

COMMISSION COMMUNICATION ON THE SOCIAL DIALOGUE**UNICE POSITION PAPER****Summary**

Through its active participation in the EU social dialogue, UNICE has demonstrated its commitment to social partnership. It is determined to take up its full responsibility in the social dialogue as confirmed by the elaboration of the social dialogue work programme 2003-2005. However, the EU social dialogue can only be shaped by the social partners themselves. UNICE therefore insists that Commission policies to promote the social dialogue must be based on a genuine respect of the autonomy of the European social partners.

UNICE welcomes the Commission's positive assessment of the achievements of the European social dialogue. However, it believes that the Commission communication remains dominated by an excessively administrative and interventionist conception of the social dialogue which is profoundly at odds with the logic of industrial relations.

Key elements of the communication are in contradiction with the Commission's proclaimed favourable attitude to the autonomy of social dialogue and are bound to hamper rather than facilitate the development of social partnership in Europe. This concerns in particular:

- the suggestion regarding establishment of a more extensive framework for the European social dialogue to be seen as a Community framework for transnational collective bargaining;
- the statement that the Commission's right of initiative can be exercised at any time;
- the conception of the synergies between the European sectoral level and the company level, notably the artificial links made between EWCs and the EU sectoral social dialogue as well as between CSR and the sectoral social dialogue.

UNICE agrees that the main aim of the social dialogue should be to facilitate economic and social change across Europe and that the European social dialogue should seek to facilitate implementation of the Lisbon strategy. However, it does not believe that progress in implementation of the Lisbon strategy can be achieved by adding a layer of transnational collective bargaining. Subsidiarity must prevail in this area.

European employers are fully aware that the integration of ten new Member States constitutes both a great opportunity and an important challenge. UNICE welcomes the Commission's intention of stepping up its support to the EU social partners in order to deal with the consequences of enlargement. However, any temptation to apply a single model of social dialogue to central and eastern European accession countries should be resisted. The social partners of these countries will need to take varying routes even if the overall challenges they face appear to be similar.

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1. On 12 August 2004 the Commission published a communication entitled "Partnership for change in an enlarged Europe: enhancing the contribution of European social dialogue". This document :
 - stresses that the EU is currently facing change on an unprecedented scale with implementation of the Lisbon strategy in the enlarged Europe,
 - recalls that economic success will not be possible without modern systems of labour relations and efficient strategies for managing change pro-actively,
 - calls on Member States to build partnerships for change involving the social partners, civil society and public authorities in accordance with national traditions,
 - takes stock of the European social dialogue and aims at raising awareness and understanding its results,
 - invites the social partners to devise a more extensive framework for the European social dialogue.

General comment

2. Since the mid-1980s UNICE has demonstrated, through its active participation in the EU social dialogue, its commitment to social partnership. It is determined to take up its full responsibility in the social dialogue as recently confirmed by the elaboration of the social dialogue work programme 2003-2005. However, the EU social dialogue can only be shaped by the social partners themselves. Failing that, the support of the EU social partners' members for this process will be lost.
3. UNICE therefore insists that the Commission policies to promote the social dialogue must be based on a genuine respect of:
 - the autonomy of the European social partners, which means recognising that they are responsible for the organisation of social dialogue, both interprofessional and sectoral, within the framework of the existing Treaty provisions,
 - the principle of subsidiarity, which means recognising that industrial relations remain essentially national and that interaction between the EU and national levels is not a hierarchical relationship but one of complementarity and can be of a different nature depending on the issue or challenge.
4. UNICE welcomes the Commission's positive assessment of the achievements of the European social dialogue and its proclaimed wish to support the development of a more autonomous dialogue to contribute to the Lisbon objectives. However, the

Commission communication remains dominated by an excessively administrative interventionist conception of the social dialogue which is profoundly at odds with the logic of industrial relations.

5. Key elements of the communication are in contradiction with the Commission's proclaimed favourable attitude to the autonomy of social dialogue and are bound to hamper rather than facilitate the development of social partnership in Europe. The concerns in particular:
 - the suggestion regarding establishment of a more extensive framework for the European social dialogue to be seen as a Community framework for transnational collective bargaining;
 - the statement that the Commission's right of initiative can be exercised at any time;
 - the conception of the synergies between the European sectoral level and the company level, notably the artificial links made between EWCs and the EU sectoral social dialogue as well as between CSR and the sectoral social dialogue.
6. When dealing with the future of social dialogue, the Commission should take into account the efforts made by social partners to organise their own activities in the autonomous social dialogue work programme 2003-2005 which was developed with success in 2003 and 2004 and remains valid for 2005.
7. UNICE does not believe that devising a more extensive framework for the European social dialogue is necessary and would have the strongest objections to the Commission preparing such a framework itself. Furthermore, presenting this as "a Community framework for transnational collective bargaining" is unacceptable and misleading as European negotiations and the resulting framework agreements which establish broad principles are fundamentally different from collective agreements resulting from bargaining on wages and working conditions in the Member States.
8. UNICE agrees that the main aim of the social dialogue should be to facilitate economic and social change across Europe and that the European social dialogue should seek to facilitate implementation of the Lisbon strategy. Hence the emphasis on employment as the main theme in the work programme of the social dialogue for 2003-2005. It is strongly committed to a renewed partnership for change aimed at promoting growth, competitiveness and employment in Europe. However, it does not believe that progress in implementation of the Lisbon strategy can be achieved by adding a layer of transnational collective bargaining, all the more because delays accumulated are due to timidity in carrying out national reforms. Subsidiarity evidently prevails in this area.

Specific comments

On the proposed agenda for reform

9. The four broad themes identified in the Commission (improving adaptability, investing in human, capital and job quality, attracting more people to the labour market and delivering reforms) are relevant for implementation of the Lisbon strategy. However, the way in which they will be approached and concrete results achieved in each EU country will vary, reflecting national economic policy, the diversity of labour market situations and industrial relations systems. Adopting a centralised approach of these themes in the EU social dialogue would hamper rather than encourage progress towards more competitiveness and employment.

On enlargement

10. European employers are fully aware that the integration of ten new Member States constitutes both a great opportunity and an important challenge for the EU. This explains the actions of the EU social partners to support their members in the new Member States in their efforts to play an active role in the EU social dialogue. UNICE welcomes the Commission's intention of stepping up its support to the EU social partners in order to deal with the consequences of enlargement. This should respond to the social partners' repeated calls to organise EU support in a more integrated programme on the social dialogue managed by the social partners themselves.
11. Moreover, as emphasised in the final report of the joint project on the social dialogue in new Member States, the countries concerned differ greatly in size, state of economic development, challenges facing current social dialogue systems, resources available to the social partners and attitude of national Government to the promotion of social dialogue. Any temptation to apply a "one size fits all solution" or "single model of bipartite dialogue" to CEEC accession countries should be resisted. The social partners of these countries will need to take varying routes even if the overall problems they face often appear to be similar.

On the Commission's role

12. Concerning the Commission's role in supporting the social dialogue, UNICE insists that the Commission support must not interfere with the autonomy of the social dialogue. In the light of this principle, UNICE accepts that the Commission:
 - monitors the follow-up given by the social partners contributions to the Lisbon strategy if this monitoring relies on reports of the social partners themselves;
 - carries out and updates regularly studies on the representativeness of social-partner organisations;
 - produces electronic newsletters and includes social partners' texts in a data base.
13. By contrast, the following initiatives could interfere with the autonomy of the social dialogue and the role of the Commission should be limited to supporting work undertaken on the initiative of the social partners themselves:
 - preparation of typologies or lexica of social dialogue terminology,
 - organisation of experience-sharing fora,
 - drafting of check lists,
 - organisation of national seminars in the Member States.

On voluntary agreements based on article 139.2

14. It is important to underline that it is not because an agreement is not legally binding that its efficiency or legitimacy can be questioned. On the contrary, for issues for which a legislative approach is not appropriate. The framework of reference offered by a voluntary agreement is a factor of efficiency and of good governance. Moreover, this type of agreement, by avoiding to impose excessive constraints, can result in a better balance between flexibility and security than a legally binding text.

15. With regard to the fields covered by these voluntary agreements based on article 139.2 of the Treaty, UNICE fully accepts the Commission's right of initiative. However, UNICE insists that this right of initiative cannot be exercised at any time, nor does it give the Commission the right to restrict the autonomy of the social partners with regard to the content and implementation of the agreement.
16. In UNICE's view, the Treaty already contains provisions on the social dialogue which protect the Commission's right of initiative and encourage the social partners to use their competences in a responsible way. However, UNICE would have the strongest objections to :
- the Commission exercising its right of initiative on an issue covered in an agreement during the implementation period of this agreement,
 - the Commission interfering with the monitoring by the social partners of their own agreements,
 - the Commission not checking the accuracy of information on agreements which is passed to the European Parliament and to the Council with the social partners themselves.
17. Finally, whereas it goes without saying that only a legally binding agreement can revise an existing directive, UNICE insists voluntary agreements can be a useful alternative to possible revisions of EU legislation.

On the impact of texts negotiated in the EU social dialogue

18. The impact of texts negotiated in the EU social dialogue depends first and foremost on their relevance and clarity. UNICE therefore fully shares the Commission's concern to end up with clear and simple texts. However, UNICE does not believe that clarity depends upon the degree of detail in follow-up provisions. On the contrary, over-prescriptive follow-up provisions would be counter-productive for the implementation of new generation texts given the diversity of (and developments in) national industrial relations practices. Moreover, the framework nature of such texts is an important factor for voluntary take-up by European sectoral organisations.

On the typology of results of social dialogue

19. Concerning the typology of the results of the EU social dialogue, UNICE broadly agrees with the three categories of text proposed which distinguish between:
- two types of agreements based on article 139 of the Treaty,
 - frameworks of actions, guidelines, codes of conduct or policy orientations,
 - joint opinions, declarations and practical tools.

However, UNICE insists that such a typology cannot be more than an ex-post analytical tool. Moreover, it cannot be exhaustive as new tools can be added subsequently. Any attempts to turn it into an ex-ante framework would be totally unacceptable as it would hamper the autonomy of the social dialogue. It would also be counter-productive as it would block innovation in the EU social dialogue.

Concerning synergies between the European sectoral level and the company level

20. Concerning links with the company level, the communication conveys a top-down conception of synergies between the European sectoral level and the company level which ignores the fundamentally different nature of both exercises. EWCs deal exclusively with intra-company issues whereas the sectoral social dialogue discusses

cross-company issues. UNICE would be totally opposed to the imposition of artificial links between EWCs and the EU sectoral social dialogue as a result of the debate on revision of the EWC directive. In general, UNICE recalls that both inter-professional and sectoral social partners must remain free to choose their discussion themes and how they organise their social dialogue.

21. Finally, UNICE believes that the issue of CSR should not be mixed up with social dialogue and insists that, in order to respect the voluntary nature of Corporate Social Responsibility, CSR-related initiatives undertaken in the sectoral social dialogue must truly result from the free choice of the parties involved.

Conclusion

22. While fully supporting the need for transparency on results, UNICE does not believe that devising a more extensive framework for the European social dialogue is necessary and would have the strongest objections to the Commission preparing such a framework itself.
23. Through the implementation of the social dialogue work programme 2003-2005, UNICE has clearly demonstrated its ability to fully assume its responsibility of social partner and is determined to continue to do so in the future. However, promotion of the social dialogue requires the Commission to leave the responsibility of shaping the social dialogue to the social partners themselves. UNICE therefore calls on the Commission to depart from an excessively administrative and interventionist attitude vis-à-vis the social dialogue, to genuinely respect the autonomy of the social dialogue and to acknowledge the importance of subsidiarity in this area.
