

Approved by the SPs at Thematic Group meeting on 26/27 of January 2016

Declaration on a new start for a strong Social Dialogue

1. Recalling that article 9 TFEU stipulates that the Union shall take into account promotion of high levels of employment and social considerations in definition and implementation of all its policies.
2. Recalling that in article 151 TFEU the promotion of dialogue between management and labour is recognised as a common objective of the EU and the Member States and that in article 152 TFEU the European Union recognises and promotes the role of social partners at its level, irrespective of the enterprises or workers they represent and on an equal footing, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.
3. Recognising that social dialogue forms part of the European social model and is a crucial factor for a well-functioning social market economy. Social dialogue also implies industrial relations models in which social partners can autonomously exercise their practices of collective bargaining and employee participation.
4. Acknowledging that social dialogue can be organised at cross-industry, sectoral or territorial level, taking place at all appropriate levels from the company to the regional, national and European level. In all cases, social dialogue requires social partners that are strong, representative, autonomous, mandated and equipped with the capacities needed. Social partners also need to dispose of the institutional settings allowing for their dialogue to take place and to be effective.
5. Welcoming the fundamental role of the European social dialogue as a significant component of EU employment and social policy making. It contributes to devise arrangements and instruments that balance the needs of enterprises and workers across Europe. The European social dialogue has developed gradually, at cross-industry level since its inception in the Maastricht Treaty, and at sectoral level at the end of the 1990s. A more autonomous dialogue has taken shape progressively since the signature of the EU Social Partners' Laeken Declaration in 2001 (*reference to box**), which is positive. Nevertheless, further progress towards a stronger social dialogue is necessary.
6. Acknowledging that there is no blueprint for a functioning social dialogue. Social dialogue arrangements and processes vary across Member States, reflecting the countries' different histories and economic and political situations. While this diversity must be respected, social partners' role should be promoted. A precondition for a successful, value-adding social dialogue is that it is result-oriented. Highlighting that social partners are uniquely placed to address work-related issues through the dialogue and negotiation process that characterises their relationship. They can also assess the direct or indirect impact of EU policies on employment and social affairs. Their knowledge and experience of the employment and social situation, their legitimacy, representativeness, mandate and capacity to negotiate make social partners essential actors to improve governance and policy-making. They must be clearly distinguished from other organisations representing civil society.

7. This declaration is an important step in an ongoing process, it deals with certain aspects of social dialogue and it aims at improving:
 - the involvement of social partners in EU policy-making
 - the functioning and effectiveness of social dialogue and the capacity-building of social partners at national level;
 - the involvement of social partners in the European economic governance / Semester and in assessing, designing, agreeing and implementing relevant reforms/policies;as well as clarifying:
 - the relation between social partners' agreements and the better regulation agenda.

8. The Declaration comprises guiding principles/key messages as well as actions to be undertaken by the relevant European and national actors.

GUIDING PRINCIPLES/KEY MESSAGES

I. Improving the involvement of social partners in EU policy-making

9. Social partners have a specific role, enshrined in the EU Treaty in the social policy field, where based on Art. 153 TFEU a formal consultation procedure set out in Art.154 TFEU is in place. Based on Commission consultations or on their own initiative, social partners can negotiate agreements that have to be implemented in accordance with Art.155 TFEU.
10. More attention should be paid to recognising, promoting and respecting social dialogue outcomes, be it at EU or national level, as well as the cross-industry or the sectoral level. Sectoral social dialogue, in particular, should be further fostered.
11. The Commission should ensure a sufficient and balanced representation of social partners, i.e. trade unions and employers in expert and high-level groups,
12. Social dialogue and social partners' consultation on issues not falling under article 154 TFEU, but having a direct or indirect impact on employment and labour markets have to be organised and should be promoted by the European Union institutions and mainstreamed into their work.
13. European social partners at both cross-industry and sectoral level should be involved early in the elaboration of EU policies/initiatives and consulted in a timely and meaningful way, with a view to taking into account their position.
14. Social partners' ownership can play an important role to ensure successful implementation of EU policies. A precondition for this is to ensure timely and meaningful consultations of the social partners.
15. Tripartite fora such as the Tripartite Social Summit, the Macro-economic dialogue and the Social Dialogue Committee enable the EU institutions and social partners to exchange views regularly on important new policy developments.
16. Social partners and the EU institutions, while respecting their respective responsibilities and autonomy, should support synergies between their work programmes and on the goals that they share.
17. Cross-industry-social partners at EU level should continue to improve coordination between the various organisations at cross-industry and sectoral levels, whilst respecting each others' autonomy to allow for constructive and timely input in the policy making process. The Commission also has a responsibility in directly informing, involving and consulting the organisations at sectoral level.

II. Clarifying the relation between social partners' agreements and the better regulation agenda

18. The better regulation agenda should genuinely respect the specific nature of social partner agreements.
19. For agreements for which EU social partners request the implementation by EU law, the Commission evaluates the representativeness¹ of the signatories and the legality of the agreement vis-à-vis the EU legal framework. The specific nature of agreements negotiated by European social partners also need to be taken into account. In this respect, no additional public consultation will be necessary.
20. For those agreements for which EU social partners request the implementation by EU law, but have the specificity of following a Commission consultation, the Commission should not revisit the need for EU action, as this was already determined.
21. Legal and/or technical support can be provided during the negotiations of a social partners' agreement.
22. A more accurate and clearer picture of the situation on the concept of representativeness at both national and European levels needs to be developed and its implications in terms of policy and law making at EU level should be examined and clarified. In particular, representativeness checks need to ensure that EU social dialogue is based on recognised social partners at national level across Member States. Likewise the mutual recognition between partners and the existence of a dedicated mandate are important elements to be taken into account.

¹ Representativeness criteria for cross industry social dialogue
(laid down in the Commission Communication 1993):

- be cross industry or relate to specific sectors or categories and be organised at European level;
- consist of organisations which are themselves an integral and recognised part of Member State social partner structures and with the capacity to negotiate agreements, and which are representative of all Member States, as far as possible;
- have adequate structures to ensure their effective participation in the consultation process.

Representativeness criteria for sectoral social dialogue
(laid down in the 1998 Decision):

- the European social partners must have national affiliate members in several countries;
- the affiliates must themselves be recognised as national social partners; (representativeness at national level);
- they should be able to negotiate and to adopt agreements at European level
- (capacity to negotiate);
- they should have adequate structures and be able to ensure effective participation.

III. Improving the functioning and effectiveness of social dialogue and the capacity-building of social partners in the Member States

23. A strong and well-functioning social dialogue is a fundamental element to contribute to job creation, social progress and overcome economic crises.
24. There is a continuous need for further improving the functioning and effectiveness of social dialogue in a number of Member States, both in the countries most affected by the crisis and in those where social dialogue was functioning comparatively well before and during the crisis. To improve its relevance and ability to contribute, mutual learning and capacity-building activities need to be further promoted together with the implementation of the agreed instruments.
25. National frameworks which are conducive to collective bargaining are important and should be encouraged to create an appropriate space for social partners' negotiations to occur at the appropriate levels to the mutual benefit of enterprises and workers, avoiding unnecessary conflicts. Having regard to national industrial relations practices, national governments and social partners discuss and agree on the conditions for their cooperation with a clear repartition of competences and mutual respect, while respecting each other's autonomy
26. Social dialogue in some parts of Europe, for example where it was established more recently such as in CEEC countries, has not reached its full potential and there is scope for furthering its role in building a positive and stable policy environment for growth, employment and good working conditions.
27. Providing well-targeted support and services to their members in line with the needs of enterprises and workers respectively will be key to ensure the strength and independence of social partners in the long term
28. Capacities of social partners in the Member States can be built through e.g. financial, legal, analytical, institutional and political support. This should be ensured at all levels, depending on the needs of countries and social partners, including to become stable organisations.
29. As regards financial support, the European budget, notably via the ESI funds, should allow for the co-financing of projects targeting the capacity building of social partners. This requires a close coordination of the relevant public authorities and social partners during the implementation phase as well as monitoring and evaluation to ensure effective outcomes.

IV. Improving the involvement of social partners in the European economic governance/ Semester and in assessing, designing, agreeing and implementing relevant reforms/policies

30. Social dialogue can be a driving force for successful, sustainable and inclusive economic, employment and social policy-making. Timely and meaningful involvement of social partners throughout the European semester is key to improve engagement in policies thereby facilitating their successful implementation in a way that balances the interests of workers and employers. In some countries, social partners play a direct role in designing the content of reforms. Social partners are uniquely well-placed to assess whether and which reforms are needed, to design the appropriate measures but also to contribute to economic and social success by closely associating labour market with economic policies.
31. A well-structured social dialogue at national level, with representative, mandated, autonomous and strong social partners, is a prerequisite for meaningful consultations on matters having a direct and indirect impact on employment and labour markets. Social partner consultations should be timely, meaningful and unbiased, allowing for the social partners' positions to be duly taken into account in the decision-making process.
32. National tripartite bodies should be established and/or developed when social partners want them, in particular where there is a need to strengthen social dialogue and social partners' involvement in the European semester process, respecting the diversity of national industrial relations practices.
33. National competitiveness boards should not interfere with the autonomy of social partners in the wage formation process. A broad approach to competitiveness is necessary.²
34. The involvement of the social partners in the European Semester at EU level has improved via the regular exchanges between the social partners and the EU institutions in formal and informal settings (Tripartite Social Summit, Macroeconomic Dialogue, Employment Committee, Social Protection Committee, Social Dialogue Committee, consultation meeting ahead of the Annual Growth Survey). Nevertheless further improvements are needed.
35. Most progress is needed at national level to ensure that national consultations of social partners are organised in a more consistent and structured manner at the different stages of the semester. In particular, national social partners should be given the opportunity well in advance to contribute to the setting of the agenda and meeting documents.

² The concept of competitiveness encompasses a wide number of factors such as: macroeconomic fundamentals, labour market policies, innovation and investment in R&D, business environment including infrastructure, skills, education and training, labour cost and high performing public services. Eu Social Partners In-Depth Employment analysis, 2015

36. Tripartite Social Summit should be made really effective by reshaping its timing, contents, as well as the need to better link it with EU Council's decisions and the Semester process.
37. It is necessary to continue to strengthen the role of the Macro-economic Dialogue. The social partners are committed to further establishing it as a forum where an in-depth discussion on the Euro and issues concerning European economic governance take place.
38. Exchanges with Council formations (Employment Committee and the Social Protection Committee) should continue to be used to assess Annual Growth Survey and Country Specific Recommendations.

ACTIONS

The European Social Partners

- Will implement the actions agreed in their Autonomous Work Programme 2015-2017 on improving capacity building and better implementation outcomes and will continue to involve their members in joint and separate capacity building actions and projects aimed at:
 - promoting cross-industry and sectoral social dialogue, including their outcomes, at all levels;
 - ensuring implementation of their autonomous framework agreements;
 - supporting their involvement in the EU Semester.
- Will explore together with the Commission and Council ways for enhancing Tripartite Social Summit and Macroeconomic Dialogue to strengthen their contributions to the Semester process and EU policy-making.
- Will make use of available EU funds for developing the necessary evidence base for forthcoming (joint) outcomes (agreements, opinions, declarations, etc.).
- Will make publicly available the text of any agreement for which social partners request the Commission to present a proposal for implementation by a Council decision.
- Will continue efforts to reach out to affiliates in Member States not yet covered, improve membership and representativeness, ensure that there is a capacity to enter into agreements (appropriate mandate), etc.
- Based on the Commission stocktaking of the social dialogue challenges in the Member States, the European social partners, together with their members, will assess the need for further actions in their respective social dialogues.
- In the case where social partners have decided to implement their agreements through their national affiliates, implementation should be ensured in all Member States (in line with Art 155.2 TFEU). The type of support to be provided to implement these agreements could take different forms. This may include ad-hoc EU social partners' actions to ensure implementation in the Member States, capacity building activities; exchange of good practices among Member States with the involvement of social partners.
- The cross-industry-social partners at EU level will continue to improve coordination between the various organisations at cross-industry and sectoral levels, whilst respecting each other's autonomy to allow for constructive and timely input in the policy making process.
- The cross-industry social partners will implement a project aiming at fostering the use of the ESF by the social partners.

The European Commission, Council and Member States

- Will commit to enabling a supportive environment to social dialogue (at all appropriate levels and forms) according to the spirit of Art. 151 TFEU. This will include:
 - consulting European and national social partners in a way which clearly differentiates them from other civil society organisations;
 - organising mutual learning between the European institutions, member states and social partners on the state of play of social dialogue as well as implementation and impact of EU social dialogue instruments;
 - providing for an enabling framework for social partners in the Member States allowing for their dialogue to take place in a way that contributes to the balance of power between them;
 - giving greater visibility to social partners' outcomes.

The European Commission

- Will continue to recognise, promote and respect at European and national level social dialogue outcomes of both the cross-industry and the sectoral level.
- Will consult the social partners on its work programme before publication, for example on the letter of intent published at the time of the yearly State of the Union.
- Will organise consultations of the social partners on the key initiatives of its work programme that do not fall under the scope of art.154, as identified by them.
- Will conduct a stocktaking of cross-industry and sectoral social dialogue challenges in EU Member States and, where needed, raise governments' awareness of the challenges detected.
- Upon joint request of the EU social partners (of both the cross-industry and the sectoral level) the European Commission will propose a decision by the Council with a view to transforming the agreements into a Directive unless the representativeness of one of the signatories would not be guaranteed or the content of the agreement would be contrary to EU law.
- Will play a proactive role in disseminating all outcomes of the European social dialogue.
- In the context of the European economic governance /semester:
 - Will strengthen the dialogue with social partners during European Semester missions and ensure greater transparency on how social partners are selected and convened in the context of these missions;
 - Will consult national social partners well in advance of consultation meetings and give them the opportunity to contribute to the setting of the agenda and meeting documents;

- Will involve EU and national social partners and ensure that their views are appropriately made visible at pre-defined key milestones of the Semester, i.e. before the Commission draws up National Country Reports and before issuing the draft Country-Specific Recommendations, through its representations in the Member States;
- Will organise timely and meaningful consultations of national social partners before it draws up country reports and before issuing the draft Country-Specific Recommendations. The role and duties of European semester officers in this respect need to be clarified.
- Will secure funding to support social dialogue and capacity building through EU-level funds, notably the European Social Fund, and other relevant EU and national budget lines. New dedicated financial instruments should be set-up to better meet structural capacity building needs of the social partners in some countries.
- Will ensure specific and meaningful social partners' consultation and clarify the interplay between social partners' and public consultations and their timing, respecting the role of social partners.
- Will assess recently introduced consultation processes, such as high-level political meetings and dedicated hearings, including the need for timely follow-up and feedback from the Commission.
- Will explore together with Council and social partners ways for enhancing the involvement of EU-level social partners through a renewed Tripartite Social Summit and Macroeconomic Dialogue to strengthen their contributions to the Semester process and EU policy-making.
- Will continue to monitor the respect of the European Code of Conduct on Partnership by Member States.
- Will continue to support EU social dialogue, including by assessing the representativeness of EU social partners, based upon the analysis carried out on a regular basis through Eurofound representativeness studies.
- Will provide social partners legal and/or technical support during their negotiations, upon a joint or coordinated request.

The Council of the European Union

- Will explore together with the Commission and social partners ways for enhancing the involvement of EU-level social partners through a renewed Tripartite Social Summit and Macroeconomic Dialogue to strengthen their contributions to the Semester process and EU policy-making.
- Will give access to social partners in the Member States to technical assistance and capacity building in the context of the ESF. This will ensure not only the strengthening of their capacities but also their coordination and representation in

monitoring committees and decision-making procedures, which define and implement the Operational Programmes at all levels.

- Will involve social partners where relevant in the implementation of its work programme (e.g. mobility, decent work, implementation of Country Specific Recommendations).
- Will further involve social partners in relevant Council formations and fora (e.g. Employment Committee - EMCO, Social Protection Committee - SPC, informal EPSCO Council, informal ECOFIN)
- In the context of the European economic governance/semester, governments:
 - Will attach greater attention to the contribution of national social partners.
 - Will consult national social partners in a timely and meaningful way as part of the preparations for National Reform Programmes.
 - Will agree with national social partners on an adequate and balanced involvement, including through improved national tripartite/bipartite bodies (preparation of NRPs as well as designing, implementing and monitoring of relevant reform measures) when needed and where proper involvement is not already in place.

***To be included as a box after the preamble:**

At European level, as set out in the 2001 Laeken declaration of the European social partners, the EU institutions and Member States should make a clear distinction between three different types of activities involving the social partners:

1. Tripartite concertation: to designate political and/or technical exchanges between the social partners and European public authorities (Examples: TSS, Macroeconomic Dialogue).
2. Consultation of the social partners: to designate the activities of advisory committees or dedicated hearings on issues with a social impact and official consultations in the spirit of article 154 of the TFEU
3. Social dialogue: to designate bipartite work by the social partners, whether or not prompted by the Commission's official consultations based on article 154-155 of the Treaty. (Bipartite social dialogue refer to social partners' contractual relations which could stem into: their autonomous work programme, agreements, framework of actions joint declarations and/or opinions as well a variety of other instruments)

This distinction should already be promoted by the European Commission in the accession candidate countries where the confusion between tripartite concertation and bipartite social dialogue is undermining development of autonomous social dialogue