

COMMISSION COMMUNICATION
THE EUROPEAN SOCIAL DIALOGUE, A FORCE FOR INNOVATION AND CHANGE
UNICE POSITION PAPER

Executive summary

UNICE's comments start with a general assessment of the Commission communication and continues with more detailed comments concerning:

- respect of the autonomy of the social partners,
- articles 138 and 139 of the Treaty,
- benchmarking the quality of industrial relations,
- the tripartite social summit for growth and employment,
- the international dimension.

UNICE broadly welcomes the Commission communication.

It supports the Commission's intention to draft an internal code of conduct on consultation with the social partners, launch a new study on representativeness and adjust the list of organisations consulted under Article 138 of the Treaty in the light of the results of these updates, and consult the social partners on initiatives with social repercussions.

Similarly, UNICE agrees with the Commission proposal to formalise the existing practice of bringing together the troika, the Commission President and a restricted delegation of social partners together before the Spring European Council meeting through the adoption of a Council decision establishing a new Tripartite Social Summit for Growth and Employment.

However, it is disappointed that the communication contains important elements, which are not in line with the social partners' declaration to the Laeken European Council insofar as,

- it contains numerous elements which do not respect the autonomy of the social partners,
- it fails to give a real answer to the challenge of reinforcing the social dialogue and its players in candidate countries in order to prepare for enlargement.

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I. General assessment

In June 2002, the European Commission published a communication on the European social dialogue (COM (2002) 341 final).

In this communication, the Commission:

- highlights the specificity of social dialogue and describes different forms it can take,
- puts forward a number of concrete measures aimed at strengthening the different forms of social dialogue,
- proposes a Council Decision establishing a Tripartite Social Summit for Growth and Employment

UNICE broadly welcomes the Commission communication. It fully agrees that social dialogue is a key to better governance and can be a driving force for successful economic and social reforms. UNICE notes with satisfaction that the Commission has drawn inspiration from the UNICE/UEAPME, CEEP and ETUC declaration to the Laeken European Council. This is reflected notably in:

- the distinction that is made between bipartite social dialogue, consultation of the social partners and tripartite concertation,
- the recognition of the need better to articulate tripartite concertation around the different aspects of the Lisbon strategy,
- references to the social partners' intention to develop a work programme for a more autonomous social dialogue.

However, the communication still contains elements which are incompatible with the spirit of the social partners' declaration to the Laeken European Council.

The Laeken declaration of the social partners envisaged a work programme for an autonomous social dialogue. The programme is currently being developed. In this context, it is important that more – not less - room for manoeuvre is given to the social partners. The Commission seems not to have fully understood the meaning of respecting the social partners' autonomy.

Even though the communication highlights the importance of respecting the autonomy of the social partners, the Commission does not integrate this autonomy in its approach. In its calls on the social partners, the Commission includes suggestions on issues to be dealt with as well as ways of handling them and disseminating results. Such an approach will not lead to a stronger and more autonomous social dialogue but to a weaker one. It creates a misperception that the social dialogue consists in following up

requests of the Commission. This can undermine the support of the social partners at grass-roots level and hamper the development of a truly autonomous social dialogue.

Rather than making numerous calls on the social partners, the communication should have noted social partners' intention to develop their own work programme, and concentrated on the Commission's intentions with regard to consultations of the social partners or tripartite concertation on the Lisbon strategy.

II. On respect of the autonomy of the social partners

UNICE has assessed the proposals in the Commission communication in the light of the UNICE/UEAPME, CEEP and ETUC declaration to the Laeken European Council, and identified four categories of measures:

- measures which UNICE supports because they respect the spirit of the social partners' declaration,
- measures which UNICE opposes because they are not compatible with the social partners' declaration,
- measures which UNICE questions because they could interfere with the autonomy of the social partners,
- measures which are not related to the social dialogue and should therefore not be included in the communication.

Within the first category, UNICE supports the Commission's intention to

- draft an internal code of conduct on consultation with the social partners,
- launch a new study on representativeness and adjust the list of organisations consulted under Article 138 of the Treaty in the light of the results of these updates, and
- consult the social partners on initiatives having social repercussions.

Within the second category, UNICE is opposed to following statements which breach the social partners autonomy:

- calls on the social partners to improve their internal decision-making for the purpose of establishing negotiating mandates and concluding agreements and make better use of their European bargaining area by concluding agreements.
- calls on the social partners to work on their own contribution to the Lisbon strategy and present an annual report on their contributions.

Moreover, UNICE would like to emphasise that it strongly objects to the approach of the sectoral social dialogue presented in the communication. The Commission's intention to "*pursue its policy of setting up new sectoral social dialogue committees, encourage the necessary groupings and cooperation between sectors, orientate the activities of the sectoral social dialogue to dialogue and negotiation only, excluding information and consultation activities which can be carried out in multisectoral forums, and give priority support to committees whose work culminates in practical results representing their contribution to implementation and monitoring of the Lisbon strategy*" is not compatible with the autonomy of social partners in the sectoral social dialogue.

The third category consists of measures for which questions about the compatibility with the autonomy of the social partners could arise. This concerns notably the following steps:

- support the organisation of round tables in the Member States "to exploit the European contribution of the social dialogue",

- set up an Internet site with information on the European social dialogue,
- convene at regular intervals a “European Social Dialogue Conference” open to all national organisations involved in the European social dialogue,
- develop genuine benchmarking of the quality of industrial relations in Europe and the Commission’s intention to set up a technical working party comprising representatives of the social partners and the Member States to prepare for this.

The fourth category consists in measures which do not relate to the social dialogue. In UNICE’s view, for example, the following items do not belong in a communication on the social dialogue:

- calls on social partners to develop initiatives and specific cooperation with other organisations which are not social partners;
- references to the Commission communication on corporate social responsibility.

III. On articles 138 and 139 of the Treaty

UNICE would like to recall the importance it attaches to articles 138 and 139 of the Treaty and would like to stress three fundamental principles in reaction to the Commission’s suggestion that the forthcoming discussions on reform of the Treaty should take into consideration the question of collective agreements as sources of law.

Firstly, UNICE insists on the need to respect the diversity of Europe’s industrial relations systems. The very notion that collective agreements are sources of law is unknown in some European countries. Besides, the countries which apply that notion show a remarkable difference as to the legal effects of such an agreement.

Secondly, articles 138 and 139 of the Treaty on negotiations between the social partners at EU level were designed to allow the development of a contractual area at that level while respecting this diversity. UNICE does not see the need to change them. On the contrary, the social partners have stated on many occasions that articles 138 and 139 should be maintained without any changes in the next Treaty.

Thirdly, UNICE would like to recall that the responsibility for implementing voluntary agreements concluded at EU level lies with the social partners. When an agreement is not turned into European legislation at the request of the social partners, it is the responsibility of the members of the signatory parties to implement it in accordance with national industrial relations practices. Moreover the procedure to follow this at European level is defined by the parties. The Commission must not interfere in this.

III. On benchmarking the quality of industrial relations

The Commission communication calls on the social partners to develop a “genuine benchmarking of the quality of industrial relations in Europe” and announces that the Commission will set up a technical working party comprising representatives of the social partners and the Member States to prepare for the introduction of such machinery for review and exchange.

UNICE is strongly opposed to the Commission proposals for two main reasons.

First of all, the two proposals of the Commission are self-contradictory. One cannot at the same time call on the social partners to develop genuine benchmarking and set up a technical working party with different participants to work in the same field.

More fundamentally, UNICE believes that benchmarking industrial relations in isolation does not make sense. Benchmarking the capacity of national economic and social systems to deliver economic growth and social well-being on a sustainable basis as is currently done in the context of the Lisbon strategy undoubtedly has merits. But isolating industrial relations would disregard the fact that each national industrial relations system has developed and evolved to match specific circumstances. It suggests, wrongly, that there would be a single recipe for success. What works in one place does not necessarily bring good results in another place. Empirical evidence shows success stories by countries with very different industrial relations systems on the one hand and very different performances by countries with relatively similar industrial relations systems on the other hand.

UNICE is in favour of exchanging experiences in this field, focusing on social partners' initiatives which are relevant for the Lisbon agenda. However, designating such an exercise as benchmarking the quality of industrial relations would be misleading. Giving the impression that "Brussels knows best" would even be counter-productive if it undermined the readiness of social partners to participate.

IV. On the Tripartite Social Summit for Growth and Employment

In their joint declaration to the Laeken European Council, ETUC, UNICE/UEAPME and CEEP called for the creation of a tripartite concertation committee for growth and employment which would be the forum for concertation between the social partners and the public authorities on the overall European strategy defined in Lisbon.

The purpose of this committee would be to examine the Community's overall economic and social strategy ahead of the spring European Council, in addition to its specific work on the broad economic policy guidelines or the employment guidelines and structural reforms, with the various formations of the Council concerned.

UNICE fully supports the Commission proposal to formalise the existing practice of bringing together the troika, the Commission President and a restricted delegation of social partners before the Spring European Council meeting through the adoption of a Council decision establishing a new Tripartite Social Summit for Growth and Employment. It agrees with the text proposed by the Commission. However, it would also like to stress that

- Even though, this summit would replace the Standing Committee for Employment (SCE), as the forum in which economic and social aspects could be discussed in an integrated way, dismantling the SCE implies finding other ways of organising regular contacts between the Employment and Social Affairs Council and the social partners. However, discussions between social partners and the Employment Committee or the Social Protection Committee and the experience of the macro-economic dialogue showed that this can be done in the absence of a formal Council decision. Agreeing on simple rules of procedure defined in writing by the players concerned by the various dialogues necessary to underpin discussions in the Social Summit for Growth and Employment can be sufficient to function efficiently.
- With regard to the list of dialogues underpinning the Tripartite Social Summit for Growth and Employment described on page 15, UNICE would like to add a dialogue on education and training, given the important development of EU activities in the field in the context of the Lisbon strategy.

V. On the international dimension

In their joint declaration to the Laeken European Council, the European social partners draw the European public authorities' attention to the urgent need to develop, with the help of the European social partners, a genuinely integrated technical assistance programme for the social partners in the candidate countries in order to foster the development of strong and autonomous trade union and employer organisations capable of engaging fully in the European social dialogue as soon as their countries accede to the European Union.

Reinforcing the social dialogue and its players is identified as a priority challenge in the Commission communication. And yet, the Commission is totally silent on means which could be made available to social partners in order to allow them to live up to this challenge. In UNICE's view, it is for the social partners to define their own approach in this field. However, the fact that there is only a general statement that the Commission will continue to support social partners' initiatives without giving any further explanation is disappointing. It conveys the impression that the Commission has failed to recognise the urgency of giving concrete answers to the real needs of social partners in candidate countries.

VI. Conclusion

To sum up, UNICE

- broadly welcomes the Commission communication,
- supports the Commission's intention to draft an internal code of conduct on consultation with the social partners, launch a new study on representativeness and adjust the list of organisations consulted under Article 138 of the Treaty in the light of the results of these updates, and consult the social partners on initiatives having social repercussions,
- fully supports the Commission proposal to formalise the existing practice of bringing together the troika, the Commission President and a restricted delegation of social partners before the Spring European Council meeting through the adoption of a Council decision establishing a new Tripartite Social Summit for Growth and Employment.

However, it is disappointed that the communication contains important elements which are not in line with the social partners' declaration to the Laeken European Council insofar as,

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