

**EN**

**SOC/644**

**Social dialogue for economic sustainability and resilience**

**OPINION**
European Economic and Social Committee

**Social dialogue as an important pillar of economic sustainability and the resilience of economies taking into account the influence of lively public debate in the Member States**

[Exploratory opinion at the request of the German Presidency]

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# **Conclusions and recommendations**

## Social dialogue, at national and European level, plays a key role in shaping economic, labour and social policies that promote the upward convergence of living and working conditions across Member States. Crisis management, the anticipation and management of change, long-term planning, the capacity to innovate and follow-up green and digital transitions, sound business governance and trust-based cooperation between social partners – underpinned by workers' information, consultation and participation rights – are part of the same European framework to effectively respond to the challenges Europe is confronted with, and also to address the COVID-19 crisis.

## Social dialogue has evolved: growing globalised and interconnected economies and production processes and the impact of trade are pushing towards increased transnational relations with multinational enterprises and global supply chains at different levels, which require a common and coordinated approach at European level.

## The EESC recognises that effective social dialogue must include: representative and legitimate social partners with the knowledge, technical capacity and timely access to relevant information to participate; the political will and commitment to engage in social dialogue; respect for the fundamental rights of autonomy for the social partners, freedom of association and collective bargaining, which remain at the core of industrial relations, and an enabling legal and institutional framework to support social dialogue processes with well-functioning institutions.

## European social dialogue is an inalienable component of the European social model and is enshrined in the Treaty, supported by EU legislation and recognised in the European Pillar of Social Rights. The EESC encourages the European social partners to exploit all of the potentialities the Treaty offers them to engage in negotiations to address the new topics and rapid changes in the labour market.

## The Action Plan to implement the EPSR will explore ways of strengthening social dialogue and collective bargaining. The involvement of the social partners in the Semester process should be considered key to achieving effective results, while data show that, in some countries, such involvement is fragmented or lacking, despite direct CSRs from the European Commission. Considering the important role that the EU Semester will gain with the implementation of the MFF 2021-2027 and the Next Generation EU programme, the EESC calls for the introduction of a mechanism that grants the social partners the right to be consulted at both EU and national level.

## The EESC urges the European Commission, in consultation with the European-level social partners, to provide, through European initiatives, clear and transparent criteria regarding the implementation of sectoral social partner agreements, as provided for in Article 155(2) TFEU.

## The lessons learnt from previous crises are that: countries with well-established social dialogue institutions and industrial relations systems are more likely to formulate rapid and effective tripartite responses. The prompt and effective involvement of the social partners and the support of governments are key factors in addressing the immediate consequences of the crisis, in addition to longer-term recovery-planning to protect and promote employment through sustainable enterprises and social investments.

## Collective bargaining coverage and processes at all levels should be prioritised. Inclusiveness in the social protection systems of vulnerable group of workers and citizens should be a priority for public policy.

## Sound corporate governance based on social dialogue, collective bargaining and respect for workers' rights to information, consultation and participation can make it possible to achieve positive economic targets, together with social and environmental goals. Facilitating the taking of informed management decisions in matters of direct interest to workers contributes to a sustainable and fairer business model. This helps to promote the European social model, which is an engine for the competitiveness of European companies.

## Globalisation and growing transnational production processes have changed how flows of information around the company are structured. Workers’ information, consultation and participation rights are recognised in EU legislation and are fundamental for effective social dialogue; the quality and effectiveness of EWCs in transnational restructuring processes have to be improved; shortcomings need to be remedied to strengthen democracy at work and enforcement measures must be put in place, together with effective and proportionate sanctions. The EESC has already called for a harmonised framework at the EU level regarding workers’ board-level participation, while respecting national and enterprise-level differences. Unfortunately, the European Company Law that has been approved failed to address this proposal.

## The EESC encourages flexible, goal-oriented solutions based on negotiations between employers’ and workers' representatives at the appropriate level to determine the specific arrangements for information, consultation and participation should be promoted, while ensuring a level playing field and adequate minimum protection.

## The EESC calls for action at European and national level to ensure respect for the right to information and consultation in restructuring processes resulting from the COVID-19 crisis.

## In the management of the post-pandemic crisis, the EESC strongly recommends: (i) the proper involvement of the social partners in the designing and implementation of national recovery plans; (ii) better cooperation between the social partners and the European Commission in ensuring the consistent use of European resources; and (iii), for the EU Commission to push forward a new temporary financial instrument to support the extraordinary activities that have to be carried out in the recovery phase, as jointly proposed by the European Social Partners.

# **Social dialogue: how it can be further promoted and rolled out**

## The German Presidency asked the EESC to focus this opinion on how the concept of social dialogue, in particular tripartite forms of social dialogue, can go beyond collective bargaining. Tripartite – just like bipartite – social dialogue is a key instrument for sound governance of any process of change.

## In order to evaluate the role that social dialogue and participatory models can play in advancing upward economic and social convergence and in times of crisis, like today, in helping to respond to the impact of COVID-19 on our societies and economies, it is useful to recall the evolution of the concept of social dialogue at international and European level.

## The role of autonomous and representative social partners was fully recognised in ILO fundamental Conventions since the beginning, but the role of social dialogue in designing and monitoring the implementation of social and economic policies has evolved in keeping with the changes in our societies and in the rapid processes of globalisation. The need to include all stakeholders[[1]](#footnote-1) at transnational, national and local level encourages new forms of consultation and participation in policy-making processes, which may take place at different levels, depending on national circumstances, but also on regional developments, such as the European integration process.

## According to the ILO definition[[2]](#footnote-2), social dialogue includes all types of negotiation, consultation or exchange of information between or among representatives of governments, employers and workers on issues of common interest relating to economic, labour or social policy. It can exist as a tripartite process – with the direct involvement of the government, bipartite – between employers' and workers' representatives, or more recently, on a cross-border basis[[3]](#footnote-3) – which implies transnational social dialogue in Multinational Enterprises (MNEs) and global supply chains in the context of a growing globalised and interconnected economy.

## The EESC is engaged in ongoing work to address the need for a consistent approach at EU level to link respect for human rights, implementation of the SDGs and sustainable investments in business operations across the world and to address the impact of growing transnational relations with MNEs, which involve social partners. These topics are particularly relevant in a number of specific opinions, such as those on due diligence and decent work in global supply chains, as requested of the EESC by the German Presidency and the EP, following the discussions launched at the G7 and G20 summits in 2015 and 2016. The European Union has equipped itself with a regulatory framework of basic economic, social and environmental standards, which are a key element of European competitiveness.

## The main challenge, however, is to support this dialogue with an institutional framework in order to guarantee a regular process of dialogue and consultation with the stakeholders. Unfortunately, this is not the case in the majority of countries worldwide and in several European countries, where social dialogue is an occasional and fragmented exercise. The role of the State in tripartite mechanisms is crucial and cannot be passive[[4]](#footnote-4). It is responsible for creating proper conditions and the legal and institutional framework for such consultation and the political and civil climate which enable representative and legitimate social partners to participate, recognising their role.On the contrary, in some European countries, social dialogue processes have been weakened and the autonomy of the social partners undermined[[5]](#footnote-5).

## Strong and decisive action by the EU to adopt a more supportive approach to frame consultation practices would be welcome[[6]](#footnote-6).

## The EESC regularly monitors the development, enforcement and quality of the social dialogue in many of its opinions. The social partners have a specific role[[7]](#footnote-7) to play in the elaborating and implementation of policies directly or indirectly affecting employment and labour markets. The EESC also welcomes the supportive position of Eurofound, which states that Social dialogue must be promoted and supported, while respecting the autonomy of the social partners and collective bargaining and increasing the social partners' capacity to engage in social dialogue, equipping them with knowledge and training and creating the appropriate policy and legal frameworks to enable all social stakeholders to perform effectively[[8]](#footnote-8). Bipartite social dialogue and collective bargaining, at all levels, are the core of national industrial relations systems and play a crucial role in shaping employment conditions and the labour market. Bipartite social dialogue should be underpinned by an appropriately supportive institutionalised framework, while respecting the principle of subsidiarity and the autonomy of the social partners.

## Dialogue mechanisms at national level can include national tripartite economic and labour councils open to various CSOs or economic and social councils which should serve as channels for the opinions of European society in economic and social affairs, through groups to which citizens belong, to produce this form of dialogue with the aim of jointly addressing the challenges of our economies and societies. These bodies, however, have not been set up in all EU countries and the EESC Liaison committee should have a stronger role in coordination.

# **European Social Dialogue: a pillar of the EU social model**

## Social dialogue is an inalienable component of the European social model. While the "Val Duchesse" dialogues in 1985 are considered to be the starting point, it was the Maastricht Treaty that took on board the social partners' indications with a view to establishing the European inter-professional social dialogue as we know it.

## As enshrined in the Treaty on the Functioning of the European Union (TFEU)[[9]](#footnote-9), the promotion of dialogue between management and labour is recognised as a common objective of the European Union and the Member States. Social partners at inter-professional or sectoral level, when acting together and signing agreements, participate in the definition of EU legislation in labour-related matters and its implementation at national level. They do so following the legislative initiative of the Commission (also supplementing the European Parliament) or through autonomous initiatives, based on a three-year work programme, which is defined by the European social partners. Moreover, the TFEU guarantees the role and autonomy of the European Social Partners.

## Over the last twenty years, European social dialogue has developed in very uneven ways: progress has been made, but there have also been setbacks. With the onset of the Eurozone crisis in 2009, there was a clear deterioration of European social dialogue as a whole.

## The EESC highlights, in its opinion[[10]](#footnote-10) on the 2020 EU Employment Guidelines, Guideline 7: Enhancing the functioning of labour markets and the effectiveness of social dialogue, which states very clearly **that Member States should foster social dialogue and collective bargaining at all levels**. The social partners should be encouraged to negotiate and conclude collective agreements in matters relevant to them, fully respecting their autonomy.

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## To date, the European social partners, in the context of their regular joint working programmes, have concluded nine framework agreements. Three of them – regulating parental leave[[11]](#footnote-11), part-time work[[12]](#footnote-12) and fixed-term work[[13]](#footnote-13) – concluded more than 20 years ago, have been transposed into European directives and now form an integral part of the body of EU law; the others are the autonomous agreements[[14]](#footnote-14) and frameworks of actions[[15]](#footnote-15) and a number of other joint documents. Autonomous agreements lack direct effect in national labour relations and need to be transposed into the domestic legal framework or collective agreements, but social partners at national level are responsible for a timely, proper and European-wide coordinated implementation.

## In 2020, the social partners reached an Autonomous Agreement on Digitalisation. This calls for the conclusion of a digital change strategy that ensures that both enterprise and workers benefit from the introduction of digital technology (skills development, training programmes associated with digital change at work and measures to address the modalities of connecting and disconnecting).

## The sub-group of the Social Dialogue Committee on the implementation of autonomous social dialogue instruments supporting the capacity-building of social partner organisations, should look at the need for closer and more intense interaction and linkages between the social partners at the European and national levels. In this context, the European social partners have committed to step up their efforts to address the different obstacles to the implementation of their autonomous agreements, which should be closely monitored by the EU in order to target specific support initiatives.

## Finally, six joint work programmes have been negotiated. The most recent[[16]](#footnote-16) supports the objectives of the 2016 quadripartite statement on *A New Start for Social Dialogue*[[17]](#footnote-17) in order to: strengthen social dialogue at European and national levels; to negotiate an autonomous agreement on digitalisation; to increase capacity building support to national social partners, notably through the European Social Fund, and to foster the role and influence of national social partners in the European Semester.

## The EESC encourages European social partners to make use of all the potential that the Treaty offers them (Article 154 TFEU) to engage in negotiations (which can be the basis of a renewed European framework in social and labour-related areas) to address the new challenges arising from rapid changes in the labour market and to anticipate the legislative role of the Commission and the Council in this domain.

## The European sector social dialogue is legally grounded on Decision 98/500/EC of 20 May 1998[[18]](#footnote-18), establishing Sectoral Social Dialogue Committees (SSDCs). Currently, there are 43 sectoral social dialogue committees, spanning key sectors[[19]](#footnote-19) and covering about the 80% of the EU workforce[[20]](#footnote-20). A number of agreements were implemented by Council decisions, but the European Commission did not submit to the Council – in order to turn a sectoral agreement into a directive – two proposals coming from the social partners: the agreement reached in the hairdressing sector (2012) and the agreement on information and consultation rights in central/federal government (2015). This was an unprecedented step, which has led to a case before the ECJ.

## Clear processes for negotiating binding EU-level social partner agreements in accordance with the Treaties (Articles 153-155) are needed, together with transparent criteria that respect the autonomy of the social partners when dealing with the outcome of such negotiations in sector-specific and cross-sectoral negotiations. Clarification should be provided by the Commission, in cooperation with all social partners at EU level, in order to avoid an unclear margin of discretion by the EC in dealing with the outcome of these negotiations.

## The EU social dialogue system also concerns European companies operating in several EU Member States and is mainly structured around workers' rights to information and consultation[[21]](#footnote-21). The most important tool created by the EU legislator in order to ensure the effective and constant enforcement of these rights is represented by the European Works Councils Directive (EWCs)[[22]](#footnote-22).

## More than 1 100 agreements have been negotiated to establish or renew the functioning of EWCs and other cross-border workers' representative bodies (such as for the SE – European company or European cooperatives). More recently, social dialogue with multinational companies has made also greater use of TCAs, which build on the large number of texts signed by different actors but mainly by ETUFs or EWCs[[23]](#footnote-23). More than 200 TCAs aim to modernise industrial relations with MNEs[[24]](#footnote-24). A more practical tool of guidelines for cross-border collective negotiations at company-level would make this layer of the EU industrial relations system more efficient.

## All this activity shows the dynamism of social dialogue at all levels even if such dynamism may need tools that make social dialogue effectively respond to the most recent needs of companies and workers due to rapid changes in work organisation and transitions. The quadripartite statement on *A new start for social dialogue* signed in 2018 and promoted by the EC[[25]](#footnote-25) was an attempt to adapt the inter-professional social dialogue to the new European institutional setting with a more prominent role for EU economic governance in triggering upward convergence of the living and working conditions of all Europeans.

## **Transforming our world: the 2030 Agenda for Sustainable Development.** The UN 2030 Agenda and its 17 Sustainable Development Goals (SDGs) recognise (in Goals 8, 16 and 17) that social dialogue can reinforce the (democratic) institutions and can facilitate the transition towards a more sustainable economy by developing a joint understanding of the challenges and the way to address them. The social partners are therefore considered key actors when it comes to reforming and modernising societies and economies. They can contribute to most of the SDGs and can incorporate sustainability aspects more extensively than what they are doing now. Broadening the scope of negotiations requires new partnerships and new strategies[[26]](#footnote-26). Social dialogue, autonomous and independent, is key to combining social policy with sound economic policy and a strategy for sustainable economic growth, competitiveness and social progress across all Member States and the European economic area[[27]](#footnote-27).

## If social dialogue is to remain useful, it will have to address new topics and changes in the labour market and deliver effective outcomes. New, non-standard forms of work may blur the lines of the worker-employer relationship and is leading to a growing number of people no longer covered by collective bargaining or protective legislation. This is an area which can be addressed in social dialogue helping to secure consensus between workers and businesses in order to embrace all dimensions of sustainability.

## Tripartite social dialogue can be more effective if it fosters concrete negotiations and outcomes at all levels. There is potential to improve the functioning of tripartite social dialogue bodies and consultation processes – in particular in Central and Eastern European countries- so that they could have a real impact, which would also lead to greater, timely and meaningful involvement of social partners in policy- and decision-making. The ongoing ILO and EC project seeks to identify good practices arising from social dialogue that are emerging in various countries, as well as the action of public authorities aimed at enhancing the role of social dialogue - including collective bargaining - in tackling new challenges and opportunities in a new world of work, while at the same time supporting the autonomy of the social partners[[28]](#footnote-28).

## **The European Pillar of Social Rights** (EPSR)[[29]](#footnote-29) recognisesthe autonomy of social partners and their right to collective action and to be involved in designing and implementing employment and social policies, including by means of collective agreements. The EPSR reaffirms the crucial role of social dialogue and social partners, and collective bargaining at all levels.

## **An Action Plan to implement the EPSR** will explore ways **to promote social dialogue and collective bargaining and increase the capacity** of unions and employers' organisationsat EU and national level**.**

## The social partners should be involved during the European Semester of Economic Governance, especially in the elaboration and implementation of employment, social and, where relevant, economic reforms and policies, either as a consequence of Country specific recommendations or following national dynamics, and in the framing of the National Reform Programmes[[30]](#footnote-30).

## Many underline that the involvement of the social partners by national governments happens in only a few countries and evidence gathered over the years shows that the possibility of being consulted in the framework of economic governance is left to the discretion of governments in office. Even worse is the case of those Member States where historical weaknesses in social dialogue structures and practices remain. In any case, national social partners do not always have the capacity to participate proactively in this challenging process[[31]](#footnote-31).

## The coordination exercised in the framework of the Semester and by the Council through the Employment Committee does not always produce results that are satisfactory for all sides. Considering the prominentrole that the EU Semester will gain in the implementation of the MFF 2021-2027 and the Next Generation EU programme, thought should be given to introducing a mechanism that grants the right to social partners to be consulted, at both EU and national level, at the milestones represented by the Semester. An amendment to the six-pack[[32]](#footnote-32) may introduce an obligation on national governments to consult social partners at national milestones of the Semester, introducing criteria such as the good timing, meaningfulness and appropriateness of the consultation (Article 2-a(2)(c)(d) and (e) of Regulation 1146/97 as amended by Regulation (EU) No 1175/2011).

## Some research findings[[33]](#footnote-33) show that national social partners do not always have the capacities to proactively participate in this challenging process. Capacity-building actions for social partners, aimed at strengthening national social dialogue frameworks and practices should be promoted and supported by the European Commission, also via the ESF funds. This would allow Social Partners to reinforce their capacities to navigate the existing green and digital transition periods, which is crucial. In this regard, capacity is not only an internal problem of (a lack of) financial and resources means, but is also a structural issue depending on the industrial relations framework. Training activities supporting the capacities of the social partners, as well as incentivising engagement in bipartite negotiations at sectoral and company level, while respecting the autonomy of collective bargaining, need to be further supported.

## Capacity-building support under the ESF operational programmes should be further developed. Despite the introduction of the code of conduct on partnership, through which social partners should have greater influence over the content of these programmes, the managing authorities do not allocate support for the social partners' capacity building. The proposed ESF+ regulation should come with measures for capacity building support and information on how to go about making the case to the managing authorities to do more to support social partners' capacity building needs. In this regard social Country specific recommendations (including those for 2020) are identifying the countries where support to social partners is most needed.

## Concerning the Civil Society Organisations, and the Civil Dialogue, they should be appropriately consulted by the EU and national Governments, especially for specific policies, where they could bring added value.

# **Analysis of experiences from the last financial crisis 2008-2010 and lessons learnt, both positive and negative**

## Social dialogue in times of crisis, such as in the last crisis in 2008-2010, has tended to reveal its use as an instrument to provide solutions. It is clear that the responses from the social partners were either directed towards securing employment and avoiding redundancies, or limiting the extent and the consequences of job losses. Social dialogue is an important instrument which, in some circumstances, has been encouraged by governments to combat the negative economic and social consequences of the global economic crisis. "Collective bargaining has been used as tools to avoid the worst, which means redundancies, extensive job losses and company closures."[[34]](#footnote-34)

## National social partner responses to the labour-market effects of the financial crisis were shaped by three main factors: the depth of the economic crisis, the institutional set-up of industrial relations, and government decisions. In countries with well-established social dialogue institutions, the social partners were actively involved in the design of rapid and effective tripartite responses at sector or enterprise level. The patterns of intervention varied markedly between Member States. A key determining factor in the success or failure of social dialogue appeared to be the extent of government support for the process and timely involvement of the social partners[[35]](#footnote-35). The following general pattern can be found: while in the early phase of the crisis (2008–2010) under severe economic stress, the social partners took action, with the common aim of maintaining existing jobs and the overall employment level, making use of automatic social stabilisers where these existed. This happened not only through national tripartite negotiations but was also reflected in the bilateral collective agreements at sectoral/branch and company levels[[36]](#footnote-36).

## Whereas in the second phase of the crisis (2011–2014), there were many significant impacts on a range of aspects of industrial relations in the Member States[[37]](#footnote-37): One of this was a trend towards further decentralisation in collective bargaining. In some of the Member States, the combined effect of more unilateral decision-making by governments and the decentralisation of collective bargaining led to less multi-employer bargaining and a drop in collective bargaining coverage. Also in the Central and East European industrial relations systems, a drift towards more voluntary and fewer tripartite structures and processes took place[[38]](#footnote-38).

## The Member States in which the impact of the crisis has been most severe on industrial relations were the ones hardest hit by the crisis from the economic and social point of view. The social partners in Greece, Ireland, Portugal and Spain, for example, had little room for manoeuvre, given the scale of the economic adjustments these countries have had to make[[39]](#footnote-39). The industrial relations systems of Nordic and Central European countries contained more potential flexibility for actors and processes (e.g. opening clauses in collective agreements), enabling them to adapt more readily to changes in the economic environment. Hence, robust relationships between the social partners allowed more positive outcomes.

## Two types of measures to alleviate the impact of the crisis were introduced. The first focused on avoiding redundancies and the second on mitigating the effects of redundancies. The avoidance of redundancies included short-time working schemes in various forms in different countries, but it was also evident that some parts of the population and vulnerable groups of workers in non-standard forms of work were not covered by any form of social protection, which makes inclusiveness in social protection systems and efficient public services a priority for public policy. Short-time working schemes and unemployment period covered by benefits were accompanied by upskilling and reskilling. This could have been seen in many cases and should be considered as a good practice in facing crisis.

## The second type of response to mitigate the effects was divided between negotiations over severance pay, for which there was a large demand from workers, and agreements reached between trade unions and employers to support a return to the labour force for those made redundant. These agreements took various forms due to diverse national institutional settings: for example, job-to-job transition (in the Netherlands), transfer companies (in Germany), job security councils (in Sweden) and work foundations (in Austria). These measures were often accompanied by offers of counselling, redeployment measures, reskilling and information on job vacancies. The full range of measures can be found in the European Commission publication Industrial relations in Europe 2010[[40]](#footnote-40).

## Social dialogue has a crucial role in devising timely and targeted responses to support employment and economic recovery at times of crisis but, alone, it cannot solve all problems. Sound public policies and regulations and appropriate fiscal space are especially crucial in a crisis context[[41]](#footnote-41).

# **Workers' involvement in company management: a response to manage change**

## Industrial democracy is broadly understood as the governance of business processes in "sustainable"[[42]](#footnote-42) enterprises, based on social dialogue, collective bargaining and workers' information, consultation and participation at company level[[43]](#footnote-43). Sound corporate governance can make it possible to achieve positive economic targets, together with social and environmental goals. A mix of legislative acts, together with operational and policy measures, is currently in force, taking into account national industrial relations' practices and situations in each business. Globalisation and the transnational production processes of European enterprises have changed how flows of information around the company are structured[[44]](#footnote-44). The trustworthy collaboration between employers and workers has proven its importance – latest in the COVID-19-pandemic.

## Workers' information, consultation and participation rights are fundamental social rights which are enshrined in international (ILO) and European (Council of Europe and EU) human rights instruments and are fundamental for effective social dialogue.

## At European level, workers' participation helps to share timely information with workers' representatives in industrial relations systems, supports the elaboration of informed management decisions in certain matters of direct interest to workers with workers' representatives, and contributes to a sustainable and fairer business model. This helps to promote the social economic market idea that considers the European social model to be an engine for the competitiveness of European companies.

## Various pieces of legislation at EU level have established minimum requirements[[45]](#footnote-45) and define workers' information, consultation and board-level representation rights including the Directive on information and consultation and the EWCs Directive[[46]](#footnote-46), as well as legal acts concerning specific forms of enterprises, such as SEs and European Cooperative Societies, or specific situations, such as cross-border mergers, transfer of undertaking, collective redundancies. The EWCs (and SE Works Councils) are bodies for workers' information and consultation on transnational issues and their relevance for the European workforce is significant. They play an important role in the progressive integration of European Member States and the single market[[47]](#footnote-47). There is room for improvement regarding the quality and effectiveness of information and consultation of EWCs on transnational company restructuring, as the Commission underlined in its report[[48]](#footnote-48).

## Workers' board-level participation can be found in the majority of Member States but there are no common grounds at European level and it is therefore manifested in the different practices specific to national frameworks. In its opinion SOC/470[[49]](#footnote-49), the EESC has already called for a harmonised EU-level framework for workers' board-level participation. Unfortunately, the 2019 Company Law Package that has been approved does not reflect this proposal.

## The European Pillar of Social Rights under Principle 8, defines that workers and their representatives have a right to be informed and consulted in good time concerning matters relevant to them. From this perspective, workers' involvement is strategic to manage the transitions to deal with ecological, demographic and technological challenges and accompany changes in work organisation or restructuring[[50]](#footnote-50). The EESC calls on European and national institutions to take action to ensure that workers' information, consultation and participation rights are respected in restructuring processes.

## European legislative measures in the field of workers' health and safety highlight and include the necessary role of workers' representation in this area as well. Tripartite and bi-partite agreements in some European countries to contain the spread of the COVID-19 at enterprise level have been pro-active examples of joint initiatives of social partners as far as OSH is concerned.

## The COVID-19 crisis shows on one hand the positive examples around Europe of constructive social dialogue at enterprise level to maintain jobs, ensure safety return to the workplace while continuing the business activity. On the other hand, information and consultation rights have not been respected everywhere in Europe, even in the emergency phase, including in restructuring and with regard to the measures to be taken to protect occupational safety and health and avoid risky working conditions. Actions at European and national level are necessary to ensure the respect of information and consultation rights in restructuring processes resulting from COVID-19 crisis.

## Further steps at European level to fill gaps and to strengthen democracy at work are needed. The aim is to secure adequate minimum protections and rights with regard to workers' information, consultation and board-level representation in cross-border situations where the national laws cannot be applied in a coordinated and equitable way. An effective crosscutting framework for information, consultation and board-level representation rights in EU company forms and those that make use of the company mobility instruments is needed. Gaps in access to information regarding business activities in non-EU countries and their impact on jobs and working conditions have to be assessed in order to ensure the proper role of the EWC. In the implementation of the EWC Directive, enforcement measures should be strengthened, together with effective and proportionate sanctions, where shortcomings have been identified.

## It is also necessary to ensure full respect of the information and consultation rights for public sector workers. The EESC calls on the Commission to take action to ensure that the European. Social Partners' agreement on this matter is properly implemented.

## National practices show differences in workers' involvement. In particular, it has to be ensured that workers' representatives appointed in line with European and national rules[[51]](#footnote-51) to the administrative and supervisory bodiescan properly carry out their duties provided by national and European legislation. It is also necessary to guarantee that workers are informed and consulted adequately and in a timely manner about a company's plans and the potential implications for employment and working conditions, according to the Directive.

# **Social dialogue for a sustainable and inclusive post COVID-19 recovery**

## Many organisations and Institutions, including the ILO, OECD, European Commission, Eurofound, and also the European Social Partners, have gathered, published and regularly updated the information on measures taken at national level to address firstly, the emergency phase and subsequently, the resumption of economic activities and planning of recovery programmes.

## In some countries bipartite and tripartite agreements have been signed since the start of the pandemic, together with a number of bipartite sectoral agreements aiming at introducing measures to keep working places healthy and safe.

## Given the lack of a coordinated response by the Member States at the beginning of the pandemic crisis, it is clear that in the recovery stage we need a solidarity-based approach among Member States for the future of Europe.

## The European social partners – ETUC, BusinessEurope, CEEP and SME United – in their joint statement on the COVID-19 emergency, call strongly on the Member States to involve national social partners in the design and implementation of national measures. Nevertheless, their active and effective contribution depends not only on their own capacity but also on government recognition of their role in containing the pandemic and addressing its socio-economic consequences. There are good examples of crisis management pro-actively led by sectoral European and social partners. Some are tripartite, while some are bipartite. Collective agreements in several European countries have sought to contain the virus by ensuring a safe working environment, specific working arrangements and social safety nets, such as sick leave and parental leave.

## The EU recovery plan, which includes the Commission's New Generation EU proposal and all the measures already adopted with ad-hoc funds, grants and loans from the ECB and the EIB, undoubtedly represents a substantial package of financial measures, which should harness public and private investment, targeted to support sustainable growth and quality jobs.

## In the Tripartite Social Summit on 23 June 2020, the social partners stressed the need for investment in the public health sector and services most badly affected in this period and for structural investment for an ecological transition, digital transformation and innovative technologies to boost European competitiveness by supporting quality employment, training and social and economic progress in a coordinated European context.

## It is crucial that the EU Recovery Plan is built on and with the involvement of the social partners at all levels. Social dialogue is the key instrument for sound governance in periods of crisis. Consultation and discussions at tripartite level enhance the quality of policy design to respond to the crisis, engage social partners in implementation and build trust among them to overcome difficulties, while supporting social cohesion and the resilience of our economies. The mapping of the impact of the crisis on workers, enterprises and local communities is also carried out with local authorities and is crucial for the adoption of agreed temporary measures and to build consensus for medium- and long-term recovery plans.

## It is necessary to define national plans to allocate European resources on the basis of medium-long term planning, without dispersing resources by fragmenting them, and taking into account the fragilities that have emerged in the emergency phase and the rise of inequalities in society.

## In some EU countries, social dialogue has proved to be effective for the prompt and effective adoption of strong emergency measures to help businesses survive and thus to retain jobs and **keep people in the labour market,** helping ensure short-time working schemes aimed at mitigating the effects on employment and to provide planning security for workers and companies in mastering the recovery phase.

## In some Member States, however, most vulnerable groups, such as those in non-standard forms of employment, self-employed, and undeclared workers, did not receive access to protection measures and face the risk of end up in poverty, worsening the social emergency.

## In the long run, the EU can support Member States and the social partners by reversing structural reforms that lower employment protection and by creating more room for collective bargaining and strengthening labour market institutions. The EU should also address urgent challenges, such as long-term unemployment, transitions to green and digitalised processes and up- and re-skilling to foster employability, while providing an adequate regulatory framework for diverse forms of work.

## Better cooperation between the Commission, national government, employers and trade unions can also help social protection systems to respond to the changing economic and social context in Europe in order to extend coverage to those vulnerable groups that are excluded today. In the context of the EPSCO Council, the European Semester should be further improved to support Member States, with a new scoreboard of indicators, in benchmarking progress in implementing agreed policies and reach common objectives at European level. In these testing times, the resolve and responsibility of all public authorities at EU and national level as well as of the social partners and other social stakeholders at all levels will be key to ensuring a sustainable recovery of our economies and strengthening our European social model.

## In its Communication 2020 European Semester: Country specific recommendations[[52]](#footnote-52) the European Commission addressed its recommendations to all Member States concerning the COVID-19 pandemic. The introductory part highlights that the role of a well-functioning social dialogue is key to ensuring that measures taken are successful, inclusive and sustainable. It has to be acknowledged that in some Member States the practice of social dialogue and involvement of social partners and CSOs during the COVID-19 crisis has been weakened or restricted[[53]](#footnote-53). Three Member States – Hungary, Poland and Romania – have received as a consequence a recommendation "**to ensure adequate and effective involvement of the social partners and stakeholders in the policy-making process".** The EESC calls on the Commission to closely monitor and evaluate the implementation of the CSRs for these countries.

## The Commission should ensure and monitor that – for example through reporting instruments – the Member States carry out an effective social dialogue with national stakeholders throughout the Semester process and in the design of national recovery plans to ensure effective follow-up and implementation, based on broad ownership.

## 6.15 It is also of utmost importance **to guarantee that the capacity of the social partners will not be undermined as a result of the corona period**. The EU should consider any necessary action including financial resources to support the social partners' capacity building - both for activities and structures of social dialogue. The European Social Partners have addressed a joint proposal[[54]](#footnote-54) to the European Commission on creating a new financial instrument to support the extraordinary activities they are carrying out during the COVID-19 crisis.

Brussels, 29 October 2020

Christa SCHWENG
The president of the European Economic and Social Committee

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1. The word "stakeholders" refers to the social partners (employers and trade unions). With regard to tripartite social dialogue, it also includes governments. [↑](#footnote-ref-1)
2. *ILO Declaration on Social Justice for a Fair Globalization*, ILC, 2008; *ILO Resolution concerning the Recurrent Discussion on social dialogue*, adopted at the ILC on 13 June, 2013; *ILO Resolution concerning the second recurrent discussion on social dialogue and tripartism*, adopted at the ILC on 8 June, 2018. See also ILO Centenary Declaration for the Future of Work adopted at the ILC, 108th Session, 2019. [↑](#footnote-ref-2)
3. Ibid, ILO Resolution 2018; *Conclusions of the general discussion on Decent work in global supply chains*, June 2016. [↑](#footnote-ref-3)
4. Recent OECD studies Employment Outlook 2019 and Going Digital: Shaping Policies, Improving lives Report 2019. [↑](#footnote-ref-4)
5. In CSRs on several EU countries, the EC asks for specific interventions to remove obstacles to collective bargaining and social dialogue. [↑](#footnote-ref-5)
6. It is important to note that ILO Convention No. 144 on Tripartite Consultation has been ratified by 26 EU countries, in Croatia it will enter into force in February 2021, but Luxembourg has not ratified it. [↑](#footnote-ref-6)
7. [OJ C 125, 21.4.2017, p. 10](https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2017:125:SOM:EN:HTML). [↑](#footnote-ref-7)
8. Eurofound (2020) *Capacity building for effective social dialogue in the European Union*. [↑](#footnote-ref-8)
9. Articles 151 to 155 of the TFEU. [↑](#footnote-ref-9)
10. [OJ C 232, 14.7.2020, p. 18](https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2020:232:SOM:EN:HTML). [↑](#footnote-ref-10)
11. First concluded in 1996, it was then revised in 2009. It was transposed by Council Directive 2010/18/EU. [↑](#footnote-ref-11)
12. Transposed by Council Directive 97/81/EC. [↑](#footnote-ref-12)
13. Transposed by Council Directive 99/70/EC. [↑](#footnote-ref-13)
14. On telework (2002), work-related stress (2004), harassment and violence at work (2007), inclusive labour markets (2010) and active ageing and an inter-generational approach (2017), digitalisation (2020). [↑](#footnote-ref-14)
15. On lifelong development of competencies and qualifications (2002), gender equality (2005) and youth employment (2013). [↑](#footnote-ref-15)
16. The 2019-2021 Work Programme addresses the six following 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 circular economy. [↑](#footnote-ref-16)
17. The quadripartite statement is available at <https://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=2562> [↑](#footnote-ref-17)
18. Commission Decision 98/500/EC of 20 May 1998 on the establishment of Sectoral Dialogue Committees promoting the Dialogue between the social partners at European level, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1998:225:0027:0028:EN:PDF> [↑](#footnote-ref-18)
19. Such as transport, energy, agriculture, construction, trade, metal, shipyards and education, insurance and banking. [↑](#footnote-ref-19)
20. Kerckhofs, *European sectoral social dialogue: facts and figures*, EuroFound (2019), available at <https://www.eurofound.europa.eu/publications/report/2019/european-sectoral-social-dialogue-facts-and-figures> [↑](#footnote-ref-20)
21. See Chapter 5 for specific references. [↑](#footnote-ref-21)
22. The EWCs were first established by Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees, but are now regulated by the "Recast Directive". <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02009L0038-20151009> According to the 2019 Benchmarking Working Europe there were 1 150 EWCs in 2018, mobilising approximately 20 000 employee representatives. [↑](#footnote-ref-22)
23. ETUC-Business Europe, Final Report - Building on experiences: A win-win approach to transnational industrial relations in multinational companies, 2018. [↑](#footnote-ref-23)
24. According to the European Commission, *Database on transnational company agreements*, available at <https://ec.europa.eu/social/main.jsp?catId=978&langId=en> [↑](#footnote-ref-24)
25. More detailed information can be found at <https://ec.europa.eu/social/main.jsp?eventsId=1028&catId=88&furtherEvents=yes&langId=en&> [↑](#footnote-ref-25)
26. Sustainability and governance, ESDE Chapter 6. [↑](#footnote-ref-26)
27. The first results of an ILO-EU project on enhancing the social partners and social dialogue were presented in a conference last March and addressed the effectiveness of the national social dialogue institutions and government's role in encouraging this process. [↑](#footnote-ref-27)
28. A new ILO and EC project aimed at analysing and documenting how the social partners in the EU countries are endeavouring to adapt to these changes, Youcef Ghellab, Daniel. Vaughan-Whitehead. [↑](#footnote-ref-28)
29. [Interinstitutional proclamation on the European Pillar of Social Rights, (2017/C/428/9).](https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1529571246622&uri=CELEX:32017C1213(01)) [↑](#footnote-ref-29)
30. See the ETUC Trade Union Involvement Index for the Semester Process, concerning national dialogues in the framework of the Semester. [↑](#footnote-ref-30)
31. Many reports from the Eurofound, the ETUC, the European Commission, EMCO, and OSE confirm that social partners are not properly involved. [↑](#footnote-ref-31)
32. <https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/european-semester/framework/eus-economic-governance-explained_en> [↑](#footnote-ref-32)
33. Ibid Eurofound reports, ETUI Benchmarking Working Europe 2018, ETUC yearly analyses of CSRs implementation in the Semester process. [↑](#footnote-ref-33)
34. ETUI, 2010 Benchmarking working Europe, Brussels 2010. [↑](#footnote-ref-34)
35. ILO Policy Brief, The need for social dialogue in addressing the COVID-19 crisis, Geneva, May 2020. [↑](#footnote-ref-35)
36. Eurofound (2012) Social dialogue in times of global economic crisis. [↑](#footnote-ref-36)
37. Eurofound (2013) Comparative analytical report: the impact of the crisis on working conditions relations, [↑](#footnote-ref-37)
38. Glassner (2013), Central and eastern European industrial relations in the crisis: national divergence and path-dependent change and ILO Recovering from the crisis through social dialogue in the new EU Member States: the case of Bulgaria, the Czech Republic, Poland and Slovenia. [↑](#footnote-ref-38)
39. Eurofound (2014), Changes to wage-setting mechanisms in the context of the crisis and the EU's new economic governance regime. [↑](#footnote-ref-39)
40. [European Commission's Industrial relations in Europe, (2010)](https://op.europa.eu/en/publication-detail/-/publication/074e4d5c-902b-4978-9e1a-f94f30fa7be4/language-en). [↑](#footnote-ref-40)
41. Ibid ILO policy brief, 2020 and OECD web-portal updates "Tackling the coronavirus – contributing to a global effort", March 2020. [↑](#footnote-ref-41)
42. [OJ C 161, 06.06.2013, p. 35](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52012IE2096) – section 3 defines a "sustainable" enterprise. [↑](#footnote-ref-42)
43. Article based on Eurofound research "Industrial democracy in Europe: a quantitative approach", Pablo Sanz, Christian Welz, Maria Caprile, Ricardo Rodriguez Contreras, Labour and Industry, June 2020. [↑](#footnote-ref-43)
44. Article based on Eurofound research "Industrial democracy in Europe: a quantitative approach", Pablo Sanz, Christian Welz, Maria Caprile, Ricardo Rodriguez Contreras, Labour and Industry, June 2020. [↑](#footnote-ref-44)
45. Directive 2002/14/EC framework on information and consultation and Directive 2009/38/EC European Works Councils. [↑](#footnote-ref-45)
46. Dir. 94/45, as amended 2009/38. [↑](#footnote-ref-46)
47. Eurofound (2020) Social dialogue and HR practices in European global companies, with analysis and findings on the evolution of a European dimension of social dialogue at both transnational level of decision-making and in local subsidiaries and the role of EWCs as a key link between different levels of social dialogue within a company, such as the national and European. [↑](#footnote-ref-47)
48. EU Commission: Report on the implementation by Member States of Directive 2009/38/EC on the establishment of a European Work Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast), Brussels, 14.05.2018 COM (2018) 292 final. [↑](#footnote-ref-48)
49. [OJ C 161, 06.06.2013, p. 35](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52012IE2096). [↑](#footnote-ref-49)
50. Article based on Eurofound research "Industrial democracy in Europe: a quantitative approach", Pablo Sanz, Christian Welz, Maria Caprile, Ricardo Rodriguez Contreras, Labour and Industry , June 2020. [↑](#footnote-ref-50)
51. Germany: direct appointment by law, the Netherlands: co-optation of managers indicated by the workers; France mix of direct and shareholder appointments; Sweden: appointment of trade union representatives, etc. [↑](#footnote-ref-51)
52. Communication from the Commission COM (2020) 500 final, 20. 5. 2020, *2020 European Semester: Country-specific recommendations*. [↑](#footnote-ref-52)
53. ETUC Briefing notes, Workers’ Information, consultation and participation, 15 May 2020. [↑](#footnote-ref-53)
54. Joint proposal of the cross-sector European social partners to create a special financial instrument to support social partners during the COVID-19 crisis, addressed to Executive Vice-President Valdis Dombrovskis and the Commissioner for Jobs and Social Rights Nicolas Schmit, 10 April 2020. [↑](#footnote-ref-54)