are not covered: wage developments, social dialogue and workers' involvement, unemployment and minimum income benefits, pensions and access to some basic services.

To better understand the full significance of the April 2017 Commission Recommendation on the EPSR, one should acknowledge that it is part of a broader 'Pillar package' presented by the Commission that same day (see Box 1)²⁸.

Box 1 The April 2017 Pillar 'package'

The EPSR Recommendation was accompanied, amongst others, by:

- a Commission Communication explaining the rationale and nature of the Pillar (European Commission 2017d);
- a Proposal for a joint proclamation of the Pillar (European Commission, 2017e);
- a Proposal for a Directive on work-life balance for parents and carers and an accompanying Communication;
- a proposal for a Social Scoreboard underpinning the Pillar;
- several (highly relevant) Staff Working Documents²⁸;
- a first-stage consultation of the European social partners on access to social protection for all employment types;
- a first-stage consultation of the European social partners on the Written Statement Directive; and
- an interpretative Communication and Staff Working Document on the Working Time Directive.

Comparing the outline with the EPSR Recommendation, many changes regarding the substance and wording of some of the chapters and principles are noticeable. While in the initial outline the third Chapter was entitled 'Adequate and sustainable social protection', this became 'Social protection and inclusion' in the final Recommendation, thus re-introducing the concept of 'social inclusion' – a key aspect of EU social policymaking since the 1990s – and dropping the problematic notion of 'sustainability'. As regards the wording of the 20 general principles, some significant changes have been made, as listed in Table 2.

28. All documents related to the EPSR can be accessed from https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights_en

29. These Staff Working Documents explain each of the principles and the changes introduced by the Pillar; summarise the public consultation; take stock of the 'Investing in Children Recommendation'; describe recent economic, employment and social trends etc.

Table 2 **The 20 principles of the EPSR: comparing the 2017 Recommendation and the 2016 preliminary outline**

EPSR Recommendation (2017)	EPSR preliminary outline (2016)
1. Education, training* and life-long learning	Skills , education and lifelong learning (1**)
2. Gender equality	Gender equality and work life balance (5)
3. Equal opportunities	Equal opportunities (6)
4. Active support to employment	Active support to employment (4)
5. Secure and adaptable employment	Flexible and secure labour contracts (2) Conditions of employment (7)
6. Wages	Wages (8)
7. Information about employment conditions and protection in case of dismissals	Conditions of employment (7)
8. Social dialogue and involvement of workers	Social dialogue and involvement of workers (10)
9. Work-life balance	Gender equality and work life balance (5)
10. Healthy, safe and well-adapted work environment and data protection	Health and safety at work (9)
11. Childcare and support to children	Childcare (18)
12. Social protection	Integrated social benefits and services (11)
13. Unemployment benefits	Unemployment benefits (14)
14. Minimum income	Minimum income (15)
15. Old age income and pensions	Pensions (13)
16. Health care	Healthcare and sickness benefits (12)
17. Inclusion of people with disabilities	Disability (16)
18. Long-term care	Long-term care (17)
19. Housing and assistance for the homeless	Housing (19)
20. Access to essential services	Access to essential services (20)

Source: adapted from European Commission 2016b and European Commission 2017a.

* Changes between the two versions of the EPSR are indicated in bold.

** Corresponding number of the principle in the EPSR preliminary outline.

While eight of the twenty principles remained unchanged, other amendments were basically cosmetic: one principle was split³⁰, several were simply renamed³¹, while others were merged³². There were however also some significant changes: as we will

30. Gender equality and work-life balance became separate principles.

31. Thus, 'conditions of employment' became 'information about employment conditions and protection in case of dismissals'; 'disability' became 'Inclusion of people with disabilities'.

32. 'Flexible and secure labour contracts' and 'conditions of employment' became 'secure and adaptable employment'.

discuss below, the scope of several principles was enlarged³³, while one principle was reduced in scope³⁴. Finally, one principle was added and one dropped from the list. The section below discusses the changes between the two versions of the Pillar in detail.

3.1 Equal opportunities and access to the labour market

As regards the first chapter of the EPSR, the following changes stand out. Important additions in the 2017 Recommendation, when compared to the 2016 initial outline, are marked in **bold**.

3.1.1 Education, training and life-long learning

According to the 2017 Recommendation, everyone has the right to quality **and inclusive** education, training and life-long learning in order to maintain and acquire skills (the initial outline merely referred to ‘basic’ skills) that enable them to participate **fully** (‘actively’ in the initial outline) in society and successfully manage transitions in the labour market. The reference in the EPSR initial outline to ‘low skilled young people and working age adults shall be encouraged to up-grade their skills’ has been dropped in the Recommendation.

3.1.2 Gender equality

Gender equality became a standalone principle in the 2017 Recommendation, separate from work-life balance³⁵. In comparison to the EPSR initial outline, there is a stronger affirmation that women and men **have the right to equal pay for work of equal value**. By contrast, the reference to ‘addressing barriers to women’s participation and preventing occupational segregation’ in the initial outline has been dropped.

3.1.3 Equal opportunities

The principle of equal opportunities has been considerably strengthened in the Recommendation. First of all, **everyone** (and not only ‘under-represented groups’) has **the right** to equal treatment and opportunities regarding employment, **social protection, education, and access to goods and services** (and not only with regard to the labour market) available to the public. This right now applies **regardless of gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation** (which were mentioned in the introduction to this principle in the EPSR initial outline, but not in the principle itself). The reference to enhancing equal treatment by ‘raising awareness and addressing discrimination’ has been dropped.

3.1.4 Active support to employment

Entitlements to active support to employment for different categories of people have been relabelled as ‘**rights**’ in the Recommendation. **Everyone** (and not only ‘working age persons’) has the right to timely and tailor-made assistance to improve employment

33. Thus, ‘training’ was added to the first principle on education and life-long learning; ‘well-adapted work environment and data protection’ was added to the Principle on health and safety; ‘support to children’ was added to ‘childcare’; ‘old age income was added to pensions’; ‘assistance for the homeless was added to housing’.

34. Indeed, ‘sickness benefits’ was dropped from the Principle on healthcare.

35. Work-life balance has been moved to Chapter 2 in the EPSR Recommendation.

or self-employment prospects. The reference in the initial outline to the identification of a ‘single point of contact’ has been dropped.

3.2 Fair working conditions

As regards the second chapter of the Pillar, the following changes (in bold) stand out when comparing the two text versions.

3.2.1 Secure and adaptable employment

The wording of this principle has been considerably enhanced in the 2017 Recommendation: in the new formulation, workers **have the right to fair and equal** treatment, regardless of the **type and duration** of the employment relationship, while secure employment now also includes **access to social protection and training**. Abuse of atypical contracts shall be **prohibited** (and not simply ‘prevented’). A new section stipulates that **innovative forms of work** shall be fostered and that **entrepreneurship, self-employment and occupational mobility** will be encouraged. The ambiguous notion of fostering ‘transition towards open-ended forms of employment’ – during the consultation the Polish government, amongst others, underlined that it was unclear what contracts it referred to – has been maintained.

3.2.2 Wages

Importantly, the need to set wages in a transparent and predictable way has been enlarged to **all wages** (not only the ‘minimum wage’). There is also a stronger reference to **preventing** in-work poverty, while **adequate** minimum wages should provide for the **satisfaction of the needs of the worker and his/her family in the light of national economic and social conditions**. The notion of safeguarding ‘the motivation’ to seek work was replaced by **incentives** to do so. It should be pointed out that the highly contested reference in the EPSR preliminary outline to the evolution of wages ‘in line with productivity developments’ has been dropped in the 2017 Recommendation.

3.2.3 Information about employment conditions and protection in case of dismissals

The contents of this principle remained largely unchanged but, again, the entitlements have been reworded (when compared to the initial outline) as the **right** of workers to be informed in writing at the start of employment about their rights and obligations.

3.2.4 Social dialogue and involvement of workers

The Recommendation extends the right of social partners to be consulted on **economic** policies, (in addition to employment and social policies), but now nuances that this should happen **according to national practices**. The principle adds a reference to the implementation **at the level of the Union and its Member States** of the agreements concluded between the social partners. An important addition in the 2017 Recommendation is that **‘support for increased capacity of social partners to promote social dialogue shall be encouraged’**. The explicit reference to information and consultation of workers working digitally and/or operating across borders in the EPSR preliminary outline has been dropped.

3.2.5 Work-life balance

As mentioned above, work-life balance became a principle per se in the Recommendation, separate from gender equality. Access to suitable leave, flexible working arrangements and access to care services is now framed as a **right** for parents and people with caring responsibilities. In the Recommendation, women and men **shall have equal access** to special leave of absence (the EPSR preliminary outline merely refers to ‘encouraging equal use’). The specific reference to ‘measures such as the provision of remunerated leave for parents’ (to encourage the equal use of leave arrangements between sexes) found in the EPSR preliminary outline has been dropped.

3.2.6 Healthy, safe and well-adapted work environment and data protection

This principle has been significantly broadened to include: (a) the right of a working environment **adapted** to workers’ professional needs and which enables them to **prolong their participation** in the labour market; and (b) the right for workers to have their **data protected** in the employment context. While the preliminary outline referred to an ‘adequate’ level of protection, the Recommendation now refers to a **high** level of protection of their health and safety at work. By contrast, the reference in the EPSR preliminary outline to ‘support for implementation, notable in micro and small enterprises’ has been dropped.

3.3 Social protection and inclusion

The following changes (in bold) stand out in Chapter III, when comparing the 2016 EPSR proposal and the 2017 Recommendation.

3.3.1 Childcare and support to children

Childcare has been moved to the top of the list of principles of Chapter III, its scope has been broadened to include ‘**support to children**’, and childcare services have been expanded to **early childhood education and care**, while entitlements have been reframed as ‘**rights**’. By contrast, the reference in the EPSR preliminary outline to provision by ‘adequately qualified professionals’ has been dropped. While the initial outline proposed specific measures ‘to encourage attendance’ of children with disadvantaged backgrounds, these measures are now supposed to ‘**enhance equal opportunities**’ among such children.

3.3.2 Social protection

Perhaps the most significant change in the 2017 Recommendation is that a new principle on the **right to adequate social protection** for workers (**regardless of the type and duration of their employment relationship**) has been added. The principle explicitly refers to the right of adequate social protection for the **self-employed**.

3.3.3 Unemployment benefits

While the initial outline of the Pillar emphasised the requirement for the unemployed to actively search for a job, the 2017 Recommendation begins by clearly affirming the **right to adequate activation support from public employment services**.

Unemployment benefits should still be ‘of reasonable duration’, while **not constituting a disincentive** for a quick return to employment.

3.3.4 Minimum income

The entitlement to a minimum income has been reframed as a **right** in the 2017 Recommendation: the purpose is no longer to ensure a decent standard of living, but rather to enjoy a **life in dignity at all stages of life and effective access to enabling goods and services**, i.e. a more ambitious wording than existing EU commitments. What gives rise to concern among some stakeholders is that the accompanying Staff Working Document explains that minimum income beneficiaries should ‘be available for work or participate in community activities’ (European Commission 2017f: 56). One can indeed wonder whether this would also encompass (unpaid) ‘community services’. As regards the requirements for the labour market integration of minimum income beneficiaries, this is now directed (more restrictively) at **those who can work**, and no longer (more generally) at ‘those of working age’ (in the preliminary outline).

3.3.5 Old age income and pensions

The principle on pensions has been enlarged to take into account the broader issue of **old age income**. Entitlements to pensions have been reframed as a **right** applying equally to both **workers and the self-employed, and to women and men**. An adequate pension is now aimed at ensuring a **life in dignity** (rather than a decent standard of living). By contrast, the explicit reference in the EPSR preliminary outline to addressing the gender pension gap, including ‘by adequately crediting care periods’, has been dropped. Interestingly, in the 2017 Pillar Recommendation, the highly contested reference to the ‘sustainability and future adequacy’ of the pension system (e.g. by ensuring a broad contribution base and linking statutory retirement age to life expectancy and avoiding early exit from the labour market) has disappeared. This arguably happened as a result of culminated Member State (incl. Ireland and Poland), trade union (ETUC, the European Federation of Food, Agriculture and Tourism Trade Unions, EFFAT) and NGOs’ (e.g. the Social Platform and the European Social Insurance Platform) fierce opposition to the recurrent ‘EU ideology’ of linking the statutory retirement age to life expectancy.

3.3.6 Healthcare

The principle on healthcare has been shortened and simplified when compared to the Initial outline: everyone **has the right** to timely access to **affordable**, preventive and curative healthcare of good quality. Interestingly, references to ‘cost-effectiveness’ and the financial sustainability of healthcare have been dropped, as has the reference to the fact that ‘the need for healthcare shall not lead to poverty or financial strain’. Importantly, the principle from the EPSR preliminary outline that all workers (including the self-employed), regardless of contract type, are ensured adequately paid sick leave during periods of illness, was completely dropped from the 2017 Recommendation. During the public consultation, employer associations³⁶ as well as the Dutch, Irish and Polish Governments and the Committee of the Regions had emphasised the need to

36. BusinessEurope ‘argued that sickness benefits coverage across all contract types can create undue burdens on employers to finance sick leave’, European Commission (2017g).

take account of various national systems and not impose an EU-wide one-size-fits-all solution for the principle on healthcare and sickness benefits (European Commission, 2017g). Also, the reference to ‘affordable’ access to services and healthcare met with Member State resistance and was dropped.

3.3.7 Inclusion of people with disabilities

The entitlements for people with disabilities have been reformulated as a **right to income support** (and not merely ‘basic income security’) which allows **living in dignity** (and not merely a decent standard of living, as was formulated in the initial outline). The reference to ‘**a work environment adapted to their needs**’ has been added while the reference to ‘conditions of benefit receipt shall not create barriers to employment’ has been dropped.

3.3.8 Long-term care

In the principle on long-term care – everyone has the right to affordable long-term care services of good quality – a reference to **community-based services** has been added. By contrast, the reference to the financial sustainability of care was omitted, as was the provision that care should be provided by ‘adequately qualified professionals’.

3.3.9 Housing

The principle that access to social housing or housing assistance of good quality should be provided for those in need remained largely unchanged. However, protection against forced eviction is now formulated as a **right**. References in the preliminary outline to support for low and medium income households to access home ownership have been dropped.

3.3.10 Access to essential services

Access to essential services of good quality has been reformulated as a **right**. Importantly, **water and sanitation** have been added to the list of essential services to be guaranteed. Note however that the reference to ‘affordable’ access has been dropped from the Recommendation.

3.4 Chasing two rabbits: strengthening rights and reducing prescriptions

Against this backdrop, the question is: *how significant are the changes between the two versions of the Pillar? And to what extent have the remarks made by key stakeholders been taken into account in the Commission Recommendation?*

To start with, the *scope* of the Pillar Recommendation is limited to Eurozone countries, with the possibility for other Member States to adhere on a voluntary basis. However, as highlighted above, the first initiatives adopted by the European Commission in the framework of the Pillar in fact concern the EU 27. The *governance arrangements* for implementing the EPSR have not been addressed in the Recommendation in a satisfactory way: a clear implementation roadmap is missing, as are arrangements to involve the social partners and, for some matters, social NGOs.

And yet the paragraphs above make it clear to the reader that there are indeed significant differences between the 2016 and 2017 versions of the proposed EPSR. Perhaps the most striking difference is that most of the general principles in the preliminary EPSR have been relabelled as ‘rights’ in the 2017 Recommendation³⁷, thus introducing a rights-based language. The coming months will show whether this has been a ‘discursive turn’ only or whether it marks a real change in the EU’s approach to social policy. While several stakeholders raised their fears during the consultation that the Pillar would remain a simple *declaration of principles*, it should be noted that a number of concrete initiatives have already been taken by the European Commission (*inter alia* as part of the Pillar Package). The success of these initiatives and their consistency with the principles stated in the Pillar will need to be assessed carefully.

When comparing the 2016 initial outline and the 2017 Recommendation, it is also evident that some principles have been considerably strengthened in terms of their scope and ambition, including the new reference to ‘living in dignity’ (in the case of minimum income, pensions and invalidity) and the need to support the capacity of social partners to promote social dialogue³⁸. It should be noted however that, for now, some of the key players involved in the implementation of the Pillar (including the social partners) have very diverging opinions as regards the next steps to be taken.

Significantly, some more prescriptive principles have been dropped from the 2017 Recommendation: this is true for the principle that all workers be ensured adequately paid sick leave during periods of illness; and for the stipulations in the initial outline that both childcare and long-term care should be provided by ‘adequately qualified professionals’. As explained above, references to ‘cost-effectiveness’ and the financial sustainability of healthcare and the sustainability and future adequacy of the pension system have equally been dropped from the EPSR Recommendation. Some of the more ‘prescriptive’ stipulations of the initial outline have also been omitted: addressing barriers to women’s participation and preventing occupational segregation; the reference to single points of contact; the provision of remunerated leave for parents; crediting care periods to reduce the gender pension gap³⁹.

Also, principles addressing specific groups did not make it into the 2017 Recommendation: low-skilled young people and working age adults⁴⁰; and low and medium income households in the principle on housing. At least in terms of discourse, the April 2017 Pillar package is underpinned in a more balanced way with both social and economic arguments. Maintaining the notion of ‘transition towards open-ended forms

37. This is amongst others the case for the right to minimum income, pensions and healthcare, to community-based services (long-term care), to income support, to protection against forced eviction; effective access to enabling goods and services; the right to adequate activation support and to adequate social protection; the right to child care, equal pay, active support to employment, fair and equal treatment; the right to support to children, early childhood education and care, to education, access to goods and services and data protection.

38. Other examples include quality ‘and inclusive’ education; participate ‘fully’ (versus actively) in society; water and sanitation as new essential services; a work environment adapted to people’s needs (invalidity); and equal opportunities now include social protection; a ‘high’ level of protection of health and safety at work.

39. EuroCommerce made it very clear that this issue remains ‘the sole responsibility of Member States, and we see no role for EU action in this area’.

40. BusinessEurope considered that even if it is necessary to look at low-skilled young people and working age adults, ‘the focus should not be so narrow’.

of employment' in the Recommendation seems to suit the trade union agenda, as does dropping the stipulation that wages should evolve 'in line with productivity developments' (only present in the initial outline). And yet, the business world also has its share of amendments: innovative forms of work shall be fostered and entrepreneurship, self-employment and occupational mobility will be encouraged. More generally, the 2017 Recommendation puts a lot of emphasis on the rights of the self-employed.

In sum, it would seem that the 2016 consultation process has been taken seriously by the European Commission and that a number of proposals advanced by stakeholders have been taken on board in the 2017 Recommendation. The Commission seems to be chasing two rabbits: on the one hand strengthening the emphasis on 'rights', while cutting the 'red tape' on more detailed prescriptions. The fact that some important policy areas were missing in the initial outline – such as the rights of refugees and asylum seekers, a specific principle on young people, a section on financing social policy and the link between social and environmental rights – has not been corrected in the Recommendation, despite stakeholders' efforts to raise them to the Commission's attention.

Conclusion: the Social Pillar as a new start for (social) Europe?

The public debate in 2016 on the preliminary outline of the European Pillar of Social Rights was very large and lively, with a series of (often critical) issues emerging. First, there are the risks of *raising excessive expectations* and *enshrining in the Pillar a narrow understanding* of the concept of social rights. Second, several observers have stressed the limitations of a draft Pillar where social objectives seem to be *subordinated to economic and fiscal goals*. Third, concerns have been raised that the *formulation of the rights at stake is rather vague* and that, in some cases, existing rights have simply been rephrased. Furthermore, some doubts are due to the absence of links with other policy frameworks (e.g. the SIP). Fourth, there is the issue of the *legal status and of the (lack) of EU competences*, which could limit the possibilities for effectively implementing the EPSR. In other words, there is a risk that the Pillar may end up being a 'paper tiger', little more than a simple declaration of principles. Fifth, not all players agree on the need to limit the Pillar to the Eurozone countries, which entails *the risk of a 'two-speed Europe'*. Finally, there are *divergent views on the Pillar from the social partners*, key players in any implementation.

The EPSR should not be a simple declaration of principles, but rather an enforceable instrument implemented through legislative and non-legislative initiatives. Given the current social and political situation, a clear sense of urgency exists: the EPSR is arguably the last chance for the EU to show its 'caring face' (Vandenbroucke with Vanhercke 2014) to citizens. A weak Pillar, or a Pillar subordinated to economic and fiscal goals and unable to address social shortcomings and rising inequality would indeed be counterproductive, in that it would (a) further increase the sense of disaffection and disillusion felt towards the European project by many citizens, especially the most vulnerable, and (b) provide an additional argument at national level to reduce social rights and to justify the retrenchment of social protection schemes. This would foster negative processes encouraged by Euro-sceptical political movements, possibly leading

to the disintegration of the EU and, eventually, to political instability and risks for the very survival of the European project.

As shown above, the 2017 Recommendation on the Pillar has taken up some of the substantive considerations and criticisms emerging from the consultation. Nevertheless, issues related to the Pillar's governance and implementation, such as its links to the European Semester and the Social Investment Package, have not been adequately addressed. However, looking at the initiatives tabled at the same time as the Recommendation, the Pillar seems to have already promoted renewed Commission dynamism in the social domain. Meeting at the Gothenburg Social Summit for Fair Jobs and Growth on 17 November 2017, Heads of State and Government, social partners, and national and EU policymakers should seize the opportunity to put social considerations at the heart of EU and national policymaking by unanimously endorsing the European Pillar of Social Rights.

In our opinion, the Pillar constitutes a milestone in EU social policy, a development with implications going beyond social policy. While the objectives of EU social policies – as well as the values on which they rely – have already been stated in the Treaties, the preliminary outline of the Pillar transforms these objectives and values into ‘principles’. The 2017 Recommendation of the Pillar goes a step further by explicitly labelling these principles as ‘rights’ for European citizens. This is however not sufficient. Indeed, in order to make the Pillar effective, an essential further step is needed: turning the rights stated on paper into effective and enforceable rights, guiding action at both EU and Member State level and ensuring that every European citizen has access to them. At any price, we need to avoid the proverb ‘Parturient montes, nascetur ridiculus mus’ coming true (Horace, 1st century AD)⁴¹.

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