

Chapter 4

The European social dialogue

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Introduction

The origins of autonomous and bipartite European social dialogue can be traced back some 30 years. This period has been marked by distinct stages of development, ups and downs, successes and failures. This article does not purport to cover all the ins and outs or provide a comprehensive evaluation of the social dialogue process. It does, however, give a presentation of its general framework and review the most significant recent developments in the field.

At a time when the relaunch of social dialogue is being promoted and the social partners, either jointly or separately, are trying to evaluate its content and tools, there appears to be a fundamental need to define, or perhaps redefine, the concept of European social dialogue, as well as to ask some questions about its future prospects.

The first part of this article will present the general framework of social dialogue: its definition, stakeholders, evolution and main results. The second part will focus on recent developments in autonomous, bipartite social dialogue. The third and final part of the article will draw a number of conclusions and discuss the various perspectives for social dialogue. The outcomes of sectoral social dialogue will not be addressed in this article.

1. What is European social dialogue?

1.1 Definition and stakeholders

Enshrined in the Treaty on the Functioning of the European Union (TFEU), **European social dialogue** is a component of the European social model. It encompasses discussions, negotiations and joint actions carried out by the European social partners.

European social dialogue has yielded many results, including the adoption of approximately 80 joint texts by the inter-sectoral social partners: this process supplements the national practices of social dialogue established in most Member States.

Social dialogue is now an official part of EU governance and enables the social partners to make a significant contribution to shaping European social standards.

There are three distinct forms of European-level action carried out by the social partners: tripartite concertation, consultation and social dialogue.

1.1.1 Tripartite concertation

Tripartite concertation refers to exchanges between the social partners and European public authorities, as defined in the Laeken Declaration by the social partners. The main arenas for this type of concertation are the Tripartite Social Summit (when the social partners have the opportunity to meet directly with the Presidents of the Council and of the European Commission), macroeconomic dialogue and the European employment strategy.

1.1.2 Consultation of the social partners

Consultation of the social partners covers the activities of the consultative committees and any official consultations organised pursuant to Article 153 TFEU. Article 154 of this Treaty stipulates that the social partners at EU level must be consulted on all issues relating to employment and social affairs set out in Article 153.

This procedure takes place in two mandatory phases: first, the Commission consults the social partners on the possible direction of Union action and, second, it consults them on the content of that action. If, following both of these phases, the partners are unable to reach agreement on the opening of bipartite negotiations, and if the Commission is still of the opinion that the envisaged action is advisable, it may begin preparations for it.

Consultation under Article 154 is restricted to representative organisations of the social partners (see point 1.4 Stakeholders). These consultations of EU social partners can lead to negotiations and potentially to agreements, which can become EU legislation. Unfortunately, the recent consultations launched on the European Pillar of Social Rights, especially on work-life balance – which will be addressed later – did not result in engaging in negotiations because of the refusal of the employers.

1.1.3 European social dialogue

European social dialogue refers to the bipartite work of the social partners which may stem from the official consultations organised by the Commission on the basis of Articles 153 and 154 TFEU. Bipartite social dialogue takes place at inter-sectoral level between the European Trade Union Confederation and employers' organisations (see point 1.4 Stakeholders), and at sectoral level between the European trade union federations and their counterparts among the employers' organisations.

1.1.4 Stakeholders

At EU level, employees are represented by the **European Trade Union Confederation (ETUC)**. European employers are represented by three organisations: **BusinessEurope**, the former Union of Industrial and Employers' Confederations of

Europe (UNICE), established in 1958, and the **European Centre of Employers and Enterprises providing Public Services (CEEP)**, set up in 1961; further to a cooperation agreement signed in 1998, **the European Union of Craft Industries and Small and Medium-Sized Enterprises (UEAPME)** also participates in social dialogue. UEAPME recently change its name and became **SMEunited**.

1.1.5 European Trade Union Confederation (ETUC)

The ETUC represents employees at European inter-sectoral level. Established in 1973, the ETUC currently brings together 90 member organisations from 38 European countries (including all the EU Member States) and 10 European trade union federations, and thus has over 45 million members (according to its own data). In matters pertaining to European social dialogue, the ETUC Executive Committee can take decisions by a majority of two thirds of its members. The 10 federations cover most of the European sectoral trade unions.

1.1.6 Confederation of European Enterprises (BusinessEurope, formerly UNICE)

BusinessEurope was set up in 1958 and is the biggest organisation representing European employers in terms of economic coverage. It includes 39 employers' organisations from 34 European countries (including 17 EU Member States) and serves as an interface between economic and industrial interests and the European institutions. According to its own data, it represents 20 million businesses in Europe. Its decision-making body, which is also competent for social dialogue and acts unanimously, is the Council of Presidents.

1.1.7 European Centre of Employers and Enterprises providing Public Services and Services of General Interest (CEEP)

CEEP, established in 1961, is an employers' association of businesses and organisations providing services of general interest, businesses operating in networks (for instance local transport, postal services, energy, water, ports) and local authorities. CEEP has a national section in every country which is in permanent contact with member businesses. Decisions are taken by the General Assembly, a sovereign body which exercises all the competences attributed to CEEP.

1.1.8 SMEunited (formerly UEAPME)

Established in 1979, UEAPME is an organisation of employers representing the interests of European crafts industries and small and medium-sized enterprises (SMEs) at European level. It has 67 member organisations (from the 34 EU Member States), which are either national inter-sectoral federations, European sectoral federations or other associate members supporting SMEs. According to its own data, UEAPME represents 12 million businesses employing 55 million people across Europe. In December 1998, UEAPME signed a cooperation agreement with BusinessEurope, enabling it to take part in European social dialogue.

The two management organisations (Eurocadres and the European Managers' Confederation – CEC) signed a cooperation agreement in 2000 establishing a liaison committee through which they participate in European social dialogue. Their representatives participate in the dialogue as part of the ETUC delegation.

1.2 Evolution of social dialogue – 30 years after its foundations were laid at European level, social dialogue delivers tangible results

Consultations between the social partners began in the mid-1960s in the consultative committees, the Standing Committee on Employment and tripartite conferences on economic and social matters. However, European-level social dialogue evolved into a genuine European arena for negotiation in 1985, with the launch of bipartite social dialogue promoted by Jacques Delors, the then President of the European Commission. There have been **three key stages** in the development of social dialogue.

1.2.1 1985-1991

During this initial period, bipartite activities led to the adoption of resolutions, statements and joint opinions which had no legally binding force.

1.2.2 1992-1999

The second phase opened with the signing, on 31 October 1991, of an agreement between the social partners which was subsequently integrated into the Protocol on Social Policy annexed to the Treaty of Maastricht in 1991. Under this Treaty, the agreements negotiated by the European social partners could, at the partners' request, be given legally binding force by means of a Council decision. In 1997, the 1991 agreement was integrated into the **Treaty of Amsterdam** (Articles 154 and 155 of the TFEU). European social dialogue thus led to the implementation, by means of Council directives, of three framework agreements (on **parental leave** in **1996**, revised in 2009; on **part-time work** in **1997**; and on **fixed-term work** in **1999**).

1.2.3 1999-2017

The third stage began in December 2001, when the European social partners submitted a 'joint contribution' to the **Laeken European Council**. In accordance with the 1991 agreement (Article 155 TFEU), this last phase has seen an upswing in the degree of independence and autonomy of social dialogue, reflected in the drawing up of work programmes.

1.3 The Laeken Declaration and the autonomy of the social partners

During the period running from 1999 to 2011, the inter-sectoral social partners made a joint contribution to defining the role of European social dialogue in preparation for

the **Laeken European Council** in December 2001. This joint declaration comprised four major sections on:

- the specific role of the social partners in European governance;
- the distinction between bipartite social dialogue and tripartite concertation, with a view to enlargement;
- the need to improve the structuring of tripartite concertation around the different aspects of the Lisbon Strategy (in particular, replacing the Standing Committee on Employment with a tripartite concertation committee for growth and employment, later the Tripartite Social Summit);
- their wish to develop a work programme for more autonomous social dialogue.

The social partners stated in the Laeken Declaration that they wished to diversify their working practices, drawing on open consultation and encompassing opinions, recommendations, statements, exchanges of experience, awareness-raising campaigns, open debates, etc.

Over the years, there has been increased recognition of the role of European social dialogue by the European institutions, especially as a factor in the economic and social modernisation dimension of the Lisbon Strategy and as part of democratic governance as defined by the European Commission. In 2002 at the Spring European Council in Barcelona, the Heads of State or Government emphasised ‘the need to strengthen the role of the social partners in modernising the organisation of work, improving its quality, vocational training and access to and durability of employment. The social partners share responsibility for finding a balance between flexibility and security in employment and making it possible for enterprises to be adaptable. They must above all play the principal role in anticipating and managing change and achieving the balance which will safeguard the way enterprises operate as well as the interests of workers.’¹

This recognition — which did not, however, extend to asking the social partners to take part in shaping the policy guidelines for the Lisbon objectives — was coupled in 2003 with the establishment of an annual **tripartite social summit**, whose ‘task [...] shall be to ensure [...] that there is a continuous concertation between the Council, the Commission and the social partners. It will enable the social partners at European level to contribute, in the context of their social dialogue, to the various components of the integrated economic and social strategy, including the sustainable development dimension [...]’²

This recognition was also accompanied by the determination to assert the social partners’ autonomy from the European institutions, particularly the Commission. This was reflected in particular in the adoption of the **work programmes of the social partners**. In these programmes, the social partners themselves set their priorities and negotiation agenda and decide on the appropriate instruments.

1. http://europa.eu/rapid/press-release_DOC-02-8_en.htm

2. Council Decision of 6 March 2003 establishing a Tripartite Social Summit for Growth and Employment (OJ L 70, 14.3.2003).

Forums for inter-sectoral social dialogue

Social Dialogue Committee

The Social Dialogue Committee (SDC) was set up in 1992 and is the main body for bipartite social dialogue at European level. It meets three to four times a year, and these meetings are an opportunity for employers and trade unions to exchange views on various subjects, to adopt texts negotiated between the two sides and to plan work relating to European social dialogue. The SDC is made up of members drawn from the secretariats of the European social partners and the national organisations of social partners. A total of 43 committees for sectoral social dialogue have been established in addition to this committee.

Working groups and seminars

The SDC can set up technical working groups, as it has done for macroeconomic issues, the labour market, equal opportunities for men and women and vocational training. Seminars are organised by the social partners with the support of the European Commission in order to explore certain issues in greater depth. Topical issues include work on apprenticeships, the European Social Fund or employee training.

Negotiation meetings

If the social partners decide to enter into negotiations on a particular subject, each side prepares mandates for negotiation, which must be approved by their respective decisionmaking bodies, and appoints negotiation teams. The meetings are chaired by an independent mediator. The outcome of the negotiations is adopted by the SDC and subsequently approved by the signatories' decision-making bodies. The SDC usually monitors the implementation of the negotiated texts. Examples include the agreements on work-related stress or harassment and violence at work.

Social dialogue summits

High-level meetings chaired by the President of the Commission, these summits kick-start or periodically reinvigorate social dialogue. They take the form of plenary sessions attended by the representatives of the European social partners and member organisations at national level. A number of social dialogue summits have been held to date, the first taking place on 31 January 1985 in Val Duchesse to launch social dialogue, and the most recent on 29 November 2005 at the Palais d'Egmont to mark the 20th anniversary of European social dialogue and discuss its future.

Social partners' input into European decisions

On the basis of Article 155 TFEU, the social partners at EU level are consulted on all matters relating to employment and social affairs as part of the process of European social dialogue.

As stated above, this procedure takes place in two mandatory phases: firstly, the European Commission consults the social partners on the possible direction of Union action and then it consults them on the content of that action. If, following each of these phases, the partners are unable to reach agreement on the opening of bipartite negotiations, but the Commission is still of the opinion that the envisaged action is advisable, it may submit a proposal.

Since 1997, the Presidency of the Council of the EU has invited the social partners to meet the 'troika'³ immediately before European summits. Since the Nice Summit of 2000, it has been decided that these meetings should take place on a yearly basis, before the Spring European Council. The Council Decision of 6 March 2003 stipulates that the Tripartite Social Summit consists of representatives of the Council Presidency and the two subsequent Presidencies, the Commission and the social partners.

The establishment of the Tripartite Social Summit was an important political step, since it placed tripartite concertation at the highest level of the EU. Tripartite concertation covers macroeconomic dialogue, employment, social protection, education and training.

The Social Dialogue Summit of 29 September 2005 marked the 20th anniversary of European social dialogue. The social partners confirmed in a joint press release that they 'intend to continue contributing constructively to the EU integration process'. The press release went on to say that European social dialogue was the primary framework for negotiations between the social partners, but the Council and the Commission also needed to give a clear signal that they intended to steer Europe out of lethargy.

2. Results of European social dialogue

2.1 European framework agreements and frameworks of actions

At European level, social dialogue has undeniably made significant progress in a very short space of time. After taking up the gauntlet thrown down by President Delors in 1985, the European social partners have taken steps at both inter-sectoral and sectoral level to develop a European system of industrial relations which is not moulded on national systems but is geared to meet the challenges of European integration.

In 1995, the European inter-sectoral social partners brought their first European social dialogue negotiations to a successful conclusion, producing a framework agreement on parental leave, a revised version of which was negotiated and adopted in 2009. Since then, major developments have taken place in the field of European social dialogue in terms of its stakeholders, procedures and results. Undoubtedly one of the most significant developments is the transition from the negotiation of agreements transposed into EU directives to that of autonomous agreements implemented by the social partners themselves.

This development raises the question of the coverage of the agreements. Unlike directives, the coverage of autonomous agreements depends on the national system of industrial relations as well as on the level of representativeness of the social partners.

3. The term 'troika' refers to an alliance of three equal partners who join forces to exercise leadership. With regard to the European troika, a degree of continuity between three successive Presidencies of the Council of the EU held by the Member States was introduced in the 1970s.

For these reasons, the ETUC has always had a preference for the adoption of directives over autonomous agreements, despite the employers' continued refusal in recent years to engage in discussions.

There are currently **eight European framework agreements**:

- three agreements which have been transposed into European directives (1995: parental leave; 1997: part-time work; and 1999: fixed-term work) and form an integral part of the body of EU law; and
- five agreements which are to be implemented directly by the national social partners (2002: telework; 2004: work-related stress; 2007: harassment and violence at work; 2010: inclusive labour markets; and 2017: active ageing and an intergenerational approach).

A **framework of actions** constitutes another instrument for social dialogue, promoting the exchange of experiences at national or sectoral level; three such frameworks have been signed to date:

- 2002 Framework of Actions on the Lifelong Development of Competencies and Qualifications
- 2005 Framework of Actions on Gender Equality
- 2013 Framework of Actions on Youth Employment

2.2 Multiannual work programmes

To date, the European social partners have negotiated six multiannual work programmes.

As an integral part of European social dialogue, these joint work programmes identify a variety of diversified instruments and cover a balanced range of themes of common interest for workers and employers. Together they provide an autonomous bipartite roadmap for a three-year period.

The current work programme (for 2019-2021), adopted in February 2019, addresses six focused priorities: digitalisation, improving the performance of labour markets and social systems, skills, addressing psycho-social aspects and risks at work, capacity-building for a stronger social dialogue, and the circular economy.

This programme states that the social partners are particularly well-placed to accompany the process of transformation of the economy and to design balanced measures and solutions that contribute to economic and social progress. It also supports the objectives of the 2016 quadripartite statement on 'A New Start for Social Dialogue' to strengthen social dialogue at European and national levels; to foster the role and influence of national

social partners in the European semester;⁴ and to step up capacity building support to national social partners, notably through the European Social Fund.

2.3 Other EU social dialogue outcomes

Some 80 other joint reports, recommendations, statements, opinions and compilations of good practice have been published in connection with European social dialogue.

Social dialogue has reached maturity, and the time has come to opt for a more quality-oriented approach and to analyse its strengths and weaknesses at every level.

In the future, the European social partners will need to identify matters of common interest, bearing in mind that there are many potential instruments for social dialogue. Furthermore, in view of the complexity of the labour market and societal change, the European social partners must also be capable of showing greater initiative. They must be able and willing to hold internal discussions on strategic issues of common interest and to present their conclusions to the European institutions and public authorities at every level so that the institutions and authorities can put them into effect where necessary or appropriate.

The social partners' programme must necessarily be connected to the wider European agenda and its priorities.

In addition to identifying issues of common interest, the European social partners must also decide which instruments will enable them to tackle these issues to best effect at inter-sectoral and sectoral level.

It must be recognised that these other outcomes have become more varied and complex in recent years and that, as a result, the 'rights and obligations' of each instrument must be made clear in terms of implementation, follow-up and assessment.

3. Recent developments

3.1 Positive outcomes

3.1.1 Framework of Actions (FoA) on Youth Employment

Youth unemployment remains one of Europe's most pressing problems. The lack of job opportunities has affected young people more than any other group in society, especially in Eastern and Southern European countries. This is reflected in high and increasing youth unemployment rates and levels of precariousness. It is the reason why the European social partners decided to negotiate a framework of actions on youth employment in order to confront the urgency of the situation.

4. The European Semester provides a framework for the coordination of economic policies across the European Union. It allows EU countries to discuss their economic and budget plans and monitor progress at specific times throughout the year.

The framework of actions was adopted on 11 June 2013 by the four European social partner organisations BusinessEurope, CEEP, UEAPME and the ETUC (and the Liaison Committee Eurocadres/CEC), following seven-month-long negotiations. It identifies four priorities to foster youth employment and smoother transitions between education and work (Priority 1: Learning; Priority 2: Transition; Priority 3: Employment; and Priority 4: Entrepreneurship). At national level, the social partners were required to submit annual follow-up reports in 2014 (adopted), 2015 and 2016. In 2017, the European social partners evaluated the impact on both employers and workers. In addition, the FoA states that the social partners at European and national level must cooperate with EU institutions and/or national public authorities on the basis of the recommendations made.

Finally, for the first time, it was agreed in the joint FoA that, if no reporting had been done after four years, the European social partners would encourage their members in the countries concerned to keep them informed about their follow-up activities until actions were undertaken at national level.

The ETUC presented the FoA at a number of EU and national events (in Sweden and in Italy with national social partners' representatives, as well as in the European Parliament, at the EESC and during ETUI training seminars). A further innovation was the development of a toolkit designed to help implement measures at national level for the promotion and dissemination of the Framework of Actions on Youth Employment.

While the social partners recognised that further efforts are needed to help young people achieve better employment prospects and to support their sustainable integration in the labour markets, their final 2017 follow-up report does emphasise the positive evaluation of the joint actions and their impact. The report also reflects the various cross-cutting aspects identified in the previous annual follow-up reports which include, *inter alia*, skills and competencies, integration of vulnerable groups (drop-outs, NEETs), the regional dimension as a key factor and digitalisation.

3.1.2 Agreement on Active Ageing and an Intergenerational Approach (AAIA)

In response to the challenges deriving from demographic change, the European social partners – BusinessEurope, UEAPME, CEEP and the ETUC (and the Liaison Committee Eurocadres/CEC) – agreed in the context of their 2015-2017 Work Programme to negotiate an autonomous framework agreement on active ageing and an inter-generational approach.

This framework agreement constitutes the contribution of the social partners to the EU policies (including non-discrimination legislation) and actions which have already been developed to support active ageing and the intergenerational approach. This agreement therefore aims to build upon and enhance the existing measures and approaches that are in place in different contexts across Europe. It outlines tools/measures to be taken into account by the social partners and/or HR managers in the context of national demographic and labour market realities, and in accordance with national practices and procedures specific to management and labour. The framework agreement is based on

the principle that ensuring active ageing and the intergenerational approach requires a shared commitment on the part of employers, workers and their representatives.

The agreement covers the following key aspects: it establishes a general action-oriented framework with specific aims (increasing the social partners' awareness and understanding of the issue, providing practical approaches and/or measures to promote and manage active ageing; ensuring and maintaining a healthy, safe and productive working environment; fostering innovative life-cycle approaches; and facilitating exchanges, mutual cooperation and concrete actions to transfer knowledge and experience between generations at the workplace). It also identifies social partners' tools, including measures and actions for strategic assessments of workforce demography, health and safety at the workplace, skills and competence management, work organisation and the inter-generational approach.

For the first time in the case of such an agreement, it was established that, if no reporting had been done after four years, the European social partners would encourage their members in the countries concerned to keep them informed about their follow-up activities until actions were undertaken at national level.

This Agreement was certainly the key outcome of the previous work programme, not only because of the content of the Agreement itself which lays down specific guidelines for actions at national, sectoral and company levels, but also because of the tool itself. Indeed, it is of utmost importance for the ETUC that EU social dialogue produce binding outcomes with clear processes for their implementation. It is worth noting that no agreement was concluded between 2010 and 2017. This perspective clearly differs from the employers' point of view, given their strong preference for soft tools. Furthermore, the initiatives (projects, expertise, etc.) regarding the implementation process and the support provided to affiliates were frequently driven by the ETUC and were occasionally unilateral.

3.1.3 Subgroup on the implementation of EU social dialogue instruments

Capacity building social dialogue and maximising the impact of its instruments are another key priority of the previous and the current work programmes.

More than 10 years after the adoption of the first autonomous framework agreement, and in an EU which has enlarged to 28 Member States, implementation processes have highlighted a number of challenges that need to be overcome: coverage of the agreements, suitability of the tools selected, and lack of implementation. Following the initiative of the trade unions, European social partners have decided to develop their common understanding of the EU social dialogue instruments and how they can have a positive impact at the various levels of social dialogue in order to build, develop and reinforce it. They recognised that greater efforts are needed to ensure effective and efficient implementation of the commitments made during the negotiation process of autonomous agreements in all the Member States.

The European social partners also decided to create a subgroup (with a geographical balance) entrusted with the follow-up and implementation of autonomous social dialogue instruments. It met around 10 times in the context of the Social Dialogue Committee before reaching the end of its mandate (which was renewed in February 2019), and, during that time, its role was to report to the Social Dialogue Committee and propose supportive actions.

Furthermore, an experts' report was completed and presented at the joint Social Dialogue Conference on 'Promoting and reinforcing the EU social dialogue'. The report looked at the implementation of autonomous agreements in 10 Member States: Bulgaria, Croatia, Cyprus, Malta, Estonia, Greece, Hungary, Lithuania, Romania and Slovakia, and put forward recommendations to the national social partners for improvements to be undertaken in this area.

These capacity-building actions have improved the awareness and visibility of the implementation of the EU social partners' agreements, and, in some countries, have helped to launch or relaunch discussions to address the implementation of one or more agreements (Bulgaria, Estonia, Poland, etc.). Nevertheless, there is still a need to continue to promote the development of approaches aimed at achieving better implementation outcomes in the countries where more progress is needed.

According to the subgroup's experts' report, 'The situation, regarding the implementation of the four AFAs [Autonomous Framework Agreements], seems a bit better than what the Joint draft study of the EU social partners of 16 October 2015 tended to show: "*the glass is half full*". This is probably due to the fact that some countries did not report at the time.'

However, as the report went on to state that 'there is still room for real improvement in some other countries: "*the glass [is] half empty*". Whereas the Telework agreement can be considered as largely implemented, the three other AFAs, and in particular the agreement on Inclusive Labour Markets, need further actions/initiatives by all social partners to ensure that the objectives of those AFAs are reached. It is not only an internal problem for the European social partners, but also a matter of credibility towards third parties, amongst others the Commission and the Council.'

On the basis of their findings, the two experts responsible for drawing up the report concluded that there are countries, such as Cyprus, that are on a 'good path', where all that was needed was to maintain the current level of willingness; countries, such as Hungary or Estonia, that need gentle encouragement in the short term, mainly through the organisation of seminars to disseminate social dialogue good practices; and countries, such as Bulgaria and Romania, that need capacity building in the medium and long term.

Following the experts' recommendations and the positive evaluation of national and European social partners, the sub-group will continue its work on the basis of the renewed mandate, looking into both implementation of outcomes and the issue of capacity building.

3.2 Mixed outcomes – much still remains to be done

3.2.1 Inclusive Labour Markets (ILM) Agreement

The purpose of the Framework Agreement on Inclusive Labour Markets, adopted in March 2010, is to promote measures to facilitate the ability of individuals to participate, remain and make progress in the labour market.

This framework agreement first aims to find ways to facilitate access to the labour market for those who are at the margins of the employment system (curative approach), and, second, it proposes measures to help those who are already in the labour market to remain and make progress (preventive approach).

The agreement does not take into account those people who are furthest from the labour market because certain factors at play in these circumstances go beyond the competence of the social partners and arise from social inclusion policies. Recommendations addressed to the public authorities are therefore annexed to the negotiated text of the agreement.

The agreement states that several factors, alone or in combination, may encourage or discourage labour market participation. They can be contextual, work-related and/or individual, and can evolve over time. In addition, active inclusion depends on how the labour market and society are organised, as well as on the capabilities, talents and motivation of individuals and organisations. In the agreement, the European social partners also identify obstacles to the creation of an inclusive labour market before exploring possible joint solutions and actions.

The European social partners consider inclusion in the labour market as an essential condition for cohesion, including the fight against poverty, and economic success. Achieving inclusive labour markets requires that various measures, actions and/or negotiations at all levels be taken or carried out by employers, workers and their representatives. These measures, detailed in the text of the agreement, include, for example, the introduction of plans for the development of individual skills, the organisation of awareness-raising campaigns and the development of action plans to improve and/or to restore the image of a given sector or profession, the implementation of recruitment methods and integration policies, or the development of systems of recognition and validation of skills.

Even if this agreement is the result of the first real negotiation on inclusion for the European social partners, which is an important joint message, the content of the agreement itself was not evaluated positively by ETUC affiliates. Indeed, the lack of clear actions and specific commitments was highlighted in the implementation reports.

3.2.2 Joint Labour Market Analysis

The update of the 2007 joint analysis of key challenges facing European labour markets was one of the employers' priorities for the autonomous work programme 2012-2014.

The final document consists of an Introduction (1) and six thematic chapters: 2. Employment, Investment, Growth, Competitiveness; 3. Productivity, Research and Development, Innovation, Education and Training; 4. Labour Markets; 5. Industrial Relations; 6. Social Protection and Cohesion; and 7. Demography. In total, the analysis runs to over 130 pages, includes a number of selected data and indicators covering the period 2007-2014, and gives an overview of several joint texts addressing a number of relevant issues.

3.2.3 The ETUC succeeded in reaching an acceptable compromise on a number of issues.

The trade union delegation rejected the employers' claim that austerity and structural reform of the labour market were the only possible responses to the financial crisis. For instance, the ETUC obtained references in the text to the relevance of countercyclical macroeconomic policies; the importance of fighting against inequalities and poverty; the need to create more and better jobs; and the need for the European economy to move up the ladder on innovation, education and R&D. Other important messages include ETUC opposition to the Stability and Growth Pact and hence any form of austerity; the need to boost investment (the Commission's plan being a first step, but one that does not go far enough); Member States' use of the flexibility built into the Pact; the importance of reviving the economy through robust and stable domestic demand; the development of high-quality public-service sectors; the need to address disproportionate executive pay by aligning it to results and management policies; the goal of setting real wages in line with productivity developments; the need to fund robust social protection systems; and the coordination of measures at European and international level to eliminate unfair tax competition.

Meanwhile, this time-consuming exercise was met with very little support from ETUC affiliates. Analysis is always worthwhile, but it should lead to more legally binding joint commitments, which, unfortunately, was not the case here.

3.2.4 Quadripartite statement

Through their bipartite dialogue, the European social partners were able to achieve another relevant result with the adoption, in January 2016, of the joint 'Declaration on a new start for a strong Social Dialogue'. It provides the social partners with a number of recommendations to improve social dialogue in four areas: capacity building, EU policy-making, the European economic governance process/European Semester and the Better Regulation Agenda. Shortly thereafter, the Council of the European Union adopted its Conclusions regarding the Declaration, and a quadripartite statement was ultimately co-signed by the European Commission, the European Council, CEEP, BusinessEurope, UEAPME and the ETUC in June 2016.

This unique initiative was positively supported by ETUC member organisations, but a question mark remains over what follow-up action should be taken. Even if some progress were to be made regarding the involvement of the social partners in the EU economic governance process, a number of key questions remain on the table such as potential future initiatives in the social field that might lead to the adoption of European legislation.

3.3 Missed opportunities

3.3.1 Consultations on work-life balance

The ETUC responded extensively to the first-phase consultation of the social partners on possible action addressing the challenges of work-life balance faced by working parents and caregivers. In its position paper, the ETUC expressed the need for further legislative measures in order to help improve gender equality and create a better work-life balance for women and men. The ETUC clearly stated that the existing measures at European level had not substantially contributed to these goals.

On 12 July 2016, the European Commission launched the second-stage consultation. The Commission called for the opinions of the European social partners as regards proposals for further actions at European level. The Commission's consultation paper was accompanied by an analytical document which both summarised the views of the social partners and other stakeholders, and focused on the current legislative and policy instruments in the Member States, as well as possible avenues for EU action. The ETUC welcomed the document, as it not only clearly demonstrated the necessity for specific action at EU level, but also provided a balanced analysis of expected costs and benefits of possible actions. Furthermore, the document made it clear that the participation of men in possible leave arrangements is crucial to reaching the objectives of gender equality, improving the quality of employment for women and men, and maintaining a better balance between family and working life.

The European Commission's consultation document invited the EU social partners to express their views and make proposals on the possible legislative avenues for EU action and the related parameters set out in section 5 of the consultation document covering the areas of (1) maternity leave, (2) paternity leave, (3) parental leave, (4) carers' leave and (5) flexible working arrangements.

In order to address these issues, the ETUC called for a balanced policy mix of legislative and non-legislative measures which complement and support each other. Such measures and legislation must be part of a comprehensive and coherence policy approach which also promotes the availability and affordability of and access to quality child, elderly and dependent care in all Member States supported by adequate budgetary allocations.

As already indicated in its first reply to the EC consultation, the ETUC was ready to start discussions and negotiations with employers' organisations at EU level to improve minimum standards of reconciliation policies in Europe.

On the basis of the second-stage consultation, the ETUC advocated starting negotiations to improve the parental leave agreement. The ETUC was also be ready to negotiate an agreement on paternity leave. With respect to carers' leave, this could be the subject of a third agreement to be negotiated after the successful conclusion of the previous two agreements.

Unfortunately, the employers' organisations declined the ETUC's offer, refusing to enter into any negotiations on these various initiatives on the ground of interference by the European Commission in the European social partners' autonomy.

3.3.2 Consultations on the Written Statement Directive

In September 2017, the EU Commission launched the second-phase consultation on the revision of the Written Statement Directive. Under this Directive, employers are obliged to give employees written details on the employment relationship.

The proposals made in this second-phase consultation sought to amend and reform the Written Statement Directive by transforming it from an instrument that places obligations on employers to provide information to workers on their terms and conditions of employment to a Directive that provides rights that workers can enforce.

In this second phase, the Commission made a number of proposals taking into account some of the ETUC's replies to the first-phase consultation, including an extension of the scope of the Directive to cover wider categories of workers, an increase in the range of matters on which information must be provided to the worker, and the introduction of new rights such as a right to predictability of work.

While reaffirming its full commitment to social dialogue, the ETUC was convinced that there were no longer the conditions, in terms of timing and scope, to start treaty-based negotiations with the employers' organisations at EU level on the above-mentioned issues.

In its letter sent to the employers' organisations and forwarded to the Commission for information at the end of July, the ETUC emphasised that a formal up-to-nine-month negotiation process would not fit within the time frame available for the Commission and Parliament to finalise the revision of the Directive before the end of the current legislative term.

The ETUC therefore proposed to the employers to engage in dialogue in order to develop joint inputs. However, this proposal was rejected by the employers, who did subsequently declare their availability to negotiate, but only on the condition that clear limits would be set on the scope of any negotiations. Regrettably, such a conditioned offer was unacceptable to the ETUC (since such negotiations would have been too limited in scope and the offer came too late for them to lead to a timely revision of the Directive). Consequently, the ETUC urged the Commission to come up with a legislative proposal.

The European Pillar of Social Rights could have been used to give a further boost to social dialogue, for example by introducing a format according to which the employers would no longer be able to avoid negotiations so easily.

4. The ETUC and the future of European social dialogue

In principle, and as previously described, European social dialogue at all levels is part and parcel of the European social model. It is enshrined in the TFEU and forms part of the European *acquis communautaire*.⁵ But sound industrial relations also have an economic added value. It is widely acknowledged – including by employers – that countries with the most developed social partnerships and effective social systems are among the most successful and competitive in the world, even in times of crisis. Strong industrial relations, including collective bargaining, are part of democracy and are necessary instruments for a fair and efficient regulation of the economy and of the labour market. Other levels and dimensions that play an important role in the development of social dialogue are tripartite dialogue, European Works Councils, European and international framework agreements, Inter-Regional Trade Union Councils (IRTUCs), etc.

The crisis that struck Europe in 2008 has had a negative impact on social dialogue and collective bargaining at all levels. Bi- and sometimes tripartite social dialogue has, in several countries, been decentralised, dismantled or undermined, directly or indirectly, as a result of European and national policies, often initiated by the Troika (European Commission, European Central Bank and International Monetary Fund) or the country-specific recommendations (CSRs) under the European Semester.

The Commission, which was a more proactive player 20 years ago with a number of social initiatives and policies under its belt, is no longer supporting social dialogue ‘in a balanced way’. The ETUC is currently facing opposition, as a matter of principle, from employers and certain governments to any binding instrument arising from an autonomous, inter-professional or sectoral agreement. In the absence of (legislative) pressure from the Commission, they are even less keen to negotiate.

We can only regret that, despite the positive initiatives linked to the European Pillar of Social Rights (on work-life balance and on the Written Statement Directive), the opportunity for social dialogue to open new negotiations has been missed. Furthermore, in several Member States and candidate countries, the current political climate is conducive neither to the development of European legislation nor to the promotion of national social dialogue. Meanwhile, in other countries, employers who are refusing to engage effectively in industrial relations with unions instead are lobbying governments in order to secure policies that weaken minimum social rights and standards.

In parallel, at the sectoral level, the two agreements for hairdressers and on informing and consulting civil servants and employees of central government administrations were properly referred to the Commission with a request that the agreement in question be transposed into a directive and submitted to the Council for adoption in a legally binding form. Unfortunately, the response from the European Commission was negative, accompanied by its own interpretation of the EU Treaty according to which it has the sovereign authority to decide whether to put an agreement forward.

5. The *acquis communautaire* is the accumulated legislation, legal acts and court decisions which constitute the body of European Union law.

The ETUC has strongly and consistently disputed this claim and seeks to guarantee that agreements, at all levels, are submitted to the Council for adoption in the future.

At the bipartite level, the recent outcomes of social dialogue have been diverse with some positive initiatives (the AAIA Agreement and the Social Dialogue Committee subgroup), missed opportunities with the two consultations and mixed outcomes such as the Inclusive Labour Markets Agreement or the Joint Labour Market Analysis.

As social dialogue is now in its mature phase, with social partners who have an agenda-setting power, it is necessary to opt for a more qualitative approach and to analyse its strengths and weaknesses at all levels.

The new autonomous Work Programme 2019-2021 must be seen as a new step in this direction, towards a strong social dialogue. In addition to identifying issues of common interest, the European social partners will also need to identify which binding instruments will enable them to address these issues more effectively at cross-industry and sectoral levels.

All studies conducted in recent years without exception highlight the political will of ETUC affiliates to strengthen this European social dialogue. Despite the difficulties encountered, the vast majority of member organisations believe that European social dialogue provides added value to workers, regardless of the sector or region concerned. One of the main achievements of this process is the involvement of the European social partners in European decision-making processes.

It is therefore crucial for the ETUC to identify the key challenges of and possible improvements to be made to European social dialogue, while considering its own role, responsibilities and possible levels of involvement. Indeed, addressing the challenges facing European social dialogue is a very complex undertaking, and yet it is probably the opportune moment to do so. Such an endeavour should involve all the key drivers of European social dialogue, be they political, strategic or institutional, as well as the support of the Member States, the European Parliament, the role of the European Commission as the 'shadow of the law', the expertise of the negotiators, the unity and coherence of national and European trade union strategies and, probably most importantly, the political willingness of the social partners to engage in social dialogue.

Finally, it may be equally important for the European trade union movement to question its own responsibility in this whole complex process. Have we always invested the necessary resources for social dialogue? Have we not expected problems to be solved at European level that are often difficult to resolve at other levels? Are we not nostalgic for the 'golden age' of social dialogue instead of bravely facing up to uncertainties over how we can best make use of this unique tool in the future? Are we able to combine our efforts and work towards a joint evaluation in order to develop a stronger and more ambitious social dialogue?

In conclusion, it should be acknowledged that European social dialogue is merely a tool and, by its very nature, is not an end in itself. A great deal therefore depends on

what the social and institutional actors are doing and plan to do with it. Nevertheless, it seems fundamental to consider that this tool is unique and is regarded by some with extreme jealousy. It is also a symbol to be taken seriously, that of democracy at work: a democracy that must be protected, defended and promoted.

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All links were checked on 06.03.2019.