

Bridging the gaps or falling short?
The European Pillar of Social
Rights and what it can bring to
EU-level policymaking

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Bridging the gaps or falling short? The European Pillar of Social Rights and what it can bring to EU-level policymaking

by Zane Rasnača

The ETUI has launched a new publication, **‘Bridging the gaps or falling short? The European Pillar of Social Rights and what it can bring to EU-level policymaking’**.

This working paper examines the European Pillar of Social Rights (EPSR), an initiative of the European Commission that is currently being endorsed by the other EU institutions. It has been called ‘the last chance for social Europe’.

While in the past there have been numerous initiatives that have had the potential to bring about major change in the social policy area (for example, the youth guarantee, social investment, etc.), they have all fallen short and ended up having a rather limited impact. The EPSR, at least as it has been advertised by the European Commission, represents an attempt to break this cycle with its broad reach and ambitious scope.

Nevertheless, the usual doubts remain. This working paper explores whether the EPSR will effectively change anything in the making of EU social policy or whether it is merely another soft law initiative that will fall short.

More specifically, it assesses the EPSR’s potential impact on the policy-making process at the EU level. I argue that, while so far there has been very little detectable impact, the EPSR does offer some hope that certain things could change, especially after the adoption of the proclamation in November 2017. However, any change will depend on how well and actively the EPSR will be picked up and instrumentalised by the EU institutions and other stakeholders. For now, a big part of the EPSR’s potential remains untapped.



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Key findings

- The EPSR does not provide a fully-fledged response to the social problems plaguing Europe; however, it does have the potential to bridge some gaps in EU-level social protection and in this regard, could be seen as a positive development.
- At the same time, any future impact will depend on the actions of the relevant stakeholders (both at the EU and the national level), which include the EU institutions, the Member States and the social partners. If they make use of this instrument and it is adequately mainstreamed in EU and national policymaking, it will have an impact.

The EPSR could potentially have an impact at various levels of EU law:

- At the level of primary law, it could, at the very least, be seen as an instrument complementary to the EU Charter of Fundamental Rights.
- At the level of secondary law, it could trigger new initiatives and serve as a ‘social reference point’ for the content of EU legislative measures.
- Finally, its standards could be mainstreamed and strengthen the social dimension of the European Semester.
- Some questions, however, remain unanswered. It is not yet clear what impact the EPSR will have on institutional discretion (e.g. on the REFIT process), nor beyond the area of EU social policy and labour law.
- For now, the EPSR’s potential remains untapped and in some aspects obscure. While this working paper sketches out some possible pathways that could lead to real change, it is up to the relevant stakeholders to follow them.

Policy Implications

- The EPSR should be used as a reference point and source of inspiration for new policy initiatives in the area of social policy (both legislative and non-legislative). A set of action programmes (authored by, for example, the European Commission) following up on how exactly the Pillar’s principles will be enforced at EU and national level would be a welcome development.
- The EPSR and the rights and principles embedded therein could be used as a shield against unwelcome developments in such areas of EU law as the internal market, the Economic and Monetary Union, competition law and others. Since the EPSR contains a number of rather clear rights (e.g. to a ‘fair wage’) it could play a role in limiting unwelcome developments in these other areas of EU law that would potentially endanger the enforcement and observance of the Pillar’s rights.



- The EPSR could also be used as a soft law instrument in litigation before the national and EU courts. Due to the inter-institutional commitment underlying the proclamation, it can, if necessary, be invoked against the EU institutions that have proclaimed it. In the case of other similar instruments, the Court of Justice of the European Union (CJEU) has, in such a context, previously ruled that third parties can rely on the EU institutions (e.g. the Commission) to abide by the rights set out in a document expressing institutional commitment. Before the courts the EPSR could also be used as an auxiliary source and aid in the process of interpreting EU law.
- In the governance processes (e.g. the European Semester) the EPSR could also be used both as a constraint on potentially deregulatory policy initiatives and as a source of inspiration for developing common standards geared towards upwards convergence across the EU or eurozone.

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