

## Negotiating a fair future: reinforcing the role of Social Dialogue (resolution)

Adopted at the Executive Committee Meeting of 9-10 December 2020

### Introduction

Social dialogue is a prerequisite for decent work and fair wages. In countries where social dialogue is well established and industrial relations institutions are strong, the economic, social and workplace situation is more favourable and resilient in situations of crisis. Across Europe, Trade unions have proven that Social Dialogue negotiated solutions to respond to COVID-19 are the most effective and sustainable way to save lives, save jobs and save incomes. Social dialogue works, countries with strong social dialogue are also the most competitive ones in Europe and the ETUC is calling for action to reinforce social dialogue as a core ingredient of the social market economy. Social dialogue must be better baked into the DNA of the EU so that it becomes the normal way of doing business not just in times of crisis but at all times.

### Recognising and Addressing the Challenges

European Social Dialogue has been marked by distinct stages of development, ups and downs, successes and failures. The period since 2009 could be described as a low-point, typified by a lack of commitment from employers to negotiate binding agreements and scarred by a lack of respect from the Commission culminating in their unwillingness to put forward sector social partner agreements to the Council for adoption in the form of a Directive. The Commission itself has recognised the challenges posed to Social Dialogue, and the 'Relaunch of Social Dialogue' was a welcome initiative and the Quadripartite Statement on "A New Start for Social Dialogue" signed in 2016, represented a clear commitment from social partners, the Commission and Member States to take action to support Social Dialogue. Unfortunately, the good intentions have not translated into any real quantifiable implementation of measures to strengthen Social Dialogue.

This resolution puts forward a set of actions with the aim of bridging the gap between the strong statements of support for social dialogue and the practice on the ground, as well as the content and the outcomes we think should be tackled.

### Social Dialogue Baked into the DNA of the EU

#### *Improving the structures supporting Social Dialogue at EU level*

The EU Commission and the EU Council have made numerous statements in support of Social Dialogue but implementation commitments are conspicuously absent. Actions and guarantees are needed to convert the positive statements of support from good intentions into concrete outcomes. The role of Social Dialogue at early, interim and implementation stages of policy and legislative development must be developed into a predictable and guaranteed process and we need a guarantee of the prerogatives of the trade union as the social partner representing workers. The ETUC is calling for:

- (1) Respect for the prerogatives of trade unions as the social partner representing workers:** the prerogatives of social dialogue must be preserved for both sides of industry. This means that the Commission must prioritise social partner consultations over public consultations and must guarantee that trade unions are included as the representatives for the side of labour, the role of the ETUC (or ETUF in sector social

dialogue) in establishing the delegation must be respected and the emerging practice of the Commission establishing a parallel dialogue with non trade union employee representatives must end. Likewise, civil society dialogue must not be confused with social dialogue, civil society dialogue must be promoted but not in a manner that undermines trade unions or bipartite social dialogue. This calls for the Commission to agree with the ETUC (and in the case of Sector Social Dialogue the ETUFs) guidance for each DG on the involvement of trade unions. Furthermore, Member States must ensure that the right to collective bargaining is respected and this also means ensuring the prerogatives of trade unions as the bargaining party for workers. The EU should take a particular attention to Member States that do not have a strong framework for Social Dialogue including the candidate countries.

- (2) Introduce a requirement for a Social Dialogue Impact Assessment**, EU legislators should be required to state how Social Dialogue has been promoted by their proposals—regardless of the field (similar to the rule that applies for SMEs). The Regulatory Scrutiny Board must ensure its application and report on it as part of the Impact Assessments setting out how the initiative will ensure that social partners are involved, and that social dialogue is actively promoted and the prerogatives of the trade unions respected. An ex-post evaluation of existing Regulations and Directives should be undertaken to identify and remedy any restrictions or practices that undermine the effective practice of social dialogue at EU, sector or national level.
- (3) Place a Social Dialogue representative in each DG** (Directorate General) of the European Commission, to ensure policy makers in all areas are aware of the role of Social Dialogue and that social partners are involved from the earliest possible stage and in the manner that respects their prerogatives. These representatives should be linked with the Special Representative and report to the Social Dialogue Committee.
- (4) Appoint a Special Representative/Ambassador for Social Dialogue**, nominated by the European social partners, whose role would be to advocate, monitor and promote Social Dialogue, both on national and EU level, while fully respecting the autonomy of social partners. This special representative should be mandated by, and report to, the Social Dialogue Committee and would support a cohesive political link between social partners and institutional actors.
- (5) Reform the Social Dialogue Committee (SDC)** – The cross sector social dialogue committee in its current format is not effective. There is too much time dedicated to the Commission presenting issues with almost no time for Social Partners to input or discuss. There is a need for a different approach of the European Commission towards the SDC. Longer preparatory meetings, more interactive sessions, and more focused agenda with stronger input from the social partners would improve the format. The meeting should focus on reports from the various Social Dialogue Representatives from the DGs and the Special Representative/Ambassador for Social Dialogue. Sectoral Social Dialogue Committees need to be properly supported by the Commission with interpretation and other practical supports for meeting.
- (6) Introduce a mechanism to guarantee respect for the Quadripartite Statement** and full implementation. In order to fully deliver on the promise of this instrument trade unions need an alert system or complaint mechanism when they are sidelined at national and European level policy making. The Commission and relevant Member State should be required to address any complaints made.
- (7) Establish a tripartite support program for social dialogue:** effective social dialogue at EU level is undermined when it is not functioning at national level. National governments need to play their part by having effective supports in place to support bipartite social dialogue and involve the social partners. A tripartite (Social Partners, Commission and Member States) meeting should take place twice a year to review an agenda for supporting social dialogue, improved involvement of social

partners in policy making and better implementation of commitments policy makers in the field of social dialogue at national level. These meetings, involving Member States and national social partners, would be organised on a tripartite basis, and should feed into the TSS. They should be focused on key issues of joint interest, two or three issues maximum.

- (8) Review of the TSS** -The Tripartite Social Summit is an important forum which gives social partners and policy makers at the highest level the opportunity to engage with each other. However, to take full advantage, the ETUC recommends the Presidents establish a working group to include the social partners to review the format. The TSS should also be linked to a broader tripartite agenda with a longer time frame developed jointly.

#### *Implementation of European Framework agreements, capacity building and funding*

We cannot be satisfied with merely negotiating social partner agreements at EU level unless these agreements result in improved working conditions.

Social Partner Agreements have seen an evolution from hard law to soft law. Since the Maastricht Treaty came into effect it has been possible to give erga omnes binding effect to European social partner agreements, both cross-industry and sectoral, on subjects such as parental leave (1996, 2009), part-time work (1997) and fixed term work (1999), working time of mobile workers in certain transport sectors (railways (2004), civil aviation (2000), inland waterways (2012)), specific sharp injury risks to which workers in the hospital sector are exposed (2009), working conditions in the fisheries (2013) and maritime transport sectors (1998, 2008, 2016).

There have been six Autonomous Agreements concluded at cross sector level, Telework 2002, Stress at Work in 2004, Harassment and Violence at Work in 2007, Inclusive Labour Markets in 2010, Active Ageing and Intergenerational Approach in 2017, and in 2020 on Digitalisation.

Social Dialogue must secure decent work throughout Europe. It is clear that fighting exploitation needs hard law such as Directives and the ETUC will continue to strongly defend the role of social partners set by the EU Treaties to negotiate agreements which can be adopted in the form of Directives. One of the main difficulties facing the ETUC is bringing employers to the table to negotiate binding agreements. The structure of European cross-sectoral Social Dialogue presents challenges. Encouraging employers to obtain mandates to negotiate and come to the table requires action at national level. EU level is not sufficient to overcome resistance from national employer level organisations. Therefore, in order to bolster trade unions to engage in Social Dialogue at national and European level, the ETUC calls for

- (9) Mandate for the SDC trade union members** - The role of the trade union members of the Social Dialogue Committee needs to include a mandate to ensure discussions take place with employers at national level with the aim to secure sufficient support of employers on possible topics for negotiation at EU level to be adopted in the form of a Directive.
- (10) A reliable remedy to address the harm done by the European Commission** refusing to put forward our Agreements for adoption in the form of a Directive. Following the outcome of the appeal a solution will be needed to fix what has been broken and the ETUC is calling for the Commission to establish a working group, with full participation of social partners, to deliver clear, transparent and guaranteed rules that the Social Partners can rely on when it comes to the actions the Commission will take to put forward their Agreements for adoption in binding forms.
- (11) An action plan within the SDC Subgroup to actively monitor and support the implementation of European framework agreements.** The SDC subgroup has

identified a trend among employer organisations in many countries who show a reluctance to implement these agreements either through lack of capacities, or more worryingly, a lack of awareness or political will. The recommendations from the experts' report due in December 2020 will be put forward to the SDC for further joint action.

**(12) Back the Autonomous Agreements with promotion and funding** – the EU Commission needs to back our Autonomous Agreements by introducing dedicated funding lines linked to the promotion of their implementation, fully supporting autonomy so that social partners can get access to capacity building and expertise and training.

**(13) A new COVID funding instrument for Social Partners** to support them to deal with COVID-19 Recovery from the unprecedented COVID-19 crisis will require strong social partner organisations. Yet there is every possibility that the pandemic and the economic crisis that is following in its wake will impact negatively on the social partners' financial situation. A lack of sufficient resources will make it more difficult for the trade unions to play their full role. To combat this development the ETUC has called for the European Commission to establish a funding instrument for our affiliates in response to the impact of the COVID-19 pandemic.

**(14) Investing in Social Dialogue:** the Commission needs to improve its support for cross sector and sectoral social dialogue at European level. The commission should commit to better support for meetings, reinforcing interpretation and allowing for longer meetings. Additionally, with the transformation of workplaces more and more trade union activities are being done online, and trade unions will need to develop their capabilities to ensure they can engage with their members in a digital environment.

**(15) Investing in the future:** A Social Dialogue Young Trade Unionist Talent Exchange Programme within DG Employment. This programme should be supported by dedicated funding stream that supports trade unions in providing opportunities for young trade union elected/activists to study, train, and gain hands on Social Dialogue experience in other regions in their country and abroad. The programme should also provide support for the trade unions who are selecting /hosting the students and trainees.

## **Roadmap for 2021**

### *Making the most of the opportunity of Nahles report*

The EU Commission has appointed Andrea Nahles, former German Minister of Labour and Social Affairs, as special advisor to Commissioner Schmit. As part of her role, Ms Nahles will publish a report in February 2021 setting out recommendations on how the Commission will improve the environment for Social Dialogue.

The ETUC will work to ensure our recommendations and our concrete proposals set out above in '*Improving the structures supporting Social Dialogue at EU level*' and '*Implementation of European Framework agreements, capacity building and funding*' are included in the Nahles report.

The ETUC will also negotiate with the European employers a set of joint recommendations to put to Nahles, incorporating our priorities on capacity building, funding, the improvement of the structures supporting EU Social Dialogue along with the involvement of social partners in policy-making at different levels.

Social Dialogue is a key principle of the European Pillar of Social Rights. In the context of the implementation of the action plan of the Pillar, the ETUC will work to make sure that the concrete proposals on capacity building, funding, as well as on the support needed for Social Dialogue will be included. It is essential that social dialogue is not downplayed so that it becomes simply social partner lobbying on policy making but rather the position of bipartite Social Dialogue and agreements as a means to deliver outcomes needs to be secured. In addition, the prerogatives of social dialogue must be preserved to both sides of industry and that civil society dialogue is promoted but not confused with social dialogue.

#### *Negotiation of the next Work-programme 2022-2024*

The ETUC is requesting affiliates to begin their preparatory work on the future Work-Programme 2022-2024. 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.

The mandate of the future Work-Programme will be submitted to the March Executive for adoption and the negotiations should take place on the second half of 2021.

This mandate will reflect the discussions with the ETUC affiliates and importantly the reinforced role for the trade union members of the Social Dialogue Committee. It will have to identify possible topics for future negotiations (agreement and framework of actions), future joint activities and projects, including Capacity Building and the follow-up of the Subgroup).