

MANIFESTO

LABOUR AND SOCIAL LAWYERS FROM ACROSS EUROPE

CALL ON THE EUROPEAN UNION

TO RESPECT AND PROMOTE FUNDAMENTAL SOCIAL RIGHTS

IN PARTICULAR IN RESPECT OF ALL CRISIS-RELATED MEASURES

- 1) The economic and financial crisis and its anti-social consequences must be viewed in a broader context. Historically and universally, the lessons learned from the experiences of two world wars led the International Labour Organisation to adopt, in 1944, the Declaration of Philadelphia which explicitly stated that
 - labour is not a commodity;
 - freedom of expression and of association are essential to sustained progress;
 - poverty anywhere constitutes a danger to prosperity everywhere.
- 2) At the European level, since World War II, the terms of this declaration have formed an essential foundation of European labour and social law and, at the same time, the implicit – and frequently explicit – starting point for construction of the EU's fragile European Social Model.
- 3) In his address to the European Parliament on 14 September 2011, ILO Director-General Juan Somavia stated: *'Respect for fundamental principles and rights at work is non-negotiable: not even in times of crisis when questions of fairness abound. This is particularly important in countries having to adopt austerity measures. We cannot use the crisis as an excuse to disregard internationally agreed labour standards.'*
- 4) At the G20 meeting of Labour and Employment Ministers on 26–27 September 2011 in Paris, 'promoting the effective application of social and labour rights and ensuring respect for fundamental principles and rights at work' constituted one of the key recommendations¹ and was endorsed in the Declaration of the G20 Heads of State adopted at the Summit in Cannes on 3–4 November 2011² (G20 2011b).
- 5) At the G20 meeting held in Guadalajara, Mexico, on 17-18 May 2012, Labour and Employment Ministers stated in their conclusions *'we believe that economic growth should be based on quality employment, that is, jobs in the formal sector, with social security, dignified income and full protection of labour rights'*. The Ministers reaffirmed *'the importance of policy coherence between growth and*

¹ http://www.ilo.org/global/about-the-ilo/how-the-ilo-works/multilateral-system/g20/WCMS_164260/lang--fr/index.htm

² <http://www.g20-g8.com/g8-g20/g20/english/for-the-press/news-releases/cannes-summit-final-declaration.1557.html>

*employment, and between macroeconomic and employment policies at the national and international levels.*³

- 6) Evidence shows, however, that, since the end of 2008, the start of the economic crisis,
- European and national public authorities and national legislators have taken a range of measures to boost the flexibility of businesses, including amendments to national labour law,
 - in some cases, general labour law reforms had been initiated, prior to the economic crisis, with the professed aim of ‘modernising’ labour law,
 - in some countries, a change of government led to the acceleration of drastic changes in labour law, even bypassing participatory consultations with, among others, the social partners, in particular the trade unions,
 - in other instances, the structural reforms have been required or indeed forced upon member states by the ‘troika’ composed of the International Monetary Fund (IMF) and the two EU institutions, i.e. the European Commission and the European Central Bank (ECB).
- These measures, far from solving the economic and financial crisis, have deepened it, and are now threatening the viability not just of social Europe but of the wider project of European economic and political integration.
- 7) Labour and social lawyers from across Europe who are signatories to this statement express their grave concern about the measures taken and their consequences in respect of recent – and inter-related – legal, economic, and political developments in the EU:
- The current financial and economic crisis is putting workers and workers’ rights in many countries under severe pressure;
 - Not only are collective bargaining practices being undermined; a systematic attack on collective bargaining has also been launched, entailing the demolition of institutions, mechanisms and basic principles of collective bargaining (for instance, by the introduction of prohibitions on sectoral bargaining, possibilities for downwards deviation from collectively agreed minimum standards in individual employment contracts, etc);
 - The troika imposes on specific member states a large and sometimes dramatic deregulation of their labour markets and social protection systems, leading to a weakening of trade unions, increasingly precarious employment relationships, insecurity and high unemployment, increased poverty and social unrest;
 - Such drastic austerity measures in the field of labour lead to a rejection of Europe and European values, as well as to the development of xenophobia, in particular against minorities, and endanger peace in Europe.
- 8) The labour and social lawyers who are the signatories of this statement therefore urge the European Union and its institutions to respect and promote:

³ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/131076.pdf

- the values enshrined in the Lisbon Treaty ‘respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights’ (Article 2 TEU),
 - its obligation to ‘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’ (Article 3 para. 3 TEU),
 - the fundamental social rights guaranteed in the legally binding EU Charter of Fundamental Rights (Article 51 para. 1 CFREU), in particular the right of collective bargaining and action to be interpreted in line with the respective ILO Conventions ratified by all EU Members States (Article 53 CFREU), protection in the event of unjustified dismissal and social security and social assistance.
- 9) The signatories urge heads of state and government, in particular in their capacity as members of an EU institution, the ‘European Council’, to guarantee, in a clear and unambiguous manner, the legally binding framework and, especially, the promotion of the fundamental social rights of workers and their representatives.
- 10) In particular, the fundamental social rights of workers and their representatives should be subordinated neither to internal market freedoms and competition law nor to austerity measures whether these be based on fiscal policy or on financial aid; these fundamental social rights should, on the contrary, be fully recognised as necessary pre-conditions for the sound and sustainable economic and social development and progress of the European Union and its Member States. High labour law and social standards have a crucial role to play in rebalancing economies, supporting incomes, and encouraging investment in capacities.
- 11) The present European Commission, together with the Troika, is currently failing to respect the basic elements of the European Social Model and the spirit of the Philadelphia declaration. Accordingly, the social model is suffering – in virtual silence – its complete deconstruction, and ultimately, perhaps, its destruction. If the European social model fails, how can the European project as a whole succeed?
- 12) The signatories of this statement oppose both this attitude and the measures to which it has led. We urge the EU and its institutions to resume full compliance with their legal obligations and political objectives and take responsibility for a sustainable Social Europe

January 2013