

The new European Social Agenda 2001-2006

Introduction

The unveiling of a multi-annual work programme or agenda has always constituted an important stage in the creation of a social dimension to European integration. Indeed, such documents circumscribe the boundaries of Community action (what is the “European social dimension”?) and determine its key orientations. Lastly, more often than not, they lay down a method of achieving the aims put forward. By way of example, a Commission publication of 1973 stated that “*in the opinion of the Commission, the role of Community measures is to facilitate the establishment of minimum social standards which may be regularly improved. It follows that the social policy of the Community should be assessed in its own right and not merely regarded as a means of compensating for the unfavourable social repercussions of economic progress*” (p.12). Ever since the first social programme, adopted by the Council in 1974, the European Community has systematically used multi-annual social planning as a way of setting out its long-term activities in this sensitive and controversial field (on this point, see Vandamme, 1984 and Riflet, 1984).

Inherent in this social planning are two sources of controversy: on the one hand, the advancement of economic integration (common market, single market, monetary union) and, on the other, the desire to create a social dimension as such. This dimension has taken shape in the light of successes and failures experienced during previous phases and bears all the hallmarks of its historical backdrop. Furthermore, successive programmes contain proposals not accepted during the previous period (as was the case, for instance, of the directive on information/consultation at national level, and the one on the social aspects of the European limited company). In other words, social programmes aim to

complement the economic dimension, which is at the heart of political integration, but also to develop a stand-alone social dimension whose very definition has evolved over time. In addition, such action has often been taken “on the margins” of formal Community competence (Pakaslahti, 1999), revealing a degree of political voluntarism on the part of the Commission and Member States.

The dichotomy between a social dimension as a complement to the economic dimension and a social dimension as such is compounded by another controversy relating to the relevant level at which to take action. Just as ideological differences exist as to what constitute appropriate policies, there are as many – if not more – concerning the level at which these policies can best be devised and implemented. The debate around subsidiarity has often related first and foremost to social policy in general, or to certain social policies in particular. For instance, the fight against poverty still remains a typical example of policies which should remain national or even regional, for reasons of proximity and/or particular historical, cultural or political decisions. Conversely, according to its advocates, a strong social dimension should become – or be consolidated into – an integral part of European policy-making.

The new Social Agenda: from Lisbon to Nice

The context

The new Social Agenda is being adopted at a time when national budget deficits have been turned into surpluses in slightly less than half of the Member States and are under control in the others. Unemployment is starting to fall and once again there is talk of full employment and even, in some sectors, of a labour shortage. The stated aim is to achieve a 70% employment rate between now and 2010.

At an institutional level, the Lisbon European Council (March 2000) stated that the Council will pursue “*its reflection on the future direction of social policy on the basis of a Commission communication, with a view to reaching agreement on a European Social Agenda at the Nice European Council in December, including the initiatives of the different partners involved*”.

The core idea was to secure a more ambitious document than preceding ones (see part 2 of this report for a detailed analysis of the last social programme). This would not only be approved by the Commission and the Social Affairs Council, but would be symbolically enhanced further by adoption by the Heads of State and Government gathering at the European Council. But in reality, the sequence of events was completely different from what was envisaged at Lisbon.

On 28 June the Commission submitted its proposal for a Social Agenda (European Commission, 2000e). On the whole, the proposal was well received by the Employment and Social Affairs Council in July 2000. The Council adhered firmly to the post-Lisbon approach and the open method of co-ordination (see preceding article).

At the beginning of October, following a series of discussions and in line with its declarations on the objectives of the presidency, France submitted a short text which it believed could serve as a basis for the Council's Social Agenda. This text was much criticised, radically amended and finally adopted by the Social Affairs Council in November¹). Not only was its tone more aggressive and militant than that of the Commission's proposal, but the main bone of contention lay in the legislative proposals and in particular the draft directive on individual dismissals.

A dual controversy emerged. Part of it was between the European Commission and the French presidency and centred on control of the process, in other words who was responsible for submitting the Social Agenda. The other part lay between advocates of a return to the legislative approach and those in favour of the open method of co-ordination (OMC). The controversy is reflected in the superficially necessary reminder of the respective responsibilities of the Commission, Council and Member States in the cases of the legislative option and the open method. More than forty years after the founding of the Community, such reminders are of course significant. We will

¹ Contribution of the Council (Employment and Social Policy) to the Nice European Council with a view to the adoption of a Social Agenda.

not focus on every twist and turn of this confrontation, but on the key discussions that the controversy has triggered. The differences are thrown into sharp relief by UNICE's siding with the Commission's approach, while the more critical CES sided with the initial French proposals.

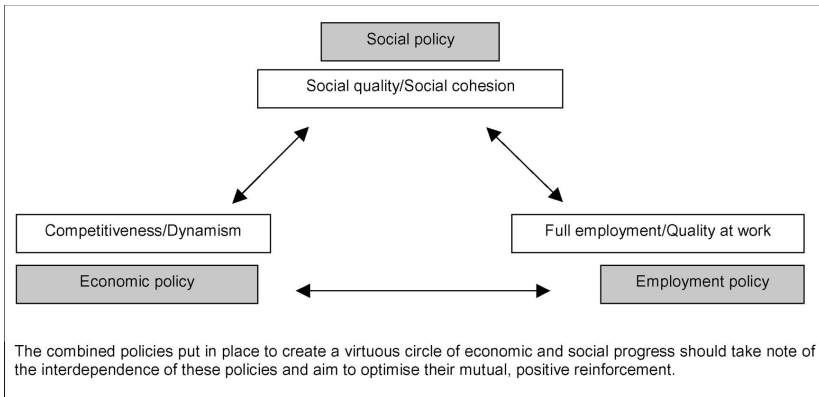
Let us now follow the sequence of events, focusing first on the Commission proposals before detailing those adopted by the European Council in Nice. Most of the initial Commission and Council proposals are, as we will see, very compatible; indeed the final version adopted by the European Council is very close to the Commission's text. Although they can be considered complementary, events also showed that the full consensus needed to rush headlong into the OMC was absent, and nor was there a majority for reverting to a more traditional version of an essentially legislative social programme like that of 1989.

While employment dominated the preceding Agenda (1998-2000), the term quality (of employment) appears throughout the Commission's text this time, the idea being that any job is not necessarily – and in absolute terms – a step forward, as the European mantra used to be. There is also a need to take into account the quality of the job. A survey by the European Foundation for the Improvement of Living and Working Conditions, emphatic on this theme, notes a relative decline in working conditions. This emphasis on quality is found in the titles of three of the five main chapters of the Commission's Social Agenda, as the table of contents shows:

- I. Full employment and quality of employment;
- II. Quality of social policy;
- III. Promoting quality in industrial relations;
- IV. Preparing for enlargement;
- V. Promoting international co-operation.

In addition to the extension of the open method of co-ordination and the introduction of the concept of quality, it must be stressed that the idea that social policy must be regarded as a productive factor is greatly in evidence. The subject is not totally new. It was already contained in

the Commission's 1994 White Paper on social policy. The Dutch presidency (second half of 1997) reinforced this approach by organising a high-level conference entitled "Social policy and economic performance". The theme recurred in a seminar under the Portuguese presidency; in 2001 it will be addressed by the Swedish and Belgian presidencies (For more academic reasoning, see Beck *et al.*, 1997). But although the question of employment is the main starting point, it is accompanied by social policy (including social protection) and economic policy, each of which form the sides of the triangle outlined by the European Commissioner for Social Affairs, Ms. Diamantopoulou. Here is her triangle:



Beyond these key words, it is hard to extract the Commission's strategic orientations from reading this document. Indeed, the Commission stated all the measures that it intended to take for each priority orientation including, above all, the ones which are only an extension of initiatives already under way.

Most novel aspects of the Agenda are therefore interspersed among measures sometimes only of historical interest. The true intention is rather well hidden: not being clearly described, it can only be sensed ⁽²⁾.

² As a member of staff in DG Employment observed: "you have to read the footnotes to see what we mean".

As the ETUC pointed out, *“the approach adopted by the Commission (...) was too much influenced by the presupposition that there is no political support within the Council for more ambitious proposals. In this sense, even if the Commission has correctly identified the problems, the proposed solutions are insufficient. The Commission has imposed on itself a kind of self-censorship, which is prejudicial to the quality of its proposals”* (point 8).

In debating the Commission’s Agenda, the European Parliament played a particularly dynamic role. In October it met with the Commission to deepen the debate on the Community proposals (more than 250 participants and experts took part). It was also about determining a series of new priorities and proposals. In the discussions leading to the Council’s Agenda, two issues were particularly sensitive: the place of the OMC and that of legislation.

Where do legislation and the open method of co-ordination fit in?

In its preliminary reflection on the Social Agenda, France said that it wanted to try and clarify which method should be used for the different actions or objectives (legislation, co-ordination, co-operation or redistribution), and readopted an idea first mooted by the Commission in the early 1990s. In the context of the subsidiarity debate, this idea had been to assess the most appropriate method for each issue – harmonisation, co-ordination, convergence or co-operation – given the identified needs and the value added by the Community. In other words, one chooses the instrument which seems most suitable for the identified problem.

This concern is today shared by other Member States as well as by the European Trade Union Confederation. Their common fear is that the open method of co-ordination might overtake or, worse, replace the traditional legislative method. Whilst underlining its positive view of the open method of co-ordination, the European Parliament also pointed out: *“the instrument of Community legislation may be used in areas of competence of the Union, inasmuch as it aims to establish minimum social standards at Community level and ensures both parliamentary democratic influence and judicial control over Union decisions; (it) therefore calls on the Commission to evaluate the legislative framework currently in force and to finalise the instruments chosen to implement the Social Agenda”* (Van Lancker, 2001: point 9). After long

discussion, the text adopted in Nice finally stated that “*in the implementation of the Social Agenda all existing Community instruments bar none must be used: the open method of coordination, legislation, the social dialogue, the Structural Funds, the support programmes, the integrated policy approach, analysis and research*”. Right at the end of the discussions, a paragraph was also added on “*the need to take full account of the principle of subsidiarity*”.

The debate on legislation is interwoven with the preceding debate. The key question raised by the French presidency’s text was what place to give to legislation. Apart from prioritising the open method of co-ordination, as stated above, it included hardly any legislative proposals which were not already in the Commission’s Agenda. One of the issues which had posed problems was that of individual dismissals. This proposal was the main sticking point for the delegations not in favour of European legislation. The vague reference to possible legislative action on individual dismissals (“*to organise an exchange of views on individual dismissals, taking account of social security benefits and national labour market characteristics*”) marks a climb-down on this point. In this respect it is instructive to note that no-one seems to have thought of using the argument of Article 30 of the Charter of Fundamental Rights, which deals with “*protection in the event of unjustified dismissal*”.

Generally speaking, proposals of a legislative nature are being exhausted. Gradually the old proposals have been adopted (including through the social dialogue) and few new ideas are emerging. Most proposals concern the revision of old directives (for example the European works council).

The demands of the European Trade Union Confederation identified a number of legislative proposals but these have been largely ignored. Amongst these, let us highlight: a legislative proposal to guarantee absence of discrimination against employees exercising their trade union rights; a legislative proposal to guarantee the inclusion of employment aspects in EU decisions on mergers; a binding instrument on sexual harassment; a legislative proposal on establishing a right to a minimum wage; a proposal on phased retirement; and one on complementary social security schemes. The ETUC also calls for revision of eight existing directives. On the other hand, UNICE believes that “*the new*

social policy agenda still includes obsolete and useless legislative proposals or revisions of existing texts, such as the directive on works councils. UNICE is calling on EU Member States to proceed towards the modern approach of open co-ordination, in the Lisbon spirit of structural reform”.

Behind the apparently innocuous debates on method lie profound differences of opinion concerning the social model to be promoted. The failure of negotiations on temporary work between the European social partners in 2001 is the most recent example of this.

Main orientations for the future

The Agenda adopted by the European Council comprises two parts. The first sets out the state of play and the second presents the priorities in six main chapters. These are concise and include only new initiatives.

1. More and better jobs.
2. Anticipating and capitalising on changes in the working environment by creating a new balance between flexibility and security.
3. Fighting poverty and all forms of exclusion and discrimination in order to promote social integration.
4. Modernising social protection.
5. Promoting gender equality.
6. Strengthening the social policy aspects of enlargement and the European Union's foreign relations.

We will point out the main priorities for the future by mainly following the lines of this Council Agenda. One way to see the accomplishments and shortcomings more clearly is a scoreboard. This idea, a French proposal which was already in the European Parliament document, was favourably received. The Nice Council wanted the spring European Council each year to assess the implementation of the Agenda “on the basis of Commission and Council reports and a regularly updated scoreboard”. However, the Commission's first attempt is hardly conclusive. It recognises itself that this format does not rule out future scoreboards (European Commission, 2001b).

- **Orientation 1: more and better jobs**

Unsurprisingly, many of the proposals are an extension of the employment strategy with an additional quality aspect. The very definition of quality in employment has moved forward. Thus, a Commission Communication in 2001 will look at what employment policy contributes to the quality of employment in different areas (especially working conditions, health and safety, pay, gender equality, balance between flexibility/security and industrial relations). On this basis, the Employment Committee will report on the issue at the end of 2001. This will enable indicators to be defined to monitor progress. A significant part is devoted to mobility. Indeed, unemployment differentials and the fear of labour shortages re-open the debate on the low level of cross-border mobility and remedies for it.

Two aspects need to be highlighted: one is the will to think through the long-term links between migration levels and employment. Immigration is clearly no longer a taboo subject (see also the Commission Communications on this). The other aspect is the political links between competition policy and employment. The extremely cautious wording on this issue is to be noted. The Commission is asked *“to continue its examination, with due regard for the responsibilities in the matter conferred upon it by the Treaty, of the relationship between social policy and competition policy, while maintaining appropriate contacts with the Member States and the social partners”*.

- **Orientation 2: a new balance between flexibility and security**

This is the chapter which caused most controversy between Member States because it includes the largest number of possible directives. First of all let us note the reminder on revision of the “Works Council” Directive. The second important issue is health and safety. After intense legislative activity in the late 1980s and early 1990s, this area has slowed right down. Beyond codifying existing standards, the Agenda develops three important orientations: taking into account new dangers, such as stress in the workplace, through regulation and exchanges of good practices; better enforcement of the legislation in

SMEs; and, since 2001, enhanced co-operation between labour inspectorates.

In terms of changes in the working environment, it is worth noting that, following the joint opinion of the social partners in November 2000, the European Monitoring Centre on Change (previously on industrial change) is back on the agenda. The working objective is to have it in place by the end of 2001 within the European Foundation in Dublin. Three old directives will be assessed for possible adaptation: the protection of employees if the employer is declared bankrupt, mass redundancy, and the protection of labour relations if the employer changes. The social partners are in particular invited to examine data protection questions.

We should also note initiatives in terms of social labels and corporate social responsibility, for which a Communication is planned. A conference on this issue is due to be held in the second half of 2001 under the Belgian presidency.

We would emphasise that macroeconomic aspects have been addressed. One of the weaknesses of employment policy and of social policy in general is that it largely ignores macroeconomic factors. The macroeconomic dialogue started up following the Cologne European Council (links between the European Central Bank, the social partners, the Ecofin and Social Affairs Council and the Commission) is not working very well. The discussions are too formal and the Finance Ministers are rarely present. And yet a series of academic studies shows the important links between monetary policy and labour institutions in terms of the level of inflation, economic growth and job creation. We now find in the Social Agenda a clear reference to the Cologne process and the need to make wage formation more transparent between Community institutions and the social partners. This will be important, provided that this wish of the Heads of State and Government is effectively implemented. We note that the Executive Committee of the European Trade Union Confederation adopted a resolution on this issue in December 2000.

- **Orientations 3 and 4: new perspectives on poverty, exclusion and social protection** (see following article as well)

A significant element in the rapid progress of this dossier is that poverty and social exclusion are ranked third in terms of the major issues to be addressed. Certain points have benefited in particular – i.e. social protection and the concerted strategy in this field (see article on the subject) – from the consensus reached between the time of the submission of the Commission’s Agenda in June and the one adopted in November by the Council. It is a small symbolic step but it may usefully boost the will to raise employment rates. In other words, the idea is to avoid Europe promoting an increase in working poor, as has occurred in the English-speaking world. A directive on resource guarantees is not ruled out but the relevant wording is very cautious. Following the first national action plans against exclusion (June 2001) it is necessary to ensure “*a follow-up (...) to the 1992 recommendation on minimum guaranteed resources to be provided by social protection systems and examine possible initiatives to monitor progress in the area*”.

The timetable for social protection priorities is becoming clearer. This is how the programme for the next three years looks: for 2001, “to guarantee secure and viable pensions in future”; for 2002 “to make work pay and promote secure incomes”; and for 2003 “to guarantee a high and sustainable level of health protection”. This way everyone is forewarned of the timetable and what it may involve. Dealing with the sensitive issue of pensions will reveal both its potential and its dangers. Sensibly, the programme refers to in-depth co-operation rather than co-ordination. We would point out that the Treaty of Nice now requires that provisions passed in the social area (Article 137) “*shall not affect the rights of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium thereof*”. This clearly shows the mistrust of Member States of any European “overlaps”, including possible encroachment by the Court of Justice.

- **Orientation 5: promoting gender equality**

It will be noted that the new initiatives include a proposal to set up an Institute for gender issues and a network of experts, and to adopt a

directive based on Article 13 (non-discrimination) to promote equal treatment in areas other than employment and professional activity. Finally, the Member States should set themselves objectives to develop women's access to decision-making, be it in the public or economic and social sphere.

- **Orientation 6: strengthening the social policy aspects of enlargement and external relations**

Little had been done in this area. So we note with satisfaction the more resolute tone of the chapter on enlargement and its social consequences, which aims to “*help the applicant countries to take on board the European Employment Strategy, implementation of the objectives of combating poverty and social exclusion, and strengthened co-operation on social protection*”. The impact on policies pursued by the candidate countries and the creation of institutions is potentially very significant, notably in promoting an approach involving the social partners. It is also an area to be developed as a priority (Clotuche, 2001) because the fact that it has been relatively neglected hitherto has only strengthened the influence of the World Bank and the IMF, as well as those who praise the American and even Chilean systems (see the article by de la Porte in this edition).

Other aspects: future of the social dialogue

The Commission's Agenda set out a series of initiatives on industrial relations and the different forms of social dialogue. They are not to be found as such in the Nice Agenda but their implementation depends solely on the Commission, which is why we are raising them here. The most important point here is the “revision of the operation of the structures of social dialogue with the social partners (as much on an cross-industry as a sectoral level) and, where necessary, the proposal of amendments”. In addition a committee on the future of industrial relations will be created (chaired by Ms. Rodrigues). The social partners will be consulted at European level in order to identify areas of common interest, including those with most scope for collective bargaining, and on the need to set up voluntary mediation, arbitration and conciliation mechanisms to resolve conflicts at European level. We

would point out that the European Parliament had requested the implementation of the right to collective action, in particular the right to strike, at European level.

Conclusion

The new Social Agenda is quite different from previous action programmes. In particular it defines a new working method – the open method of co-ordination. Future debate and factors for consideration will cover issues at the heart of social regulation in subjects considered essential to the identities of national welfare states. The issues which, in the name of subsidiarity, were treated in a marginal manner (such as social protection) re-erupt onto the European scene with the new open method of co-ordination. They form the focus of a theory and practice which are not nearly as tough as in the field of employment, but nevertheless bring fresh impetus to the fight against poverty and exclusion. Subsidiarity, which necessitates definition of the boundaries between the fields dealt with at each level³, is reinterpreted as the need to find flexible co-ordination between different levels. This occurs even when the idea of convergence is set to one side – publicly at least – as a political objective to achieve.

The real novelty of the current programme of action is the theorisation, known as the open method of co-ordination, of practices which had been pursued in the context of employment policy. To date, no-one can tell whether this approach offers an effective solution on social issues. It follows a long story of trial and error, starting with the idea of a gradual improvement of Europe's social dimension in successive stages (the 1974 programme), to that of a common platform in the face of deregulation (the 1989 programme), and that of progressive convergence (1992 social security recommendations). The attempt to instigate a convergence process at European level had failed

³ As a reminder, this is defined as: “in accordance with the principle of subsidiarity, the Community only intervenes if and in so far as the aims of the action envisaged cannot be adequately carried out by the Member States, and cannot, due to the scale or effects of the envisaged action, be better carried out at Community level”.

due to the lack of a clear vision of how to implement it. If that appears to be partly solved by the open method of co-ordination, we must underline that it is partly to the detriment of the idea of convergence because this objective is no longer declared a priority. In 25 years, Europe has changed its working method four times in the social sphere, without thereby achieving a consensus on its objective.

This has been accompanied by a redefinition of what “social” means. The definition has shifted from seeking an independent model to an approach to the social dimension as a productive factor. Originally the idea was to separate the social dimension from the economic. Now it is to show/prove how complementary the social and the economic are. This change of approach is fairly radical. Previously, we evaluated welfare state systems in terms of the possibilities that they offered for “decommodification”. Now the primary objective is to maximise “commodification”, i.e. the employability of people coming into and staying in the labour market.

Finally, the role of the Community is now more that of an agency, even of a secretariat, than that of a driving-force for the European social dimension ⁽⁴⁾.

If the Fifteen agree today on creating the social element at European level, it owes little to the social-democrat presence in the governments of a great majority of the Member States. The key point is that the method on which they agree for the moment delimits less a European social area than a desire to promote “the modernisation of national welfare states”.

As Jouen puts it (2000: 2), the aim of the European Union is to facilitate the evolution (modernisation) of national welfare states. *“From now on the path of progress consists not in taking the best of each to*

⁴ The Nice Agenda states that the Council “formulates and updates the orientations and the appropriate or common objectives; establishes, where necessary, quantitative and qualitative indicators and benchmarks”, whereas the Commission’s role is to support the OMC “by means of appropriate initiatives, with particular reference to the development of indicators, in conjunction with the Employment Committee and the Social Protection Committee”.

replicate it elsewhere, but in taking forward each of the systems simultaneously while preserving their equilibrium”.

This step-by-step policy of the OMC may result in a common European project in the medium term, by progressively strengthening the convergence of national systems.

However, to do this, parallel progress must be achieved on qualified majority voting in social matters. In this respect, Nice does not give the right signals.